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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0052; Product Identifier 2016–SW–081–AD; Amendment 39–21024; AD 2020–02–11]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2015–04–04 for Bell Helicopter Textron Inc. (Bell) Model 412 and 412EP helicopters. AD 2015–04–04 required revising the Rotorcraft Flight Manual (RFM) for your helicopter and installing a placard to limit flights to visual flight rules (VFR) and prohibit night operations because of failing inverters. This AD requires replacing the affected inverter with a new inverter. This AD was prompted by numerous failures of inverters. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 17, 2020.

ADDRESSES: For service information identified in this final rule, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at *https://www.bellcustomer.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.

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–2017–0052; 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 AD, the economic evaluation, 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: Tim Beauregard, Aviation Safety Engineer, DSCO Branch, AIR–7J0, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5190; email *timothy.beauregard@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–04–04, Amendment 39–18106 (80 FR 9594, February 24, 2015) (''AD 2015–04–04''). AD 2015–04–04 applied to Bell Model 412 and 412EP helicopters with a static inverter part number (P/N) 412–375–079–101 or 412–375–079–103 with a serial number 29145 or higher installed. The NPRM published in the **Federal Register** on August 2, 2018 (83 FR 37764). The NPRM was prompted by numerous failures of inverters and a newly introduced improved inverter, which corrects the unsafe condition. Bell determined the root causes of the failures were an external connector that caused a short circuit inside inverter P/N 412–375–079–101 and components chafing because of variations in the assembly process and packaging tolerances for inverter P/N 412–375–079–103. Bell introduced an improved inverter, P/N 412–375–079–105, and retrofit kits to replace inverter P/N 412–375–079–101 or 412–375–079–103 on helicopters with serial numbers 33001 or higher. These replacements and repairs correct the unsafe condition by providing 450 voltage amperes (VA) of total power instead of 500 VA, thereby reducing the input power to the inverter. The NPRM proposed to require these repairs and replacements. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

After the NPRM was published, The FAA received comments from two commenters, Bell and Leonardo Helicopters. The following presents the comments received on the NPRM, and the FAA's response to each comment.

Request: Bell and Leonardo Helicopters requested clarification as to why the FAA did not indicate that the NPRM applied to helicopters with static inverters that had a serial number 29145 or higher in the NPRM's Applicability section. Leonardo Helicopters stated no evidence exists that static inverters with a serial number lower than 29145 have the unsafe condition described in the NPRM.

FAA Response: The FAA agrees and has revised this AD to specify that this AD only applies to static inverters with serial numbers 29145 or higher.

Request: Bell requested the FAA allow inverter P/N 412–375–079–103 450 VA or P/N 412–375–079–101 450 VA to be replaced by inverter P/N 412–075–158–101 250 VA if the Electrical Load Analysis (ELA) requirements are met per Bell Alert Service Bulletin 412–16–171, dated March 22, 2016 (ASB 412–16–171).

FAA Response: The FAA disagrees. ASB 412–16–171 does not have a standard listed for how to conduct the ELA or the margins that may be acceptable. Therefore, the FAA could not legally enforce such a requirement.

Request: Bell requested the FAA either increase the 25 hours time-in-service (TIS) compliance time or add an alternate compliance date because no additional failures have occurred since ASB 412–16–171 was issued.

FAA Response: The FAA disagrees. ASB 412–16–171 set a compliance time no later than January 1, 2017. The FAA believes that 25 hours TIS is appropriate given that three years have passed between the deadline in ASB 412–16–171 and the publication of this final rule.

Request: Bell requested that the FAA correct an error in the NPRM. The NPRM stated that Bell introduced a new inverter and recommended repairs that ''correct the unsafe condition by providing 250 VA of total power instead of 500 VA, thereby reducing the input power to the inverter.'' Bell stated that ''250 VA'' should be changed to ''450 VA.''

FAA Response: The FAA agrees and has revised this AD to include the requested change.

Request: Bell stated that Bell Alert Service Bulletin 412–13–156, dated

April 25, 2013 (ASB 412–13–156) related to P/N 412–375–079–101 only and that inverter P/N 412–375–079–103 would eventually replace inverter P/N 412–375–079–101 but was not part of ASB 412–13–156's method of compliance. Bell stated the NPRM did not match the ASB.

FAA Response: The FAA disagrees because ASB 412–13–156's method of compliance appears to include replacing inverter P/N 412–375–079–101 with inverter P/N 412–375–079–103. Paragraph 9 of ASB 412–13–156 states, ''Remove the affected inverter and replace with inverter P/N 412–375–079–103[.]''

Request: Bell requested that the FAA add more information in the Discussion paragraph regarding an alternative method of compliance (AMOC) issued to AD 2015–04–04. Bell requested this information should include Bell Alert Service Bulletin 412–15–164, dated March 13, 2015 (ASB 412–15–164), which was issued to notify individuals that an AMOC to AD 2015–04–04, was available. Bell ASB 412–15–164 specifies the FAA-approved AMOC, which allows instrument flight rules (IFR) and night operations provided the helicopter is flown by two pilots.

FAA Response: The FAA agrees and has revised the information in the Related Service Information section.

Request: Bell requested the FAA clarify a statement in the NPRM that Bell notified the FAA that ASB 412–16–171 contained errors in the serial numbers listed in Part B.

FAA Response: The FAA agrees. The FAA noticed an error in the serial numbers listed in ASB 412–16–171, Part B, and reached out to Bell for clarification. The FAA received an email from Bell dated August 29, 2017, confirming the existence of an error. The email from Bell stated: ''There is an error in Part B. According to the 'Helicopters Affected' block, helicopters 36696 through 36999 and 37013 through subsequent have the intent of the bulletin accomplished prior to delivery therefore, Part B should read: Part B is applicable to helicopters 36248 through 36695 and 37002 through 37012.''

FAA's Determination

The FAA has reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed with the changes described previously. These changes are consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of the AD.

Related Service Information

The FAA reviewed Bell ASB 412–15–164, which specifies an AMOC approved by the FAA for AD 2015–04–04. Instead of the flight limitations mandated by AD 2015–04–04, ASB 412–15–164 limits allow operation under IFR and night operations with two pilots.

The FAA reviewed Bell ASB 412–16–171, which specifies replacing certain serial-numbered inverters P/N 412–375–079–101 and 412–375–079–103 with inverter P/N 412–375–079–105 as a direct replacement or with a retrofit kit. Bell specifies that completing the actions specified by the ASB constitute terminating action for Bell ASB 412–15–164.

The FAA also reviewed Bell Service Instruction for Inverter Retrofit Kit BHT–412–SI–93, dated February 15, 2016, which provides instructions for installing retrofit kit P/N 412–704–058–103.

Costs of Compliance

The FAA estimates that this AD affects 73 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Installing an inverter or retrofit kit requires about 3 work-hours and parts cost about $15,749, for an estimated cost of $16,004 per helicopter and $1,168,292 for the U.S. fleet.

Differences Between This AD and the Service Information

Bell ASB 412–16–171 requires compliance no later than January 1, 2017, while this AD requires compliance within 25 hours TIS. Bell ASB 412–16–171 makes an ELA a determining factor for corrective actions. This proposed AD makes no such requirement. Bell ASB 412–16–171 provides instructions for helicopters with serial numbers 36649, 36658, 36659, 36673, 36681 through 36684, 36686, 36688, 36690, 36692, 36694, and 36696 through 36704, and this AD does not. Bell has notified the FAA of errors in the S/Ns listed for Part B of ASB 412–16–171. Accordingly, this AD is only applicable to those serial-numbered helicopters subject to the unsafe condition.

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

The FAA has determined that 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.

The FAA prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

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 removing Airworthiness Directive (AD) 2015–04–04, Amendment 39–18106 (80 FR 9594, February 24, 2015), and adding the following new AD:

2020–02–11 Bell Helicopter Textron Inc.: Amendment 39–21024; Docket No. FAA–2017–0052; Product Identifier 2016–SW–081–AD.

(a) Effective Date

This AD is effective March 17, 2020.

(b) Applicability

This AD applies to Model 412 and 412EP helicopters with serial number (S/N) 33001 through 33213, 34001 through 34036, 36001 through 36648, 36650 through 36657, 36660 through 36672, 36674 through 36680, 36685, 36687, 36689, 36691, 36693, 36695, and 37002 through 37012, certificated in any category, with a static inverter (inverter) part number (P/N) 412–375–079–101 or 412–375–079–103 with S/N 29145 or higher, installed.

(c) Unsafe Condition

This AD defines the unsafe condition as the failure of an inverter under instrument meteorological conditions or night flight. This condition could result in smoke in the cockpit, increased pilot workload due to the loss of primary flight and navigation displays, alternating current powered engine and transmission indicators, and autopilot, and subsequent loss of control of the helicopter.

(d) Affected ADs

This AD replaces AD 2015–04–04, Amendment 39–18106 (80 FR 9594, February 24, 2015).

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Within 25 hours time-in-service:

(i) For helicopters with S/N 33001 through 33213, 34001 through 34036, and 36001 through 36086, replace the inverter with inverter P/N 412–375–079–105.

(ii) For helicopters with a S/N 36087 through 36648, 36650 through 36657, 36660 through 36672, 36674 through 36680, 36685, 36687, 36689, 36691, 36693, 36695, and 37002 through 37012, install retrofit kit P/N 412–704–058–103 and replace the inverter with inverter P/N 412–375–079–105.

(2) After accomplishing the actions required by paragraph (f)(1) of this AD, you may remove the placard and Rotorcraft Flight Manual limitations, required by AD 2015–04–04, prohibiting night operations and restricting flights to visual flight rules.

(3) After the effective date of this AD, do not install an inverter P/N 412–375–079–101 or 412–375–079–103 on any helicopter.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, DSCO Branch, may approve AMOCs for this AD. Send your proposal to: Tim Beauregard, Aviation Safety Engineer, DSCO Branch, AIR–7J0, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5190; email *9-ASW-190-COS@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Related Information

For more information about this AD, contact Tim Beauregard, Aviation Safety Engineer, DSCO Branch, AIR–7J0, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5190; email *timothy.beauregard@faa.gov.*

Issued in Fort Worth, Texas, on January 22, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–02587 Filed 2–10–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6143; Product Identifier 2015–NM–028–AD; Amendment 39–19821; AD 2020–01–15]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and certain Model A310 series airplanes. This AD was prompted by the FAA's analysis of the fuel system reviews on these models conducted by the manufacturer. This AD requires modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This AD also provides alternative actions for cargo airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 17, 2020.

ADDRESSES:

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–2016–6143; 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: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

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 all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and certain Model A310 series airplanes. The NPRM published in the **Federal Register** on May 3, 2016 (81 FR 26493). The NPRM was prompted by the FAA's analysis of the fuel system reviews on these models conducted by the manufacturer. The NPRM proposed to require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. The NPRM also proposed alternative actions for cargo airplanes.

The FAA is issuing this AD to address ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Comments

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

Support for NPRM

The Air Line Pilots Association, International (ALPA) and National Air Traffic Controllers Association (NATCA) supported the intent of the NPRM. Additional comments from NATCA are addressed below.

Requests To Withdraw NPRM: EASA's Different Risk Assessment Policy

Airbus and the European Aviation Safety Agency (EASA) noted differences between EASA's risk assessment policy and that of the FAA. Based on its own criteria, EASA concluded that there is no unsafe condition, and that in the absence of a TARAM (transport airplane risk assessment methodology) analysis, EASA concluded the NPRM was based on noncompliance with Special Federal Aviation Regulation (SFAR) 88—Fuel Tank System Fault Tolerance Evaluation Requirements, to 14 CFR part 21 (66 FR 23086, May 7, 2001), and, more specifically, with 14 CFR 25.981(a)(3) as amended by amendment 25–102 (66 FR 23086, May 7, 2001), rather than a direct unsafe condition. The commenters asserted that Airbus has shown that the failure condition described in the NPRM is extremely improbable and not unsafe according to EASA policy. The commenters therefore considered the proposed corrective actions unnecessary.

The FAA infers that the commenters would like the NPRM withdrawn. The FAA disagrees with this proposal. The FAA does not agree that the NPRM was based simply on a noncompliance with 14 CFR 25.981(a) identified from the manufacturer's fuel system reviews. This final rule addresses an unsafe condition identified by the FAA. The FAA determined that an unsafe condition exists using the criteria in FAA Policy Memorandum ANM100–2003–112–15, ''SFAR 88—Mandatory Action Decision Criteria,'' dated February 25, 2003.[1] That policy was used to evaluate the noncompliant design areas identified in the manufacturer's fuel system reviews and to determine which noncompliance issues were unsafe conditions that required corrective action under 14 CFR part 39. The FAA's unsafe condition determination was not based on an assessment of average risk or total fleet risk, but rather was driven by the qualitative identification of an unacceptable level of individual risk that exists on flights that are anticipated to occur with a preexisting latent in-tank failure condition and with a flammable center fuel tank. For these reasons, and based on further detailed responses to similar comments in supplemental NPRM (SNPRM) Docket No. FAA–2012–0187 (80 FR 9400, February 23, 2015), and in the subsequently issued final rule, AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016) (''AD 2016–07–07''), which addressed the same unsafe condition for Boeing Model 757 airplanes, the FAA has determined that it is necessary to issue this final rule.

Request To Withdraw NPRM: Probability Analysis Inconsistent With Regulatory Requirements

Airlines for America and the Cargo Airline Association, in consolidated comments (A4A/CAA), United Parcel Service (UPS), and FedEx stated that the assumption of a single failure regardless of probability is inconsistent with 14 CFR part 25 regulatory requirements. The commenters referred to the phrase ''regardless of probability'' associated with single failures. A4A/CAA and UPS acknowledged that the term is used with single failures in FAA Advisory Circular (AC) 25.981–1C,[2] ''Fuel Tank Ignition Source Prevention Guidelines,'' but since that term does not appear in 14 CFR 25.981(a)(3), the commenters considered its use arbitrary, possibly introducing additional requirements not included in that section. FedEx also considers a ''worst anticipated flight'' as a flight with a latent failure. FedEx added that unless the remote likelihood of a latent failure is considered under 14 CFR 25.981(a)(3), the probability of a catastrophic event is exaggerated. A4A/CAA and UPS stated that the ''worst reasonably anticipated flight'' is a flight with a latent FQIS failure and a high-flammability tank, and this ''latent plus one'' failure—regardless of probability of a single failure—is not consistent with 14 CFR 25.981(a)(3).

The FAA infers that the commenters would like the NPRM withdrawn. The FAA disagrees with this proposal, and disagrees with the commenters' assertions regarding the intent of 14 CFR 25.981(a)(3). The intent of the single failure clause in 14 CFR 25.981(a)(3) is to set a general fail-safe minimum safety standard for the prevention of fuel tank ignition sources. The intent of the latent failure plus single failure clause in 14 CFR 25.981(a)(3) is to explicitly set a requirement for a fail-safe configuration (with respect to ignition sources) to be provided on flights that occur with any latent condition that cannot be shown to be extremely remote. Such flights are reasonably anticipated to occur multiple times in a fleet of aircraft of a given type, and those flights are required to be fail safe. These requirements were included in 14 CFR 25.981(a)(3) in recognition of the fact that simply providing a system that meets the extremely improbable average risk requirement of 14 CFR 25.1309(b) is not sufficient to prevent all catastrophic accidents. Systems that provide dual redundancy rather than triple redundancy, and that have one or both features susceptible to latent failure conditions, may pass the average risk test of 14 CFR 25.1309(b). However, such systems would not be fail safe on flights with latent failures, and may have an average probability of catastrophic failure—on those non-fail-safe flights—that is 100 or even 1,000 times worse than the overall risk on an average transport airplane flight. This would not meet the expectation of the public or Congress for the level of safety on each transport airplane flight. 14 CFR 25.981(a)(3) sets standards that are intended to prevent such high-risk flights and non-fail-safe flights.

The intent of 14 CFR 25.981(a)(3) is clear from the plain language of the rule. In every system safety analysis requirement in a 14 CFR part 25 regulation where the FAA intends a probabilistic condition or modifier to be associated with a requirement, that condition or modifier is explicitly stated in the wording of the rule in qualitative terms that are further defined in guidance material. Absence of such wording is clear evidence of the absence of an intended probabilistic condition or modifier. In other words, in the absence of a specific probabilistic qualifier, the intent of prescriptive prohibition is that it applies ''regardless of probability.''

The intent of 14 CFR 25.981(a)(3) with respect to the ''regardless of probability'' intent questioned by the commenters was also stated clearly in the preamble of the NPRM for 14 CFR 25.981, amendment 25–102. That preamble to the NPRM stated, in pertinent part, as follows.

> This proposal would also add a new paragraph (a)(3) to require that a safety analysis be performed to demonstrate that the presence of an ignition source in the fuel tank system could not result from any single failure, from any single failure in combination with any latent failure condition not shown to be extremely remote, or from any combination of failures not shown to be extremely improbable. These new requirements define three scenarios that must be addressed in order to show compliance with the proposed paragraph (a)(3). The first scenario is that any single failure, regardless of the probability of occurrence of the failure, must not cause an ignition source. The second scenario is that any single failure, regardless of the probability occurrence, in combination with any latent failure condition not shown to be at least extremely remote (*i.e.,* not shown to be extremely remote or extremely improbable), must not cause an ignition source. The third scenario is that any combination of failures not shown to be

[1] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf.*

[2] *https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_25.981-1C.pdf.*

extremely improbable must not cause an ignition source.

The preamble to the final rule for amendment 25–102 made a nearly identical statement, including the same uses of the phrase ''regardless of probability.''

The FAA does not agree with FedEx's related comment that the assumption of a preexisting failure on the worst anticipated flight ''exaggerates the probability of a catastrophic event.'' In fact, FedEx's apparently preferred method to characterize the probability of a catastrophic event as equal to the average probability of the event on all flights fails to assess the degree to which risk is concentrated on flights with latent failures, and simply does not assess the actual risk on such flights. The FAA has previously determined, in the promulgation of amendment 25–102, in development of the AD decision policy for issues identified through SFAR 88 reviews, and in the general assessment of potential unsafe conditions on transport airplanes under the TARAM policy, that assessment of risk on the worst anticipated flights is fundamental to providing a minimum acceptable level of safety on each reasonably anticipated flight as expected by Congress and the public.

No change to the AD was made in response to these comments.

Request To Withdraw NPRM: Reconsider Center Wing Fuel Tank Flammability Exposure Time

A4A/CAA, UPS, and Airbus requested that the FAA withdraw the NPRM based on their assertion that the current design of the center wing fuel tank is safe. According to the commenters, Airbus has shown that the center wing fuel tank does not meet the policy criteria set forth for a high-flammability exposure time fuel tank in SFAR 88.

The FAA disagrees with the commenters' request. Airbus originally submitted its flammability exposure time analysis in accordance with FAA Policy Memorandum ANM100–2003–112–15, as requested by the FAA and not in response to SFAR 88 since the submission was not a requirement of SFAR 88. As a result of the original Airbus analysis, the center wing fuel tanks on Model A300–600 and A310 series airplanes were categorized as having high fleet average flammability exposure time. In the resubmitted analysis, however, Airbus did not follow FAA Policy Memorandum ANM100–2003–112–15, when it incorrectly adjusted the standardized FAA Monte Carlo analysis to account for cargo-only operations in the U.S. This resulted in a significant deviation from the FAA Monte Carlo analysis used to consistently evaluate fleet average flammability exposure time for numerous airplane models across multiple manufacturers. Deviating from the standardized modeling technique, as Airbus has done, nullifies the basis for comparison of the Airbus analysis results to the 7-percent criterion established for determining whether a fuel tank has high- or low-flammability exposure time per the FAA Policy Memorandum ANM100–2003–112–15. As with any standardized testing or analysis methods, deviating from the standardized model and input affects the validity and applicability of the standardized pass/fail criteria. The 7-percent criterion is valid only when the standardized FAA Monte Carlo method is used without deviation; for this reason, the FAA does not accept an analysis developed with variables to account for specific fleet or subfleet operations. The FAA, based on its application of Policy Memorandum ANM100–2003–112–15, has therefore determined that it is necessary to proceed with issuance of this final rule.

Request To Withdraw NPRM: No New Data Since Fuel Tank Flammability Reduction (FTFR) Rulemaking

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on a lack of new data since the issuance of the FTFR rule (73 FR 42444, July 21, 2008). The commenters referred to the FTFR rule and decision to not require flammability reduction means (FRM) for all-cargo airplanes, and the FAA's intent to gather additional data and consideration of further rulemaking if flammability of these airplanes is excessive. The commenters also referred to the FAA's response to comments in the preamble to the SNPRM for Docket No. FAA–2012–0187, which documented the FAA's decision on applicability of FRM and cost estimates. The commenters stated that the FAA response was misleading and not factual since manufacturers did not begin detailed designs to address the proposed unsafe condition until after the FTFR rule was published. The commenters added that the FAA did not discuss other changes to the FQIS system in the FTFR rule.

The FAA disagrees with the commenters' request. In the preamble to the FTFR rule, the FAA indicated the possibility of later changing its position and proposing inerting for cargo airplanes if later data shows the flammability on cargo airplanes is excessive. The determination that including cargo airplanes in the FTFR rule's requirement to retrofit airplanes with FRM would not be cost effective was based in part on the assumption that corrective actions would be required for the FQIS unsafe condition identified under FAA Policy Memorandum ANM100–2003–112–15. Since that determination, manufacturers have updated their cost estimates based on subsequent detailed design work. The FAA responded to similar comments in the preamble to the final rule for AD 2016–07–07. The FAA has therefore determined that it is necessary to proceed with this final rule.

Request To Withdraw NPRM: Arbitrary and Inconsistent Wire Separation Standards

A4A/CAA, FedEx, and UPS requested that the FAA withdraw the NPRM based on a lack of consistent design standards for FQIS wire separation. The commenters assumed that the approved standard for the retrofit is a 2-inch wire separation minimum, which the commenters considered arbitrary and inconsistently applied. The commenters reported that the amount of wiring capable of meeting that separation standard varies widely among airplane models. A4A/CAA and UPS also acknowledged that other separation methods were used in areas not meeting the 2-inch wire separation requirement.

The FAA disagrees with the commenters' request to withdraw the NPRM. Because of configuration differences between different airplane designs, as the commenter also notes, the FAA has not defined a universal minimum standard for wiring design, including wire separation, as explained in paragraph 8.3.3 of AC 25.981–1D: [3]

> Wiring designs used on transport category airplanes vary significantly between manufacturers and models; therefore, it is not possible to define a specific, universal, separation distance, or the characteristics of physical barriers between wire bundles, to protect critical wiring from damage.

AC 25.981–1D also notes the following:

> Some areas of an airplane may have localized areas where maintaining a general physical separation distance is not feasible. This is especially true in smaller transport category airplanes or in areas where wiring spans the wing-to-body join of larger transport airplanes. In those areas that limit separation distance, additional means of ensuring physical separation and protection of the wiring may be necessary. Testing and/or analysis used to show that the reduced separation distance is acceptable should be conservative and consider the worst possible failure condition not shown to be extremely improbable. The applicant should

[3] *https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_25.981-1D.pdf.*

substantiate that the means to achieve the reduced separation provides the necessary level of protection for wire-related failures and electromagnetic effects.

In addition, the FAA provided a detailed response to similar comments in the preamble to the final rule for AD 2016–07–07. The FAA has therefore determined that it is necessary to proceed with issuance of this final rule.

Request To Withdraw NPRM: NPRM Arbitrary and Inconsistently Applied

A4A/CAA and UPS requested that the FAA withdraw the NPRM based on the commenters' assertion that the NPRM is arbitrary and inconsistently applied. The commenters noted that airplanes with FRM are not included in the applicability, and the NPRM would therefore not fully address the unsafe condition. The commenters added that the distinction between high- and low-flammability exposure time fuel tanks as used in the NPRM is arbitrary. The commenters stated that an arbitrary differentiation of high/low flammability as decisional criteria for the need for corrective action does not take into account the actual probability of the impact of the difference in flammability on the potential of catastrophic failure. The commenters also stated that allowing the proposed alternative actions for cargo airplanes does not fully address the unsafe condition in the NPRM. The commenters referenced the FAA's response to comments in AD 2016–07–07 regarding this issue.

The FAA disagrees with the assertion that the NPRM is arbitrary and inconsistent. The NPRM follows defined policy in FAA Policy Memorandum ANM100–2003–112–15, and consistently applies the policy to several airplane models with similar unsafe conditions, similar to AD 2016–07–07. The FAA defined the difference between low- and high-flammability exposure time fuel tanks based on recommendations from the Aviation Rulemaking Advisory Committee Fuel Tank Harmonization Working Group (FTHWG). The preamble to the final rule for amendment 25–102, which amended 14 CFR 25.981, defines this difference:

> The level of flammability defined in the proposal was established based upon comparison of the safety record of center wing fuel tanks that, in certain airplanes, are heated by equipment located under the tank, and unheated fuel tanks located in the wing. The FTHWG concluded that the safety record of fuel tanks located in the wings was adequate and that if the same level could be achieved in center wing fuel tanks, the overall safety objective would be achieved.

In the response to comments in the preamble to the final rule for AD 2016–07–07 referenced by the commenters, the FAA described why FRM or alternative actions for cargo airplanes provide an acceptable level of safety, even if they do not completely eliminate the non-compliance with 14 CFR 25.981(a)(3).

The FAA has determined that it is necessary to proceed with issuance of this final rule.

Request To Withdraw NPRM: Insufficient Justification for AD

Based on an assertion that the FAA did not sufficiently explain how the unsafe condition justifies AD rulemaking, UPS requested that the FAA withdraw the NPRM. UPS stated that the FTFR rule did not suggest that any future modifications of FQIS systems had been considered. UPS contended that all-cargo operators were surprised and prejudiced by costly proposed FQIS modifications that are unsupported by both an updated risk assessment and full cost/benefit analysis that consider the pertinent facts. UPS alleged that the FAA did not fully explain or justify its decision making for the NPRM, and concluded that the NPRM is arbitrary and does not reflect properly reasoned agency action.

The FAA disagrees with the commenter's request. The justification for this AD was extensively described in the NPRM, in response to comments described elsewhere in this final rule, and in the AD rulemaking actions related to AD 2016–07–07, as explained in the response to ''Request to Withdraw NPRM: Probability Analysis Inconsistent with Regulatory Requirements'' in this final rule. The FAA has therefore determined that it is necessary to proceed with issuance of this final rule.

Request for Safety Risk Assessment and Cost-Benefit Analysis

FedEx requested that a safety risk assessment and cost-benefit analysis be done to justify the required modification. FedEx asserted that the NPRM did not provide the reduction in probability of a fuel tank explosion if the modification is done, but FedEx noted that evidence should exist to support the modification since there can be multiple modifications required, and a cost-benefit analysis should be done showing that the modification provides an acceptable level of safety.

The FAA disagrees with the commenter's request. This final rule addresses an unsafe condition as described in 14 CFR part 39. The FAA previously provided cost estimates in the NPRM and described why corrective actions are necessary to address the unsafe condition. In addition, the FAA's detailed response to similar comments and the description of the FAA's risk assessment in the preamble of the SNPRM for Docket No. FAA–2012–0187, and in the preamble to the final rule for the subsequently issued AD 2016–07–07, adequately address these issues. Therefore, the FAA has not changed this final rule regarding this issue.

Request To Revise Description of Determination of Unsafe Condition

Airbus requested that the FAA revise the NPRM to state that the unsafe condition is based on reviews by the FAA, not the manufacturer. Based on the fuel tank safety reviews and its analysis of real-world data specific to cargo aircraft operated in the U.S., Airbus concluded that the ''latent plus one condition'' associated with a high-flammability exposure time fuel tank does not exist.

The FAA partially agrees with the commenter's request. As previously discussed, the FAA considers the center wing fuel tanks of Model A300–600 and Model A310 airplanes as high-flammability exposure time fuel tanks; therefore, the criteria for an unsafe condition are met as described in FAA Policy Memorandum ANM100–2003–112–15. However, the FAA agrees to clarify that the unsafe condition was determined by the FAA's analysis of the manufacturer's fuel system reviews and has revised this final rule accordingly.

Request To Remove Model A310–200

Airbus requested that the FAA remove Model A310–200 airplanes from the applicability of the proposed AD. Airbus stated that no Model A310–200 airplanes have been operational under 14 CFR part 135 since April 2016, and Airbus has no plans to develop modifications to the aircraft wiring for those airplanes.

The FAA agrees with the commenter's request to remove Model A310–200 airplanes from the applicability of the AD. Since the NPRM was issued, all Model A310–200 airplanes have been removed from service. The FAA has revised this AD accordingly.

Request To Include Service Information

Airbus reported that it is developing inspection service bulletins for Model A300–600 and A310 series airplanes as a method of compliance with paragraph (h)(1) of the proposed AD. Airbus also reported that it is developing a modification service bulletin for Model A300–600 series airplanes as a method

of compliance with paragraph (h)(2) of the proposed AD.

The FAA infers that Airbus would like the FAA to include this service information in this AD. Because these service bulletins are not yet approved or available, the FAA cannot identify them as the source of service information for the referenced requirements in this AD. However, if Airbus releases service information that adequately addresses the unsafe condition regarding the inspection and/or modification requirements, the FAA may consider the service information as an alternative method of compliance (AMOC) for this AD. The FAA has not changed this AD regarding this issue.

Request To Change Compliance Time

A4A/CAA, FedEx, and Airbus requested that the FAA extend the compliance time from 60 months to 72 months for the modification specified in the proposed AD. Airbus and FedEx stated that the compliance time should match that of AD 2016–07–07 because the unsafe condition and corrective actions are similar. Airbus stated that the additional time is appropriate due to the modification's anticipated complexity, development time and cost, cost of kits, and airplane downtime. In addition, Airbus and FedEx both expressed concerns about the feasibility of the modification due to the potential effects of existing FQIS modifications through supplemental type certificates. A4A/CAA stated that although service information was not yet available, the compliance time should align with major maintenance schedules, but should be not less than 72 months after service information is available.

Conversely, NATCA recommended that the FAA reject requests for a compliance time longer than 5 years as proposed in the NPRM. Assuming final rule issuance in 2016, NATCA stated that a 5-year compliance time would result in required compliance by 2021—25 years after the TWA Flight 800 fuel tank explosion that led to the requirements in SFAR 88, and 20 years after issuance of SFAR 88.

The FAA agrees with the commenters' requests to extend the compliance time, and disagrees with NATCA's request. The FAA received similar requests to extend the compliance time from several commenters regarding the NPRMs for the FQIS modification on other airplanes. The FAA disagrees with establishing a compliance time based on issuance of the service information that is not yet approved or available. The FAA has determined that a 72-month compliance time is appropriate and will provide operators adequate time to prepare for and perform the required modifications without excessive disruption of operations. The FAA has determined that the requested moderate increase in compliance time will continue to provide an acceptable level of safety. The FAA has changed paragraphs (g) and (h)(2) of this AD accordingly.

Request To Clarify Certification Basis for Modification Requirements

NATCA recommended that the FAA revise paragraph (g) of the proposed AD to clearly state that the required FQIS design changes must comply with the fail-safe requirements of 14 CFR 25.901(c), amendment 25–46 (43 FR 50597, October 30, 1978), and 14 CFR 25.981(a) and (b), amendment 25–102; NATCA added that these provisions are required by SFAR 88.

The FAA infers that NATCA is proposing that the certification basis of the design changes to the FQIS system design be at the amendment levels cited above. The FAA further infers that NATCA proposes that the FAA require the entire FQIS system design to comply at those amendment levels rather than allowing only a portion of the system to comply with those amendments. The FAA partially agrees with NATCA's request. The FAA agrees that the design change must comply with the applicable certification basis, because design changes are required to comply with the applicable certification basis under part 21. The FAA disagrees, however, with identifying the specific certification basis in this AD, because it varies by design. In addition, the FAA previously identified in the preamble of the SNPRM for AD 2016–07–07 in the response to comments under ''Requests To Withdraw NPRM (77 FR 12506, March 1, 2012) Based on Applicability'' that the option for cargo airplanes will require a partial exemption from 14 CFR 25.901(c) and 25.981(a)(3). The partial exemption is needed because portions of the FQIS would remain unmodified, and the overall system would therefore still not fully comply with those regulations. The FAA has already granted such exemptions for other airplane models. Identifying these amendments as required would also not take into account exceptions (reversions to earlier versions of regulations) granted in the certification basis under 14 CFR 21.101. The FAA has not changed this AD regarding this issue.

Request To Address Unsafe Condition on All Fuel Tanks

NATCA recommended that the FAA require design changes that eliminate unsafe FQIS failure conditions on all fuel tanks on the affected models, regardless of fuel tank location or the percentage of time the fuel tank is flammable. NATCA referred to four fuel tank explosions in low-flammability exposure time fuel tanks identified by the FAA during FTFR rulemaking. NATCA stated that neither FRM nor alternative actions for cargo airplanes (*e.g.,* BITE checks (checks of built-in test equipment) followed by applicable repairs before further flight and modification of the center fuel tank FQIS wiring within 72 months) would bring the airplane into full regulatory compliance. NATCA added that the combination of failures described in the NPRM meets the criteria for ''known combinations'' of failures that require corrective action in FAA Policy Memorandum ANM100–2003–112–15.

The FAA disagrees with the commenter's request. The FAA has determined that according to Policy Memorandum ANM100–2003–112–15, the failure condition for the airplanes affected by this AD should not be classified as a ''known combination.'' While the FQIS design architecture is similar to that of the early Boeing Model 747 configuration that is suspected of contributing to the TWA Flight 800 fuel tank explosion, significant differences exist in the design of FQIS components and wire installations between the affected Airbus SAS models and the early Model 747 airplanes such that the intent of the ''known combinations'' provision for low-flammability fuel tanks in the policy memorandum is not applicable. Therefore, this AD affects only the identified Airbus airplanes with high-flammability exposure time fuel tanks, as specified in paragraph (c) of this AD. The FAA provided a detailed response to similar comments in the preamble of the final rule for AD 2016–07–07. The FAA has not changed this final rule regarding this issue.

Request To Require Modifications on All Production Airplanes

NATCA recommended that the FAA require designs that comply with 14 CFR 25.901(c) and 25.981(a)(3) on all newly produced transport airplanes. NATCA stated that continuing to grant exemptions to 14 CFR 25.901(c), as amended by amendment 25–40 (42 FR 15042, March 17, 1977), and 14 CFR 25.981(a)(3), as amended by amendment 25–102, has allowed continued production of thousands of airplanes with this known unsafe condition.

The FAA disagrees with the commenter's request. The recommendation to require production airplanes to fully comply with 25.901(c) and 25.981(a)(3) is outside the scope of

this rulemaking. This AD applies only to Model A300–600 and Model A310 airplanes, which are no longer in production. The FAA has not changed this final rule regarding this issue.

Request To Require Design Changes From Manufacturers

NATCA recommended that the FAA follow the agency's compliance and enforcement policy to require manufacturers to develop the necessary design changes soon enough to support operators' ability to comply with the proposed requirements. NATCA noted that SFAR 88 required manufacturers to develop all design changes for unsafe conditions identified by their SFAR 88 design reviews by December 2002, or within an additional 18 months if the FAA granted an extension.

The FAA acknowledges the commenter's concerns. However, any enforcement action is outside the scope of this rulemaking. The FAA has not changed this final rule regarding this issue.

Clarification of BITE Check Compliance Time

The FAA has revised paragraph (h)(1) of this AD to clarify the compliance time for the BITE check relative to the requirement to record the fault codes. The FAA recognized that operators might interpret the proposed requirements for alternative actions for cargo airplanes as allowing additional flights prior to performing the BITE check after first recording the fault codes. The FAA intended for operators to perform the BITE check immediately after recording the fault codes to address both the fault codes that exist prior to performing the BITE check and any new codes that are identified during the BITE check.

Additional Compliance Time Change

For consistency with similar ADs related to FQIS, the FAA has revised paragraph (h)(1) of this AD to change the repetitive interval for recording the existing fault codes stored in the fuel quantity indicating (FQI) computer and performing the BITE check from ''not to exceed 650 flight hours'' to ''not to exceed 750 flight hours.'' The FAA has determined that this change continues to provide an acceptable level of safety.

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 with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

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

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Costs of Compliance

The FAA estimates that this AD affects 122 airplanes of U.S. registry.

The FAA also estimates that it would take about 1,200 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. The FAA has received no definitive data that would enable us to provide cost estimates for the parts needed to do the required actions. Based on these figures, The FAA estimates the labor cost of this AD on U.S. operators to be $12,444,000, or $102,000 per product.

The FAA has not received definitive information on the costs for the alternative wire separation modification specified in this AD. The cost for this action in similar rulemaking on other airplanes, however, suggests that this modification could take about 74 work-hours, with parts costing about $10,000, for a total estimated cost to U.S. operators of $16,290 per product.

The FAA estimates that the repetitive FQIS tank circuit checks associated with the alternative wire separation modification would take about 1 work-hour per check. The FAA estimates the cost of this check on U.S. operators to be $85 per product, per check.

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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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):

2020–01–15 Airbus SAS: Amendment 39–19821; Docket No. FAA–2016–6143; Product Identifier 2015–NM–028–AD.

(a) Effective Date

This AD is effective March 17, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, identified in paragraphs (c)(1) through (5) of this AD.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R and F4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A310–304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by the FAA's analysis of fuel system reviews on the affected airplanes conducted by the manufacturer. The FAA is issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 72 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved by the Manager, International Section, Transport Standards Branch, FAA.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the fuel quantity indicating (FQI) computer, and before further flight thereafter, do a BITE check (check of built-in test equipment) of the FQI computer, using a method approved by the Manager, International Section, Transport Standards Branch, FAA. If any fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no fault found, using a method approved by the Manager, International Section, Transport Standards Branch, FAA. Repeat these actions thereafter at intervals not to exceed 750 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 72 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQI computer and the center fuel tank wall penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved by the Manager, International Section, Transport Standards Branch, FAA.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Section, Transport Standards 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 International Section, send it to the attention of the person identified in paragraph (j) of this AD.

(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 Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(k) Material Incorporated by Reference

None.

Issued on January 31, 2020.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2020–02512 Filed 2–10–20; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 408, and 416

[Docket No. SSA–2018–0028]

RIN 0960–AI33

Advance Designation of Representative Payees for Social Security Beneficiaries

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are finalizing our proposed regulations specifying the information Social Security beneficiaries and applicants must provide to designate individuals as their possible representative payee in advance of our determination that the beneficiary needs a representative payee. These regulations additionally set forth how we will consider an individual's advance designation when we select a representative payee, and fulfill our obligation under 201 of the Strengthening Protections for Social Security Beneficiaries Act of 2018.

DATES: This final rule is effective February 25, 2020.

FOR FURTHER INFORMATION CONTACT: Peter Smith, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–3235. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

A representative payee is a person or organization that we select to receive and manage Social Security benefits, special veterans benefits, and Supplemental Security Income (SSI) payments on behalf of a beneficiary. Generally, beneficiaries have the right to receive their benefits directly and manage them independently. However, we may determine that a beneficiary is unable to manage or direct the management of benefit payments because of the beneficiary's mental or physical condition, or because of the beneficiary's youth.[1] In these cases, we appoint a representative payee when we believe it will serve the beneficiary's interest to receive benefits through a representative payee instead of receiving them directly.[2]

On April 13, 2018, President Trump signed into law the *Strengthening Protections for Social Security Beneficiaries Act of 2018* (*Strengthening Protections Act*).[3] Section 201 of the *Strengthening Protections Act,* entitled ''Advance Designation of Representative Payees,'' amended section 205(j)(1) of the Social Security Act[4] to allow for advance designation of representative payees. It also required us to promulgate regulations specifying the information

[1] See 42 U.S.C. 405(j)(1), 807(a), 1383(a)(2)(A)(ii); 20 CFR 404.2001(b), 408.601(b), 416.601(b).

[2] See 20 CFR 404.2001(a), 20 CFR 408.601(a), and 20 CFR 416.601(a).

[3] Public Law 115–165, 132 Stat. 1257. Available at: *https://www.congress.gov/115/plaws/publ165/PLAW–115publ165.pdf.*

[4] 42 U.S.C. 405(j)(1).

that an individual must provide to designate a representative payee in advance.

To help us develop the information that we need, we hosted a National Disability Forum (NDF) on Advance Designation of Representative Payees on October 30, 2018 [5], at which we received feedback from panelists with experience in fields relevant to our representative payee program. Following the NDF and taking the feedback we received into consideration, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on November 26, 2019.[6] In the NPRM, we proposed that applicants or beneficiaries may designate one or more potential representative payees, provided that we have not determined the applicant or beneficiary to be mentally or physically incapable of managing benefit payments, or that the applicant or beneficiary has not been found legally incompetent. Consistent with the *Strengthening Protections Act,* we proposed to permit advance designations of individuals only, not organizations.[7]

We proposed that eligible individuals may designate potential representative payees in advance by providing us with the information we require. This required information includes the name and telephone number of each advance designee and the priority order in which the individual would like us to consider the advance designees, if more than one is designated. We noted that current systems limitations allow us to receive up to three advance designations. We also proposed to consider advance designees first when selecting a representative payee. When we determine that a representative payee is necessary,[8] we would first review the advance designees previously identified by the individual (if any), in the order of priority established by the individual. Finally, we proposed that individuals who are eligible to make advance designations may withdraw or revise their advance designations at any time, provided that at the time of modification they are still eligible to make advanced designations. Individuals could withdraw or revise their advance designations by informing us of the change in writing, in person, by telephone, or by direct electronic submission through our website. We also proposed that individuals who wish to revise their advance designations must provide the required information for any newly designated individuals.

In response to the NPRM, we received four timely proffered comment submissions. Below, we did not summarize or respond to one comment that was outside the scope of the proposed rule, and one comment that agreed with the proposal and did not suggest any changes. All comments are viewable through the eRulemaking docket, available online at *www.regulations.gov,* docket number SSA–2018–0028.

Public Comments and Discussion

Comment: One commenter suggested that to assess the suitability of a person whom a beneficiary wishes to advance designate, including any risk of coercion, undue influence, or exploitation, we should interview proposed advance designees in person and in the company of the beneficiary. If an in-person interview is not possible, the commenter suggested that interviews could take place by video or phone.

Response: The commenter is asking that we use different procedures for representative payees who are advanced designated than for any other applicants we are considering for representative payee appointment. This would be unnecessary and would establish a disparate standard. In response to the commenter's concern that we ensure the potential representative payee is appropriate, we reiterate that we will not appoint someone to be a representative payee solely because the individual designated them in advance. As stated in the NPRM, all advance designees will undergo the same procedures as anyone else under consideration to be a representative payee.

For example, we interview payee applicants as part of our normal selection procedures.[9] These same selection procedures will apply when we evaluate an advance designee at the time that a representative payee is needed. We conduct interviews in person, except under certain circumstances. In those situations where we do not conduct an in-person interview, we generally require one by phone or videoconference. However, we do not require that the payee applicant interview occur in the company of the beneficiary. Under existing regulations, beneficiaries receive advance notice of payee appointments and are afforded the right to appeal the selection.[10] Additionally, the payee applicant's responses during the interview are given under penalty of perjury.

Comment: One commenter recommended that before appointing an advance designee as a representative payee, we should confirm the beneficiary still prefers the advance designee to serve as representative payee.

Response: Before appointing any representative payee, we always provide advance notice to the beneficiary notifying him or her of the need for a payee and identifying the payee. The advance notice also provides the beneficiary with the right to appeal the selection. Additionally, once advance designation begins, we will send a notice annually to beneficiaries who have advance designations on record reminding them of their advance designees. The notice will instruct the beneficiary to review the advance designees to confirm the accuracy of the information and to update the information as necessary. So, the information in a beneficiary's advance designation will be relatively recent regardless of when the beneficiary initially submitted the advance designation.

Comment: One commenter suggested that our field office staff should fully document reasons for a determination not to select an advance designee.

Response: Under existing procedure, whenever we do not select a payee applicant, we document the non-selection reason in our electronic Representative Payee System (eRPS) (OMB No. 0960–0814). We will include an option in the eRPS system to annotate advance designee status for the payee applicant. We are also building functionality in the system's new Advance Designation screens to document the contacts made with advance designees and why we did not select an advance designee. Our program instructions will direct staff to include notes explaining the decision any time an advance designee is not selected as payee.

Comment: One commenter recommended that we should annually notify the beneficiary to remind them of advance designees and ask for any updates or changes to their contact information.

[5] Information related to this NDF is available on our internet site at *https://www.ssa.gov/ndf/ndf_outreach.htm,* under the October 30, 2018 tab.

[6] 84 FR 65040.

[7] *See* section 205(j)(1)(C)(ii) of the Act, as amended by the section 201(a) of the Strengthening Protections Act, 42 U.S.C. 405(j)(1)(C)(ii).

[8] *See* 20 CFR 404.2010 and 416.610 for when we will make payment to a representative payee.

[9] *See* 20 CFR 404.2024, 408.624, 416.624 for how we investigate a representative payee applicant, including when we conduct a face-to-face interview with the payee applicant.

[10] 20 CFR 404.2030, 408.630, 416.630.

Response: This will be part of our process, as we explained in the NPRM. Section 201(d) of the *Strengthening Protections Act* requires that annually ''the Commissioner of Social Security shall notify each individual entitled to a benefit under title II, VIII, or XVI of the Social Security Act of the name of any individual designated to serve as the individual's representative payee. . . .'' So, we will send a notice annually to beneficiaries reminding them of their advance designees. The notice will instruct the beneficiary to review the accuracy of the advance designee information and to update the information if necessary.

Comment: One commenter suggested that when a beneficiary designates an individual, we should provide notice of the designation to the advance designee.

Response: We considered whether to notify individuals who are advance designated at the time that the advance designation occurs. We decided against this action because the burden on the public and us outweighed the benefit of notifying individuals that they had been advance designated, because a designee may never be called upon to serve as a payee. At the time that we determine that a beneficiary is incapable and we begin development of a payee, we will contact the advance designee to determine the person's availability, willingness, and suitability to serve as a payee.

Comment: One commenter suggested that the information we are proposing to collect might not be enough to identify the advance designees and that we should consider collecting more information, including date of birth and current address.[11]

Response: We considered whether to collect additional information about the advance designees, but we determined that their names and telephone numbers are sufficient to contact the advance designee. We also considered whether to collect advance designees' current addresses; however, our process for contacting advance designees will only include contacting them by telephone. If an advance designee is unreachable by telephone, we will contact the beneficiary to obtain updated contact information for the individual.

The commenter noted that a long time may have passed between the time the the beneficiary originally makes the advance designation and when we attempt to contact the advance designee. For this reason, we will send a notice annually to beneficiaries who have made advance designations reminding them of their advance designees. The notice will instruct the beneficiary to review the advance designees to assess the accuracy of the information provided and to update the information if necessary. We will not collect an advance designee's date of birth at the time of advance designation because this information is unnecessary. Once we determine that a beneficiary is incapable and we need to appoint a payee, we will confirm the identity of the advance designee as part of our normal payee development procedures.

Comment: One commenter suggested that we communicate the option of advance designation to current beneficiaries.

Response: We agree with this suggestion. The agency is developing marketing tools and external communication plans to create a broad awareness of advance designation procedures.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, final rules become effective 30 days following their publication in the **Federal Register**. However, the APA provides exceptions to allow for earlier effective dates including ''as otherwise provided by the agency for good cause found and published with the rule'' 5 U.S.C. 553(d)(3).

We determined that good cause exists for dispensing with the 30-day delay in the effective date of this final rule. This final rule merely codifies a statutory directive which the agency is required by law to begin by April 2020. As well, the public comments did not raise any novel issues or concerns. We therefore find it is in the public interest to make this final rule effective 14 days after its publication in the **Federal Register**.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and OMB determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Thus, OMB did not formally review this final rule.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

We analyzed this final rule in accordance with the principles and criteria established by Executive Order 13132, and determined that the final rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this final rule would not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

E.O. 13771

This final rule is not subject to the requirements of Executive Order 13771 because it is not a significant regulatory action under E.O. 12866.

Anticipated Costs to Our Programs

Our Office of the Chief Actuary estimates that implementing this final rule will result in a very small increase in program costs for the Social Security and Supplemental Security Income programs over the 10-year period 2020 through 2029.

Anticipated Administrative Costs to SSA

Our Office of Budget, Finance, and Management estimates that this change will result in administrative costs to the agency of approximately $275 million over 10 years, with none of the annual costs meeting or exceeding the E.O. 12866 ''economically significant'' threshold of $100 million. The administrative estimates comprise the costs for creating and running the online application; field office interviews; employee processing time; and sending annual mailers.

Congressional Review Act (CRA)

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

Paperwork Reduction Act (PRA)

Section 404.2018 of this final rule imposes a new public reporting burden: the requirement for affected members of the public to use our prescribed paper form or online application to submit the names and telephone numbers of advance designees. We previously

[11] The information we proposed to collect in the NPRM included the name and telephone number of each advance designee and the priority order in which the individual would like us to consider the advance designees, if more than one are designated.

solicited comment on these proposed information collection instruments via a notice published in the **Federal Register**.[12] In response to that notice, several members of the public submitted comments. We previously provided a document detailing these comments, as well as our responses, in the rulemaking docket on *Regulations.gov* under Supporting and Related Material for this rule's NPRM.

We did not change the proposed Information Collection Request (ICR) originally shared with the publication of the above-referenced standalone **Federal Register** notice. However, we again solicited comment on the proposed ICR for section 404.2018 as part of the NPRM. We did not receive any further comments or requests for information relating to the PRA in response to that solicitation of comment, and we are not making any further changes to this ICR now. Accordingly, OMB pre-approved the ICR under OMB number No. 0960–0814. This approval will be considered final when this final rule becomes effective.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income).

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 408

Administrative practice and procedure; Reporting and recordkeeping requirements; Social security; Supplemental Security Income (SSI), Veterans.

20 CFR Part 416

Administrative practice and procedure; Reporting and recordkeeping requirements; Social security; Supplemental Security Income (SSI).

Dated: January 31, 2020.

Andrew Saul,

Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart U of part 404, subpart F of part 408, and subpart F of part 416 of title 20 of the Code of Federal Regulations as set forth below:

[12] 84 FR 40121 (August 13, 2019).

PART 404—FEDERAL OLD–AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

■ 1. The authority citation for subpart U of part 404 continues to read as follows:

Authority: Secs. 205(a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), (j), and (k), and 902(a)(5)).

■ 2. Add section § 404.2018 to read as follows:

§ 404.2018 Advance designation of representative payees

(a) *General.* An individual who:

(1) Is entitled to or an applicant for a benefit and;

(2) Has attained 18 years of age or is an emancipated minor, may designate in advance one or more individuals to possibly serve as a representative payee for the individual if we determine that payment will be made to a representative payee (see § 404.2010(a)). An individual may not designate in advance possible representative payees if we have information that the individual is either-legally incompetent or mentally incapable of managing his or her benefit payments; or physically incapable of managing or directing the management of his or her benefit payments.

(b) *How to designate possible representative payees in advance.* Individuals who meet the requirements in paragraph (a) of this section may designate in advance their choice(s) for possible representative payees by indicating their decision to designate a representative payee in advance and providing us with the required information. In addition to the required information, an individual may choose to provide us with the relationship of the advance designee(s) to the individual. The information we require before we will consider an advance designee as a possible representative payee is:

(1) The name of the advance designee,

(2) A telephone number of the advance designee, and

(3) The order of priority in which the individual would like us to consider the advance designees, if he or she designates more than one advance designee.

(c) *How to make changes to advance designation.* Individuals who meet the requirements in paragraph (a) of this section may change their advance designees by informing us of the change and providing the required information (see paragraphs (b)(1) through (3) of this section) to us. Individuals who meet the requirements in paragraph (a) of this section may withdraw their advance designation by informing us of the withdrawal.

(d) *How we consider advance designation when we select a representative payee.* (1) If we determine that payment will be made to a representative payee, we will review an individual's advance designees in the order listed by the individual and select the first advance designee who meets the criteria for selection. To meet the criteria for selection—

(i) The advance designee must be willing and able to serve as a representative payee,

(ii) Appointment of the advance designee must comply with the requirements in section 205(j)(2) of the Social Security Act, and

(iii) There must be no other good cause (see §§ 404.2020 and 404.2021) to prevent us from selecting the advance designee.

(2) If none of the advance designees meet the criteria for selection, we will use our list of categories of preferred payees (see § 404.2021), along with our other regulations in subpart U of this part, as a guide to select a suitable representative payee.

(e) *How we consider advance designation when we select a subsequent representative payee.* If an individual who currently has a representative payee requires a change of representative payee, we will consider any other designees identified by the individual at a time in which that individual was eligible to make an advanced designation, under paragraph (d) of this section.

(f) *Organizations.* An individual may not designate in advance an organization to serve as his or her possible representative payee.

■ 3. Amend § 404.2020 by revising paragraphs (e) and (f) and adding paragraph (g) to read as follows:

§ 404.2020 Information considered in selecting a representative payee

* * * * *

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary;

(f) The potential payee's criminal history; and

(g) Whether the beneficiary made an advance designation (see § 404.2018).

■ 4. Amend § 404.2021 by revising the introductory text to read as follows:

§ 404.2021 What is our order of preference in selecting a representative payee for you?

As a guide in selecting a representative payee, we have established categories of preferred payees. These preferences are flexible. We will consider an individual's

advance designee(s) (see § 404.2018) before we consider other potential representative payees in the categories of preferred payees listed in this section. When we select a representative payee, we will choose the designee of the beneficiary's highest priority, provided that the designee is willing and able to serve, is not prohibited from serving (see § 404.2022), and supports the best interest of the beneficiary (see § 404.2020). The preferences are:

* * * * *

PART 408—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS

■ 5. The authority citation for subpart F of part 408 is revised to read as follows:

Authority: Secs. 205(j)(1)(C), 702(a)(5), 807, and 810 of the Social Security Act (42 U.S.C. 405(j)(1)(C), 902(a)(5), 1007, and 1010).

■ 6. Add § 408.618 to subpart F to read as follows:

§ 408.618 Advance designation of representative payees.

For information about advance designation, how to designate representative payees in advance, how to make changes to advance designations, how we consider an advance designation when we select a representative payee, how we consider an advance designation when we select a subsequent representative payee, and other relevant information, see §§ 404.2018, 404.2020, and 404.2021 of this chapter.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

■ 7. The authority citation for subpart F of part 416 is revised to read as follows:

Authority: Secs. 205(j)(1)(C), 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 405(j)(1)(C), 902(a)(5), 1383(a)(2) and (d)(1)).

■ 8. Add § 416.618 to subpart F to read as follows:

§ 416.618 Advance designation of representative payees

(a) *General.* An individual who:

(1) Is eligible for or an applicant for a benefit; and

(2) Has attained 18 years of age or is an emancipated minor, may designate in advance one or more individuals to possibly serve as a representative payee for the individual if we determine that payment will be made to a representative payee (see § 416.610(a)). An individual may not designate in advance possible representative payees if we have information that the individual is either legally incompetent or mentally incapable of managing his or her benefit payments; or physically incapable of managing or directing the management of his or her benefit payments.

(b) *How to designate possible representative payees in advance.* Individuals who meet the requirements in paragraph (a) of this section may designate in advance their choice(s) for possible representative payees by indicating their decision to designate a representative payee in advance and providing us with the required information. In addition to the required information, an individual may choose to provide us with the relationship of the advance designee to the individual. The information we require before we will consider an advance designee as a possible representative payee is:

(1) The name of the advance designee,

(2) A telephone number of the advance designee, and

(3) The order of priority in which the individual would like us to consider the advance designees if he or she designates more than one advance designee.

(c) *How to make changes to advance designation.* Individuals who meet the requirements in paragraph (a) of this section may change their advance designees by informing us of the change and providing the required information (see paragraphs (b)(1) through (3) of this section) to us. Individuals who meet the requirements in paragraph (a) of this section may withdraw their advance designation by informing us of the withdrawal.

(d) *How we consider advance designation when we select a representative payee.* (1) If we determine that payment will be made to a representative payee, we will review advance designees in the order listed by the individual and select the first advance designee who meets the criteria for selection. To meet the criteria for selection—

(i) The advance designee must be willing and able to serve as a representative payee,

(ii) Appointment of the advance designee must comply with the requirements in section 205(j)(2) of the Social Security Act, and

(iii)There must be no other good cause (see §§ 416.620 and 416.621) to prevent us from selecting the advance designee.

(2) If none of the advance designees meet the criteria for selection, we will use our list of categories of preferred payees (see § 416.621), along with our other regulations in subpart F of this part, as a guide to select a suitable representative payee.

(e) *How we consider advance designation when we select a subsequent representative payee.* If an individual who currently has a representative payee requires a change of representative payee, we will consider any other designees identified by the individual at a time in which that individual was eligible to make an advanced designation, under paragraph (d) of this section.

(f) *Organizations.* An individual may not designate in advance an organization to serve as his or her possible representative payee.

■ 9. Amend § 416.620 by revising paragraphs (e) and (f) and adding paragraph (g) to read as follows:

§ 416.620 Information considered in selecting a representative payee.

* * * * *

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary;

(f) The potential payee's criminal history; and

(g) Whether the beneficiary made an advance designation (see § 416.618).

■ 10. Amend § 416.621 by revising the introductory text to read as follows:

§ 416.621 What is our order of preference in selecting a representative payee for you?

As a guide in selecting a representative payee, we have established categories of preferred payees. These preferences are flexible. We will consider an individual's advance designees (see § 416.618) before we consider other potential representative payees in the categories of preferred payees listed in this section. When we select a representative payee, we will choose the designee of the beneficiary's highest priority, provided that the designee is willing and able to serve, is not prohibited from serving (see § 416.622), and supports the best interest of the beneficiary (see § 416.620). The preferences are:

* * * * *

[FR Doc. 2020–02409 Filed 2–10–20; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–6080–N3]

Medicare Program; Update to the Required Prior Authorization List of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items That Require Prior Authorization as a Condition of Payment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Update to list and phases.

SUMMARY: This document announces the continuation of prior authorization for 45 Healthcare Common Procedure Coding System (HCPCS) codes on the Required Prior Authorization List of DMEPOS Items that require prior authorization as a condition of payment, as well as the addition of six HCPCS codes to this list. Prior authorization for the additional codes will be implemented in two phases.

DATES: Phase one of implementation is effective on May 11, 2020. Phase two of implementation is effective on October 8, 2020.

FOR FURTHER INFORMATION CONTACT: Tara Bramhall, (410) 786–8256. Erica Ross, (410) 786–7480.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1832, 1834, and 1861 of the Social Security Act (the Act) establishes that the provision of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) are covered benefits under Part B of the Medicare program.

Section 1834(a)(15) of the Act authorizes the Secretary to develop and periodically update a list of DMEPOS items and supplies that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization and to develop a prior authorization process for these items.

In the December 30, 2015 final rule (80 FR 81674) titled ''Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies,'' we implemented section 1834(a)(15) of the Act by establishing an initial Master List (called the Master List of Items Frequently Subject to Unnecessary Utilization) of certain DMEPOS that the Secretary determined, on the basis of prior payment experience, are frequently subject to unnecessary utilization and by establishing a prior authorization process for these items.

On November 8, 2019, CMS published a final rule (84 FR 60648) titled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule Amounts, DMEPOS Competitive Bidding Program (CBP) Amendments, Standard Elements for a DMEPOS Order, and Master List of DMEPOS Items Potentially Subject to a Face-to-Face Encounter and Written Order Prior to Delivery and/or Prior Authorization Requirements.'' Through this rule we harmonized the lists of DMEPOS items created by former rules and established one ''Master List of DMEPOS Items Potentially Subject to Face-To-Face Encounter and Written Orders Prior to Delivery and/or Prior Authorization Requirements'' (the ''Master List''). This rule was effective January 1, 2020.

II. Provisions of the Document

In the November 8, 2019, final rule (84 FR 60648), we stated that the items currently subject to prior authorization would be grandfathered into the prior authorization program until the implementation of the first Required Prior Authorization List published subsequent to this rule, to avoid the administrative and stakeholder burdens associated with the termination of the current prior authorization program and the implementation of a revised program created under this rule. This rule also maintained the process established in the December 30, 2015, final Rule that when items are placed on the Required Prior Authorization List, we would inform the public of those DMEPOS items on the Required Prior Authorization List in the **Federal Register** with no less than 60 days' notice before implementation, and post notification on the CMS website (84 FR 60753).

The Required Prior Authorization List specified in § 414.234(c)(1) is selected from the Master List (as described in § 414.234(b)), and those selected items require prior authorization as a condition of payment. Additionally, we stated that CMS may elect to limit the prior authorization requirement to a particular region of the country if claims data analysis shows that unnecessary utilization of the selected item(s) is concentrated in a particular region.

The purpose of this document is to inform the public that all 45 Power Mobility Device (PMD) and Pressure Reducing Support Services (PRSS) HCPCS codes currently on the Required Prior Authorization List will continue to be subject to the requirements of prior authorization (see 81 FR 93636, 83 FR 25947, and 84 FR 16616). In addition, we are updating the Required Prior Authorization List to include six Lower Limb Prosthetic (LLP) HCPCS codes. To assist stakeholders in preparing for implementation of the prior authorization program, we are providing 90 days' notice.

The following six HCPCS codes for LLPs are added to the Required Prior Authorization List:

HCPCS	Description
L5856	Addition to lower extremity prosthesis, endoskeletal knee-shin system, microprocessor control feature, swing and stance phase, includes electronic sensor(s), any type.
L5857	Addition to lower extremity prosthesis, endoskeletal knee-shin system, microprocessor control feature, swing phase only, includes electronic sensor(s), any type.
L5858	Addition to lower extremity prosthesis, endoskeletal knee-shin system, microprocessor control feature, stance phase only, includes electronic sensor(s), any type.
L5973	Endoskeletal ankle foot system, microprocessor controlled feature, dorsiflexion and/or plantar flexion control, includes power source.
L5980	All lower extremity prostheses, flex foot system.
L5987	All lower extremity prosthesis, shank foot system with vertical loading pylon.

We believe prior authorization of these six additional HCPCS codes for LLPs will help further our program integrity goals of reducing fraud, waste, and abuse, while also protecting access to care. LLPs have been identified by

CMS' Comprehensive Error Rate Testing (CERT) program as one of the top 20 DMEPOS service types with improper payments over the past several years.[1] The 2018 Medicare Fee-for-Service Supplemental Data reported over $46 million in projected improper payments for LLPs.[2] Additionally, the Office of Inspector General (OIG) has previously reported that Medicare has inappropriately paid for LLPs that did not meet certain Medicare requirements.[3]

These codes will be subject to the requirements of the prior authorization program for certain DMEPOS items as outlined in § 414.234. We will implement a prior authorization program for the six newly added codes for LLPs in two phases. This phased-in approach will allow us to identify and resolve any unforeseen issues by using a smaller claim volume in phase one before nationwide implementation occurs in phase two. In phase one of implementation, which begins on the date specified in the **DATES** section, we will limit the prior authorization requirement to one state in each of the four DME Medicare Administrative Contractors (MAC) geographic jurisdictions as follows: California, Michigan, Pennsylvania, and Texas. In phase two, which begins on the date specified in the **DATES** section of this document, we will expand the program to the remaining states in all four DME MAC jurisdictions. The prior authorization program for the 45 codes currently subject to the DMEPOS prior authorization requirement will remain in place uninterrupted in all states.

Prior to furnishing the item to the beneficiary and submitting the claim for processing, a requester must submit a prior authorization request. The request must include evidence that the item complies with all applicable Medicare coverage, coding, and payment rules. Consistent with § 414.234(d), such evidence must include the order, relevant information from the beneficiary's medical record, and relevant supplier-produced documentation. After receipt of all applicable required Medicare documentation, CMS or one of its review contractors will conduct a medical review and communicate a decision that provisionally affirms or non-affirms the request.

We will issue specific prior authorization guidance in subregulatory communications, including final timelines customized for the DMEPOS item subject to prior authorization, for communicating a provisionally affirmed or non-affirmed decision to the requester. In the December 30, 2015 final rule (80 FR 81692), we stated that this approach to final timelines provides flexibility to develop a process that involves fewer days, as may be appropriate, and allows us to safeguard beneficiary access to care. If at any time we become aware that the prior authorization process is creating barriers to care, we can suspend the program. For example, we will review questions and complaints from consumers and providers that come through regular sources such as 1–800–Medicare.

The updated Required Prior Authorization list is available in the download section of the following CMS website: *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/DMEPOS/Prior-Authorization-Process-for-Certain-Durable-Medical-Equipment-Prosthetic-Orthotics-Supplies-Items.html.*

III. Collection of Information Requirements

This document announces the continuation of prior authorization for 45 HCPCS codes, and the addition of six HCPCS codes for LLPs on the Required Prior Authorization List and does not impose any new information collection burden under the Paperwork Reduction Act of 1995. However, there is an information collection burden associated with this program that is currently approved under OMB control number 0938–1293 which expires March 31, 2022.

IV. Regulatory Impact Statement

We have examined the impact of this action as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This document does not reach the economic threshold and, thus, is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any one year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this document will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this action will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. In 2019, that threshold is approximately $154 million. This action will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final

[1] *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/CERT/CERT-Reports.html?DLSort=0&DLEntries=10&DLPage=1&DLSortDir=descending.*

[2] *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/CERT/Downloads/2018MedicareFFSSuplementalImproperPaymentData.pdf.*

[3] *https://oig.hhs.gov/oei/reports/oei-02-10-00170.pdf.*

rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this action does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017 and requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' OMB's interim guidance, issued on April 5, 2017, *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf,* explains that for Fiscal Year 2017 the above requirements only apply to each new ''significant regulatory action that imposes costs.'' It has been determined that this document is not a ''significant regulatory action'' and thus does not trigger the aforementioned requirements of Executive Order 13771.

In accordance with the provisions of Executive Order 12866, this document was reviewed by the Office of Management and Budget.

Dated: November 5, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Editorial note: This document was received for publication by the Office of the Federal Register on February 5, 2020.

[FR Doc. 2020–02644 Filed 2–7–20; 11:15 am]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 85, No. 28
Tuesday, February 11, 2020

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. AO–SC–20–J–0011; AMS–SC–19–0082; SC19–984–1]

Walnuts Grown in California; Hearing on Proposed Amendment of Marketing Order No.984

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking; advance notice of proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Federal Marketing Order No. 984 (Order) regulating the handling of walnuts grown in California. The California Walnut Board (Board), which locally administers the Order, recommended proposed amendments that would add authority for the Board to provide credit for certain market promotion expenses paid by handlers against their annual assessments due under the Order and establish requirements to effectuate the new authority. In addition, the Agricultural Marketing Service (AMS) proposes to make changes to the Order as may be necessary to conform to any amendment that may result from the hearing.

DATES: The hearing will be held March 16, 2020, from 9:00 a.m. to 5:00 p.m. and, if deemed necessary by the presiding administrative law judge, will continue March 17, 2020, from 9:00 a.m. until 5:00 p.m. or until any other such time as determined by the judge.

ADDRESSES: The hearing will be held at the Sacramento Marriott Rancho Cordova, 11211 Point East Drive, Rancho Cordova, CA 95742.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, Post Office Box 952, Moab, UT 84532; Telephone: (435) 265–5092, Fax: (435) 259–1502, or Andrew Hatch, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Melissa.Schmaedick@usda.gov* or *Andrew.Hatch@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866, 13563 and 13175. AMS provided notice of the upcoming hearing to tribal governments through USDA's Office of Tribal Relations.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

The hearing is convened in accordance with the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments to Marketing Order No. 984 (7 CFR 984) were recommended to the Secretary by the Board on September 13, 2019, and a request for a public hearing and proposed rulemaking was submitted to USDA on September 16, 2019. After reviewing the proposals and other information submitted by the Board, USDA concludes that the proposed amendments to part 984 (referred to as ''the Order'') will tend to effectuate the declared policy of the Act, and therefore, made a determination to schedule this matter for hearing.

The Board administers the Order, with the oversight of USDA. The Board's proposed change would authorize the Board to set aside funds every year during its budget discussions to fund a credit-back program. The proposal would also authorize certain market promotion expenses paid directly by handlers within a marketing year to be ''credited-back'' to the handler against their assessment obligation paid to the Board. The credit-back amount available to each handler would be determined by that handler's percentage of the industry's total volume of walnuts handled during the prior marketing year multiplied by the current marketing year's credit-back program budget. If the new authority is approved by growers in a grower referendum, the resulting final rule would include rules and regulations to effectuate the new authority.

In its request to USDA for a public hearing, the Board stated that the proposed amendments are necessary to encourage handlers to undertake market promotion activities in addition to the marketing order's generic marketing efforts, and to increase market demand for the industry's increasing supply of walnuts.

The Board's request explained that the industry has grown since the program's inception in 1946, with production nearly doubling in the past decade to an estimated 672,000 short tons. Current bearing acres total 350,000 and an additional 60,000 are due to come into production over the next five years. As such, the Board is forecasting production to reach over 850,000 short tons, or a 26-percent increase, within that time.

The Board's justification for its recommendation stated that demand for walnuts needs to increase to stabilize future market returns. The Board stated that future increases in supply without additional increases in demand could result in weaker market returns. Further, the Board's analysis of domestic walnut consumption reveals untapped growth potential, with domestic household penetration only reaching 40 percent. Thus, the proposed credit-back authority could stimulate demand and stabilize future market prices.

The Board explained that it is only authorized to conduct generic marketing activities for the promotion of inshell and shelled walnuts under the Order. The Board has previously developed new product formulations for handler use; however, because the Board does not manufacture or otherwise sell walnuts, it is incumbent upon the handlers to further develop and deliver new products to the market. The proposal for credit-back authority is intended to encourage handler product development and overall marketing and promotion of California walnuts. If the proposal is approved, the Board would be authorized to establish a credit-back program and recommend an annual credit-back rate, subject to approval by the Secretary.

In its hearing request, the Board stated the need to implement a credit-back program for the 2020/2021 marketing year, which begins September 1, 2020. The Board is recommending a credit-back rate of $0.70 cents for each handler dollar spent on qualified activities up to each handler's pro-rata share of assessments paid into the allocated credit-back fund. During its annual budget process, the Board would designate a credit-back fund based on forecasted production and anticipated assessment revenue. The per handler pro-rata share of the credit-back fund would be calculated by multiplying the budgeted credit-back fund by each handler's percentage of walnuts handled of the previous marketing year's total walnuts. The Board would then communicate to handlers the availability of the credit-back fund and their pro-rata portion of that fund.

Handlers would be able to apply for credit-back on the expenses of qualified activities completed within the marketing year. Handlers would provide proof of payment and documentation of qualified activities to the Board for review. Once the Board has approved the claim, the handler would receive a reimbursement for 70 percent of the expense of the qualified activity up to the handler's pro-rata share of the credit-back fund. If a credit-back claim for expenses is made prior to the end of the marketing year, the handler must also have paid sufficient assessments into the credit-back fund to cover their reimbursement. The Board's proposal also states that claims for credit-back on expenses must be made within 15 days after the end of the marketing year. If a claim for credit-back is not sufficiently documented or does not reflect qualified credit-back activities, the Board will deny a claim. An appeal process would afford a handler with a denied claim the opportunity to appeal the denial.

Regarding activities qualified for credit-back, the Board stated that direct expenditures for marketing promotion, including paid advertising, that promote the sale of walnuts, walnut products, or their uses could be eligible. The Board recommended that qualified activities would include: Paid media directed to end-users, trade or industrial users, and paid advertising space or time, including, but not limited to, newspapers, magazines, radio, television, online, transit, and outdoor media (including standard agency commission costs not to exceed 15 percent of gross expense); market promotion, marketing research (except pre-testing and test-marketing of paid advertising), and trade and consumer product public relations (not including advertising or public relations agency fees); in-store demonstrations, production of promotional materials, sales and marketing presentation kits, etc. (excluding couponing); and trade show booth rentals, services, and promotional materials.

The Board's recommendation also addresses promotional activities involving joint activities, handler-owned distribution of products, and promotional activities conducted under a State or Federal trade program.

For qualified credit-back activity involving joint participation by a handler and a manufacturer or seller of a complementary product(s), or a handler selling multiple complementary products, including other nuts, the Board recommended the amount allowed for credit-back should reflect that portion of the activity represented by walnuts. In addition, the handler's name or brand may be included on the product packaging, but the words ''California Walnuts'' must always be included on the product packaging.

For products owned or distributed by the handler, the Board recommended that the product must list the ownership or distributorship on the package and display the handler's name and the handler's brand. The words ''California Walnuts'' must always be included on the primary face label.

Regarding handler promotional activities pursuant to a contract with the Foreign Agricultural Service (FAS), USDA, and/or the California Department of Food and Agriculture (CDFA), the Board recommended that these activities not be eligible for credit-back unless the Board is administering the foreign marketing program, and the handler certifies that he or she would not be reimbursed by either FAS or CDFA for the amount claimed for credit-back. Foreign market expenses paid by third parties as part of a handler's contract with FAS or CDFA would not be eligible for credit-back.

In its recommendation, the Board states that the proposed changes have the broadest possible support from the industry. The proposed amendments were presented and discussed at several meetings involving California walnut handlers and growers. Ultimately, the Board recommended the proposed amendments at a public meeting on September 13, 2019, where stakeholders were provided the opportunity to express their views and provide input. The proposed amendments were unanimously supported by the Board.

In addition to the proposed amendments submitted by the Board, AMS proposes to make any such changes to the Order as may be necessary to conform to any amendment that may result from the hearing, or to correct minor inconsistencies and typographical errors.

USDA will oversee this formal rulemaking proceeding. The issuance of this notice of public hearing is the first of several steps in the amendatory rulemaking process, including the issuance of a recommended decision, public comment period, Secretary's decision, grower referendum, and handler sign-up (if the prior steps prove favorable).

The public hearing process will further explain the industry's barriers to marketing and the merits of the proposed amendments in addressing these issues. At the hearing, interested persons may provide testimony in support of or in opposition to the proposed amendments. In addition, interested persons will be invited to

testify on the possible regulatory and informational impact of the proposed amendments on small businesses.

Interested persons will also be provided the opportunity to file briefs in support of or in opposition to the proposed amendments after the hearing, as well as file exceptions to any recommended decision that may be issued. Finally, any proposed amendments must be approved in a grower referendum before they can be implemented.

USDA will hold the public hearing for the purposes of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the Order; (ii) determining whether there is a need for the proposed amendments to the Order; (iii) determining if there are other alternatives to this program or duplicates of the proposed program; and (iv) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing. Four copies of prepared testimony for presentation at the hearing should also be made available. To the extent practicable, eight additional copies of evidentiary exhibits and testimony prepared as an exhibit should be made available to USDA representatives on the day of appearance at the hearing. Any requests for preparation of USDA data for this rulemaking hearing should be made at least 10 days prior to the beginning of the hearing.

From the time the notice of hearing is issued until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel; and the Specialty Crops Program, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

USDA would make other such changes to the Order as may be necessary to conform with amendments that may result from the hearing, or correct minor inconsistencies and typographical errors.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

Testimony is invited on the recommended proposals to 7 CFR part 984, or appropriate alternatives or modifications to such proposals, as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 984.46 to read as follows:

§ 984.46 Research and development.

(a) *Research and development authorities.* The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of walnuts. The expenses of such projects shall be paid from funds collected pursuant to § 984.69 and § 984.70, and may be credited back pursuant to paragraph (c) of this section.

(b) *Credit-back for promotion expenses.* The Board may provide for crediting the pro rata expense assessment obligations of a handler with such portion of his or her direct expenditure for marketing promotion, including paid advertising, as may be authorized. The credit-back amount available to each handler shall be determined by that handler's percent of the industry's total volume of walnuts handled during the prior marketing year multiplied by the current marketing year's credit-back program budget. No handler shall receive credit back for any creditable expenditures that would exceed the total amount of credit-back available to him or her for the applicable marketing year. Further, no handler shall receive credit back in an amount that exceeds that handler's assessments paid in the applicable marketing year at the time the credit-back application is made. Marketing promotion expenses shall be credited at a rate recommended by the Board and approved by the Secretary, where the credit rate is based on the amount per dollar of marketing promotion expenses for creditable expenditures paid by a handler during the applicable marketing year. Credit may be paid directly to the handler as a reimbursement of assessments paid or may be issued as recommended by the Board and approved by the Secretary. The Board may also establish, subject to the approval of the Secretary, different credit rates for different products or different marketing promotion activities according to priorities determined by the Board and its marketing plan.

(c) *Creditable expenditures.* The Board, with the approval of the Secretary, may credit-back all or any portion of a handler's direct expenditures for marketing promotion including paid advertising that promotes the sale of walnuts, walnut products or their uses. Such expenditures may include, but are not limited to, money spent for advertising space or time in newspapers, magazines, radio, television, transit, and outdoor media, including the actual standard agency commission costs not to exceed 15 percent, or as otherwise recommended by the Board and approved by the Secretary.

■ 3. Add subpart D to read as follows:

Sec

Subpart D—Research and Development Requirements

§ 984.546 Credit for marketing promotion activities, including paid advertising.

(a) *Timeliness of reimbursement claim and credit-back rate.* For a handler to receive credit-back for his or her own marketing promotional activities pursuant to § 984.46, the Board shall determine that such expenditures meet the applicable requirements of this section. Credit-back may be granted in the form of reimbursement for all creditable expenditures paid within the applicable marketing year subject to the effective credit-back rate; *Provided,* that such creditable expenditures are documented to the satisfaction of the Board within 15 days after the end of that marketing year. Credit may be granted for a handler's creditable expenditures in an amount not to exceed that handler's pro-rata share of the credit-back fund. No more than 70 cents ($0.70) shall be credited back to a handler for every dollar spent on qualified activities.

(b) *Assessment payments.* The handler assessment is due as defined in § 984.69. A handler shall be current on all assessment payments prior to receiving credit-back for creditable expenditures.

(c) *Handler eligibility for reimbursement.* The Board shall grant credit-back for qualified activities only to the handler who performed such activities and who filed a claim for credit-back in accordance with this section.

(d) *Applicability to marketing year.* Credit-back shall be granted only for creditable expenditures for qualified activities that are conducted and completed during the marketing year for which credit-back is requested.

(e) *Qualified activities.* The following requirements shall apply to all creditable expenditures resulting from qualified activities:

(1) Credit-back granted by the Board shall be that which is appropriate when compared to accepted professional practices and rates for the type of activity conducted. In the case of claims for credit-back activities not covered by specific and established criteria, the Board shall grant the claim if it is consistent with practices and rates for similar activities.

(2) The clear and evident purpose of each qualified activity shall be to promote the sale, consumption or use of California walnuts.

(3) No credit-back will be given for any activity that targets the farming or grower trade.

(4) Credit-back will not be allowed in any case for travel expenses, or for any promotional activities that result in price discounting.

(5) Credit-back shall be granted for those qualified activities specified below:

(i) Credit-back shall be granted for paid media directed to end-users, trade or industrial users, and for money spent on paid advertising space or time, including, but not limited to, newspapers, magazines, radio, television, online, transit and outdoor media, and including the standard agency commission costs not to exceed 15 percent of gross.

(ii) Credit-back shall be granted for market promotion other than paid advertising, for the following activities:

(A) Marketing research (except pre-testing and test-marketing of paid advertising);

(B) Trade and consumer product public relations: Provided, that no credit-back shall be given for related fees charged by an advertising or public relations agency;

(C) Sales Promotion (in-store demonstrations, production of promotional materials, sales and marketing presentation kits, etc., excluding couponing);

(D) Trade shows (booth rental, services, and promotional materials).

(iii) For any qualified activity involving joint participation by a handler and a manufacturer or seller of a complementary product(s), or a handler selling multiple complementary products, including other nuts, with such activity including the handler's name or brand, or the words ''California Walnuts'', the amount allowed for credit-back shall reflect that portion of the activity represented by walnuts. If the product is owned or distributed by the handler, in order to receive any amount of credit back, the product must list the ownership or distributorship on the package and display the handler's name and the handler's brand. The words ''California Walnuts'' must be included on the primary, face label. Such activities must also meet the requirements of paragraphs (e)(1), (2), (3), (4), and (5) of this section.

(iv) If the handler is engaged in marketing promotion activities pursuant to a contract with the Foreign Agricultural Service (FAS), USDA, and/or the California Department of Food and Agriculture (CDFA), unless the Board is administering the foreign marketing program, such activities shall not be eligible for credit-back unless the handler certifies that he or she was not and will not be reimbursed by either FAS or CDFA for the amount claimed for credit-back, and has on record with the Board all claims for reimbursement made to FAS and/or the CDFA. Foreign market expenses paid by third parties as part of a handler's contract with FAS or CDFA shall not be eligible for credit-back.

(6) *Credit-back Reimbursement claims.* A handler must file claims with the Board to obtain credit-back for creditable expenditures, as follows:

(i) All claims submitted to the Board for any qualified activity must include:

(A) A description of the activity and when and where it was conducted;

(B) Copies of all invoices from suppliers or agencies;

(C) Copies of all canceled checks or other proof of payment issued by the handler in payment of these invoices; and

(D) An actual sample, picture or other physical evidence of the qualified activity.

(ii) Handlers may receive reimbursement of their paid assessments up to their pro-rata share of available dollars to be based on their percentage of the prior marketing year crop total. In all instances, handlers must remit the assessment to the Board when billed, and reimbursement will be issued to the extent of proven, qualified activities.

(iii) Checks from the Board in payment of approved credit-back claims will be mailed to handlers within 30 days of receipt of eligible claims.

(iv) Final claims for the marketing year pertaining to such qualified activities must be submitted with all required elements within 15 days after the close of the Board's marketing year.

(f) *Appeals.* If a determination is made by the Board staff that a particular marketing promotional activity is not eligible for credit-back because it does not meet the criteria specified in this section, the affected handler may request the Executive Committee review the Board staff's decision. If the affected handler disagrees with the decision of the Executive Committee, the handler may request that the Board review the Executive Committee's decision. If the handler disagrees with the decision of the Board, the handler, through the Board, may request that the Secretary review the Board's decision. Handlers have the right to request anonymity in the review of their appeal. The Secretary maintains the right to review any decisions made by the aforementioned bodies at his or her discretion.

§ 984.547 [Reserved]

Dated: February 3, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–02387 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 590

Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050

FE Docket Nos.	
Sabine Pass Liquefaction, LLC	[FE Docket No. 10–111–LNG].
Carib Energy (USA), LLC	[FE Docket No. 11–141–LNG].
Freeport LNG Expansion, L.P. et al	[FE Docket No. 10–161–LNG].
Lake Charles Exports, LLC	[FE Docket No. 11–59–LNG].

FE Docket Nos.	
Dominion Cove Point LNG, LP	[FE Docket No. 11–128–LNG].
Freeport LNG Expansion, L.P. et al	[FE Docket No. 11–161–LNG].
Cameron LNG, LLC	[FE Docket No. 11–162–LNG].
Southern LNG Company, LLC	[FE Docket No. 12–100–LNG].
Gulf LNG Liquefaction Company, LLC	[FE Docket No. 12–101–LNG].
Jordan Cove Energy Project, L.P	[FE Docket No. 12–32–LNG].
CE FLNG, LLC	[FE Docket No. 12–123–LNG].
Golden Pass Products, LLC	[FE Docket No. 12–156–LNG].
Lake Charles LNG Export Co	[FE Docket No. 13–04–LNG].
MPEH LLC	[FE Docket No. 13–26–LNG].
Cheniere Marketing LLC and Corpus Christi Liquefaction, LLC	[FE Docket Nos. 13–30–LNG], 13–42 LNG, & 13–121–LNG].
Venture Global Calcasieu Pass	[FE Docket Nos. 13–69–LNG, 14–88–LNG, & 15–25 LNG].
Eos LNG LLC	[FE Docket No. 13–116–LNG].
Barca LNG LLC	[FE Docket No. 13–118–LNG].
Magnolia LNG, LLC	[FE Docket No. 13–132–LNG].
Delfin LNG, LLC	[FE Docket No. 13–147–LNG].
Emera CNG, LLC	[FE Docket No. 13–157–CNG].
SCT&E LNG, LLC	[FE Docket No. 14–98–LNG].
Pieridae Energy (USA) Ltd	[FE Docket No. 14–179–LNG].
American LNG Marketing, LLC	[FE Docket No. 14–209–LNG].
Bear Head LNG Corporation and Bear Head LNG (USA)	[FE Docket No. 15–33–LNG].
Floridian Natural Gas Storage Co., LLC	[FE Docket No. 15–38–LNG].
G2 LNG LLC	[FE Docket No. 15–45–LNG].
Texas LNG Brownsville LLC	[FE Docket No. 15–62–LNG].
Sabine Pass Liquefaction, LLC	[FE Docket No. 15–63–LNG].
Strom Inc	[FE Docket No. 15–78–LNG].
Cameron LNG, LLC	[FE Docket No. 15–90–LNG].
Port Arthur LNG, LLC	[FE Docket No. 15–96–LNG].
Cameron LNG, LLC	[FE Docket No. 15–167–LNG].
Rio Grande LNG, LLC	[FE Docket No. 15–190–LNG].
Air Flow North American Corp	[FE Docket No. 15–206–LNG].
Eagle LNG Partners Jacksonville, LLC	[FE Docket No. 16–15–LNG].
SeaOne Gulfport, LLC	[FE Docket No. 16–22–CGL].
Venture Global Plaquemines LNG, LLC	[FE Docket No. 16–28–LNG].
Carib Energy (USA) LLC,	[FE Docket No. 16–98–LNG].
Freeport LNG Expansion, L.P., et al	[FE Docket No. 16–108–LNG].
Lake Charles LNG Export Co.	[FE Docket No. 16–109–LNG].
Lake Charles Exports, LLC	[FE Docket No. 16–110–LNG].
Driftwood LNG LLC	[FE Docket No. 16–144–LNG].
Eagle LNG Partners Jacksonville II, LLC	[FE Docekt No. 17–79–LNG].
Fourchon LNG, LLC	[FE Docket No. 17–105–LNG].
Galveston Bay LNG, LLC	[FE Docket No. 17–167–LNG].
Freeport LNG Expansion, L.P., et al	[FE Docket No. 18–26–LNG].
Corpus Christi Liquefaction Stage III, LLC	[FE Docket No. 18–78–LNG].
Mexico Pacific Limited LLC	[FE Docket No. 18–70–LNG].
Energía Liquefaction, S. de R.L. de C.V	[FE Docket No. 18–144–LNG].
Energía Costa Azul, S. de R.L. de C.V	[FE Docket No. 18–145–LNG].
Annova LNG Common Infrastructure, LLC	[FE Docket No. 19–34–LNG].
Cheniere Marketing LLC and Corpus Christi Liquefaction, LLC	[FE Docket No. 19–124–LNG].
Sabine Pass Liquefaction, LLC	[FE Docket No. 19–125–LNG].
Commonwealth LNG, LLC	[FE Docket No. 19–134–LNG].

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of proposed policy statement and request for comments.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of a proposed policy statement (Proposed Policy Statement or Proposal). DOE is proposing to extend the standard 20-year term for authorizations to export natural gas from the lower-48 states—including domestically produced liquefied natural gas (LNG), compressed natural gas, and compressed gas liquid—to countries with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Under the Proposal, existing non-FTA authorization holders could apply to extend their export term through December 31, 2050, on a voluntary opt-in basis; existing applicants could amend their pending non-FTA application to request an export term through December 31, 2050, on a voluntary opt-in basis; and DOE would issue all future non-FTA export authorizations with a standard export term lasting through December 31, 2050, unless a shorter term is requested by the applicant. In this document, DOE discusses the Proposed Policy Statement and invites comments on the Proposal. DOE is proposing this policy change under section 3(a) of the Natural Gas Act (NGA) and DOE's implementing regulations.

DATES: Comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, March 12, 2020.

ADDRESSES:

Electronic Filing of Comments Using Online Form: https://fossil.energy.gov/app/docketindex/docket/index/22.

Regular Mail: U.S. Department of Energy (FE–34), Attn: Term Extension—Proposed Policy Statement, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Attn: Term Extension—Proposed Policy Statement, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Amy Sweeney, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586–2627; *amy.sweeney@hq.doe.gov;* Cassandra Bernstein or Kari Twaite, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6D–033, 1000 Independence Ave. SW, Washington, DC 20585; (202) 586–9793 or (202) 586–6978; *cassandra.bernstein@hq.doe.gov* or *kari.twaite@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. Acronyms and abbreviations used in this document are set forth below for reference.

Bcf/d Billion Cubic Feet per Day
Bcf/yr Billion Cubic Feet per Year
CGL Compressed Gas Liquid
CNG Compressed Natural Gas
DOE U.S. Department of Energy
EIA U.S. Energy Information Administration
FE Office of Fossil Energy, U.S. Department of Energy
FTA Free Trade Agreement
GHG Greenhouse Gas
GWP Global Warming Potential
LCA Life Cycle Analysis
LNG Liquefied Natural Gas
NETL National Energy Technology Laboratory
NEPA National Environmental Policy Act of 1969
NGA Natural Gas Act of 1938

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I. Background

A. DOE Export Authorizations Under Section 3 of the Natural Gas Act

DOE is responsible for authorizing exports of domestically produced natural gas to foreign countries under section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b.[1] In relevant part, section 3(c) of the NGA applies to applications for exports of natural gas, including LNG,[2] to countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries).[3] Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102–486) to require that FTA applications ''shall be deemed to be consistent with the public interest'' and granted ''without modification or delay.'' [4] Accordingly, this Proposed Policy Statement does not apply to existing or future FTA applications and authorizations. As discussed in Section II.A.5, however, DOE anticipates that, if this Proposal is adopted, FTA authorization holders likely will request a comparable extension in the export term of their existing FTA orders.

For applications to export natural gas to non-FTA countries, section 3(a) of the NGA sets forth the following standard of review:

> [N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy [5]] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.[6]

DOE, as affirmed by the D.C. Circuit, has consistently interpreted NGA section 3(a) as creating a rebuttable presumption that a proposed export of natural gas is in the public interest.[7] Accordingly, DOE will conduct an informal adjudication and grant a non-FTA application unless DOE finds that the proposed exportation will not be consistent with the public interest.[8]

Before reaching a final decision, DOE must also comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* DOE's environmental review process under NEPA may result in the preparation or adoption of an environmental impact statement (EIS) or environmental assessment (EA) describing the potential environmental impacts associated with the application.[9] In other cases, DOE

[1] The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00–002.04G issued on June 4, 2019.

[2] In referring to natural gas in this Proposal, DOE refers primarily, but not exclusively, to LNG. To date, two non-FTA proceedings have involved other types of natural gas: Compressed natural gas (CNG) in FE Docket No. 13–157–CNG, and compressed gas liquid (CGL) in FE Docket No. 16–22–CGL. *See* 15 U.S.C. 717a(5) (definition of natural gas); 10 CFR 590.102(i) (same).

[3] 15 U.S.C. 717b(c). The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

[4] 15 U.S.C. 717b(c).

[5] The Secretary's authority was established by the Department of Energy Organization Act, 42 U.S.C. 7172, which transferred jurisdiction over imports and export authorizations from the Federal Power Commission to the Secretary of Energy.

[6] 15 U.S.C. 717b(a) (emphasis added).

[7] *See Sierra Club* v. *U.S. Dep't of Energy,* 867 F.3d 189, 203 (D.C. Cir. 2017) (''We have construed [NGA section 3(a)] as containing a 'general presumption favoring [export] authorization.'") (quoting *W. Va. Pub. Serv. Comm'n* v. *U.S. Dep't of Energy,* 681 F.2d 847, 856 (D.C. Cir. 1982)).

[8] *See id.* (''there must be 'an affirmative showing of inconsistency with the public interest' to deny the application'' under NGA section 3(a)) (quoting *Panhandle Producers & Royalty Owners Ass'n* v. *Econ. Regulatory Admin.,* 822 F.2d 1105, 1111 (D.C. Cir. 1987)). As of August 24, 2018, qualifying small-scale exports of natural gas to non-FTA countries are deemed to be consistent with the public interest under NGA section 3(a). *See* 10 CFR 590.102(p); 10 CFR 590.208(a); *see also* U.S. Dep't of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 FR 35106 (July 25, 2018).

[9] Typically, the Federal agency responsible for permitting the export facility—either the Federal Energy Regulatory Commission or the U.S.

may determine that an application is eligible for a categorical exclusion from the preparation or adoption of an EIS or EA, pursuant to DOE's regulations implementing NEPA.

B. Regulatory Background

1. Public Interest Review for Non-FTA Export Authorizations

Although NGA section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, the statute does not define ''public interest'' or identify criteria that must be considered. In prior decisions, DOE has identified a range of factors that it evaluates when reviewing an application to export LNG to non-FTA countries. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others. To conduct this review, DOE looks to record evidence developed in the application proceeding.

DOE's prior decisions have also looked to certain principles established in its 1984 Policy Guidelines.[10] The goals of the 1984 Policy Guidelines are to minimize Federal control and involvement in energy markets and to promote a balanced and mixed energy resource system. Specifically, the 1984 Policy Guidelines state that ''[t]he market, not government, should determine the price and other contract terms of imported [or exported] gas,'' and that DOE's ''primary responsibility in authorizing imports [or exports] should be to evaluate the need for the [natural] gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market.'' [11] Although the Policy Guidelines are nominally applicable to natural gas import cases, DOE held in DOE/FE Order No. 1473 that the 1984 Policy Guidelines should be applied to natural gas export applications.[12]

In Order No. 1473, DOE stated that it was guided by DOE Delegation Order No. 0204–111. That delegation order directed the regulation of exports of natural gas ''based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator [of the Economic Regulatory Administration] finds in the circumstances of a particular case to be appropriate.'' [13]

Although DOE Delegation Order No. 0204–111 is no longer in effect,[14] DOE's review of export applications has continued to focus on: (i) The domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE's policy of promoting market competition, and (iv) any other factors bearing on the public interest described herein.

2. DOE's Economic Studies Through 2017

Between 2011 and 2017, DOE commissioned four studies to examine the effects of U.S. LNG exports on the U.S. economy and energy markets.[15] The first study, *Effect of Increased Natural Gas Exports on Domestic Energy Markets,* was performed by the U.S. Energy Information Administration (EIA) and published in January 2012 (EIA Study).[16] The second study, *Macroeconomic Impacts of LNG Exports from the United States,* was performed by NERA Economic Consulting (NERA) and published in December 2012 (NERA Study and, together with the EIA Study, the 2012 LNG Export Study).[17] The third study, *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets,* was performed by EIA and published in October 2014 (2014 LNG Export Study).[18] The fourth study, *The Macroeconomic Impact of Increasing U.S. LNG Exports,* was performed jointly by the Center for Energy Studies at Rice University's Baker Institute and Oxford Economics and published in October 2015 (2015 LNG Export Study).[19] As relevant here, the 2015 LNG Export Study included a case examining export volumes up to 28 Bcf/d of natural gas, and the analysis covered through the year 2040.

DOE relied on these studies, and the public comments received on each study, to better inform its public interest review under NGA section 3(a).[20]

3. DOE's Environmental Studies

On June 4, 2014, DOE issued two notices in the **Federal Register** proposing to evaluate different environmental aspects of the LNG production and export chain. First, DOE announced that it had conducted a review of existing literature on potential environmental issues associated with unconventional natural gas production in the lower-48 states. The purpose of this review was to provide additional information to the public concerning the potential environmental impacts of unconventional natural gas exploration and production activities, including hydraulic fracturing. DOE published its draft report for public review and comment, entitled *Draft Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States* (Draft Addendum).[21] DOE received public comments on the Draft Addendum, and on August 15, 2014, issued the final Addendum with

Department of Transportation (DOT) Maritime Administration (MARAD)—serves as the lead agency in the NEPA review process, and DOE serves as a cooperating agency. Where no other Federal agency is responsible for permitting the export facility, DOE serves as the lead agency in the NEPA review process.

[10] New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 FR 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

[11] *Id.* at 49 FR 6685.

[12] *Phillips Alaska Natural Gas Corp., et al.,* DOE/FE Order No. 1473, FE Docket No. 96–99–LNG, Order Extending Authorization to Export Liquefied Natural Gas from Alaska (Apr. 2, 1999), at 14 (citing *Yukon Pacific Corp.,* DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, 1 FE ¶ 70,259, 71,128 (1989)).

[13] DOE Delegation Order No. 0204–111 (Feb. 22, 1984), at 1 (¶ (b)); *see also* 1984 Policy Guidelines, 49 FR 6690 (incorporating DOE Delegation Order No. 0204–111). In February 1989, the Assistant Secretary for Fossil Energy assumed the delegated responsibilities of the Administrator of the Economic Regulatory Administration. *See* Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas, 62 FR 30435, 30437 n.15 (June 4, 1997) (citing DOE Delegation Order No. 0204–127, 54 FR 11436 (Mar. 20, 1989)).

[14] DOE Delegation Order No. 0204–111 was later rescinded by DOE Delegation Order No. 00–002.00 (¶ 2) (Dec. 6, 2001), and DOE Redelegation Order No. 00–002.04 (¶ 2) (Jan. 8, 2002).

[15] Because there is no natural gas pipeline interconnection between Alaska and the lower 48 states, DOE generally views those LNG export markets as distinct.

[16] *See* 2012 LNG Export Study, 77 FR 73627 (Dec. 11, 2012), *available at: http://energy.gov/sites/prod/files/2013/04/f0/fr_notice_two_part_study.pdf* (notice of availability of the 2012 LNG Export Study).

[17] *See id.*

[18] U.S. Energy Info. Admin., *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 2014), *available at: https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf.*

[19] Center for Energy Studies at Rice University Baker Institute and Oxford Economics, *The Macroeconomic Impact of Increasing U.S. LNG Exports* (Oct. 29, 2015), *available at: http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf; see also* U.S. Dep't of Energy, Macroeconomic Impacts of LNG Exports Studies; Notice of Availability and Request for Comments, 80 F R 81300 (Dec. 29, 2015) (notice of availability of the 2014 and 2015 LNG Export Studies).

[20] For more information about the 2012, 2014, and 2015 LNG Export Studies, *see* U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study, 83 FR 67251 (Dec. 28, 2018) [hereinafter 2018 Study Response to Comments].

[21] Dep't of Energy, Draft Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 FR 32258 (June 4, 2014). DOE announced the availability of the Draft Addendum on its website on May 29, 2014.

its response to the public comments contained in Appendix B.[22]

Second, DOE commissioned the National Energy Technology Laboratory (NETL), a DOE applied research laboratory, to conduct an analysis calculating the life cycle greenhouse gas (GHG) emissions for LNG exported from the United States. The purpose of this analysis was to determine: (i) How domestically-produced LNG exported from the United States compares with regional coal (or other LNG sources) for electric power generation in Europe and Asia from a life cycle GHG perspective, and (ii) how those results compare with natural gas sourced from Russia and delivered to the same markets via pipeline. DOE published the report entitled, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (LCA GHG Report).[23] DOE also received public comments on the LCA GHG Report and responded to those comments in prior orders.[24]

DOE has made the Addendum and the LCA GHG Report, as well as the public comments received on each study, part of the record of each non-FTA proceeding since 2014.

4. DOE's Standard 20-Year Export Term for Non-FTA Authorizations

Both the NGA and DOE's regulations provide DOE with broad authority to attach conditions to non-FTA export authorizations. NGA section 3(a) states that DOE may grant an application for a non-FTA export authorization ''upon such terms and conditions as the [Secretary] may find necessary or appropriate.'' [25] Similarly, under 10 CFR 590.404, DOE may ''issue a final opinion and order and attach such conditions thereto as may be required by the public interest after completion and review of the final record.'' [26] However, neither NGA section 3(a) nor DOE's regulations prescribe a specific time period for a non-FTA authorization. For this reason, DOE has determined that it has discretion under 10 CFR 590.404 to impose a suitable term for non-FTA authorizations as appropriate, in light of the evidence in each proceeding.

In 2011, DOE issued its first conditional long-term export authorization involving domestically produced LNG from the lower-48 states to Sabine Pass Liquefaction, LLC (Sabine Pass) in DOE/FE Order No. 2961.[27] In its application, Sabine Pass had requested an export term of 20 years. After reviewing the record evidence, DOE determined that a term of 20 years was consistent with the public interest, and DOE granted the conditional order for the requested 20-year term.[28]

In 2013, DOE continued to issue long-term non-FTA authorizations for a standard 20-year term. DOE chose a 20-year term for two reasons. First, the economic analysis then-supporting DOE's authorizations—the 2012 LNG Export Study—did not extend past 20 years at the time the authorizations were issued. In DOE/FE Order No. 3282, for example, Freeport LNG Expansion, L.P., *et al.* (Freeport) had requested a 25-year export term for its non-FTA authorization. DOE declined to authorize a 25-year export term, and instead approved a 20-year term. DOE reasoned that, ''because the NERA study contains projections over a 20-year period beginning from the date of first export, . . . caution recommends limiting this conditional authorization to no longer than a 20-year term beginning from the date of first export.'' [29]

Second, in the same *Freeport* order, DOE recognized that ''LNG export facilities are capital intensive and that, to obtain financing for such projects, there must be a reasonable expectation that the authorization will continue for a term sufficient to support repayment.'' [30] DOE found that a 20-year term ''is likely sufficient to achieve this result.'' [31] For these reasons, DOE granted Freeport's conditional non-FTA order—and, later, its final non-FTA order—for a 20-year term, instead of the requested 25-year term.[32]

DOE has continued to apply a policy of authorizing a 20-year export term for every long-term non-FTA order issued to date.[33] For each final non-FTA order, the 20-year export term commences when the authorization holder begins commercial export of LNG from its facility.[34]

C. Judicial Decisions Upholding DOE's Non-FTA Authorizations

Beginning in 2015, Sierra Club petitioned the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit or the Court) for review of five long-term LNG export authorizations issued by DOE under the standard of review described above. Sierra Club challenged DOE's approval of LNG exports to non-FTA countries from projects proposed or operated by the following authorization holders: Freeport; Dominion Energy Cove Point LNG, LP (formerly Dominion Cove Point LNG, LP); Sabine Pass Liquefaction, LLC; and Cheniere Marketing, LLC, *et al.* The D.C. Circuit subsequently denied four of the five petitions for review: one in a published decision issued on August 15, 2017 (*Sierra Club I*),[35] and

[22] Dep't of Energy, Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 FR 48132 (Aug. 15, 2014) [hereinafter Addendum]; *see also http://energy.gov/fe/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[23] Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States, 79 FR 32260 (June 4, 2014) [hereinafter LCA GHG Report]. DOE announced the availability of the LCA GHG Report on its website on May 29, 2014.

[24] *See, e.g., Magnolia LNG, LLC,* DOE/FE Order No. 3909, FE Docket No. 13–132–LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Proposed Magnolia LNG Terminal to be Constructed in Lake Charles, Louisiana, to Non-Free Trade Agreement Nations, at 95–121 (Nov. 30, 2016) (description of LCA GHG Report and response to comments).

[25] 15 U.S.C. 717b(a).

[26] 10 CFR 590.404.

[27] *See Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 2961, FE Docket No. 10–111–LNG, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, at 2, 20 n.26, 42 (May 20, 2011) (Ordering Para. B). DOE later granted Sabine Pass's final order with a 20-year term (*see* DOE/FE Order No. 2961–A, issued on August 7, 2012).

[28] *See Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 2961, at 2.

[29] *See, e.g., Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 3282, FE Docket No. 10–161–LNG, Order Conditionally Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 114 (May 17, 2013) (Para. A, Term of the Authorization).

[30] *Id.* at 114–15.

[31] *Id.* at 115.

[32] *See Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 3282–C, FE Docket No. 10–161–LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 89 (Nov. 14, 2014) (Para. A, Term of the Authorization).

[33] The only exception involves a conditional authorization to export LNG to non-FTA countries from Alaska. DOE conditionally granted the applicant's request for a 30-year export term, citing unique aspects of that Alaska-based project. DOE has not yet issued a final order in that proceeding. *See Alaska LNG Project, LLC,* DOE/FE Order No. 3643, FE Docket No. 14–96–LNG, Order Conditionally Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Alaska LNG Terminal in Nikiski, Alaska, to Non-Free Trade Agreement Nations, at 35 (May 28, 2015).

[34] DOE also allows: (i) A term for commercial export operations to commence—typically seven years—set from the date the order is issued; and (ii) a three-year ''make-up period'' following the end of the 20-year export term, during which the authorization holder may continue to export any ''make-up volume'' that it was unable to export during the 20-year export term. These provisions are not directly at issue in this Proposal.

[35] *Sierra Club* vs. *U.S. Dep't of Energy,* 867 F.3d 189 (D.C. Cir. 2017) (denying petition of review of the LNG export authorization issued to Freeport LNG Expansion, L.P., *et al.*).

three in a consolidated, unpublished opinion issued on November 1, 2017 (*Sierra Club II*).[36] Sierra Club subsequently withdrew its fifth and remaining petition for review.[37]

In *Sierra Club I,* the D.C. Circuit concluded that DOE had complied with both NGA section 3(a) and NEPA in issuing the challenged non-FTA authorization. Freeport had applied to DOE for authorization to export LNG to non-FTA countries from the Freeport Terminal located on Quintana Island, Texas. DOE granted the application in 2014 in a volume equivalent to 0.4 Bcf/d of natural gas, finding that Freeport's proposed exports were in the public interest under NGA section 3(a). DOE also considered and disclosed the potential environmental impacts of its decision under NEPA. Sierra Club petitioned for review of the Freeport authorization, arguing that DOE fell short of its obligations under both the NGA and NEPA. The D.C. Circuit rejected Sierra Club's arguments in a unanimous decision, holding that, ''Sierra Club has given us no reason to question the Department's judgment that the [Freeport] application is not inconsistent with the public interest.'' [38]

In the consolidated opinion in *Sierra Club II* issued on November 1, 2017, the D.C. Circuit ruled that ''[t]he court's decision in [*Sierra Club I*] largely governs the resolution of the [three] instant cases.'' [39] Upon its review of the remaining ''narrow issues'' in those cases, the Court again rejected Sierra Club's arguments under the NGA and NEPA, and upheld DOE's actions in issuing the non-FTA authorizations in those proceedings.[40]

The D.C. Circuit's decisions in *Sierra Club I and II* continue to guide DOE's review of applications to export LNG to non-FTA countries.

D. Recent Regulatory Developments

1. 2018 LNG Export Study

In 2017, DOE commissioned NERA to conduct a new economic study, now referred to as the 2018 LNG Export Study.[41] As with its prior economic studies, DOE commissioned the 2018 LNG Export Study to inform its determination of the public interest in pending and future non-FTA application proceedings. DOE published the 2018 LNG Export Study on its website on June 7, 2018,[42] and concurrently provided notice of the availability of the Study.[43]

Like DOE's prior economic studies, the 2018 Study analyzed the outcomes of different LNG export levels on the U.S. natural gas markets and the U.S. economy as a whole. Additionally, for the first time in a DOE-commissioned macroeconomic study, the 2018 LNG Export Study assessed the likelihood of different levels of ''unconstrained'' LNG exports, defined as market-determined levels of exports. The Study examined the period from the year 2020 through 2050, and was based, in part, on the projections in EIA's *Annual Energy Outlook 2017* [44] through 2050.[45]

DOE received 19 comments on the 2018 LNG Export Study. DOE summarized and responded to these comments in the Response to Comments document, published on December 28, 2018.[46]

Based upon the record, DOE determined that the 2018 Study provides substantial support for non-FTA applications within the export volumes considered by the 2018 Study—ranging from 0.1 to 52.8 Bcf/d of natural gas.[47] The principal conclusion of the 2018 LNG Export Study is that the United States will experience net economic benefits from the export of domestically produced LNG through the 30-year study period, *i.e.,* from 2020 through 2050.[48]

Overall, DOE found that the 2018 LNG Export Study supports the proposition that exports of LNG from the lower-48 states, in volumes up to and including 52.8 Bcf/d of natural gas, will not be inconsistent with the public interest. DOE also stated that it would consider each application to export LNG as required under the NGA and NEPA based on the administrative record compiled in each individual proceeding.[49]

2. 2019 Life Cycle Greenhouse Gas Update

In 2018, DOE commissioned NETL to conduct an update to the 2014 LCA GHG Report, entitled *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update* (LCA GHG Update).[50] As with the 2014 Report, the LCA GHG Update compared life cycle GHG emissions of exports of domestically produced LNG to Europe and Asia, compared with alternative fuel sources (such as regional coal and other imported natural gas) for electric power generation in the destination countries. Although core aspects of the analysis—such as the scenarios investigated—were the same as the 2014 Report, the 2019 LCA GHG Update contained the following three changes:

- Incorporated NETL's most recent characterization of upstream natural gas production, set forth in NETL's April 2019 report entitled, *Life Cycle Analysis of Natural Gas Extraction and Power Generation* (April 2019 LCA of Natural Gas Extraction and Power Generation); [51]
- Updated the unit processes for liquefaction, ocean transport, and regasification characterization using engineering-based models and publicly-available data informed and reviewed by existing LNG export facilities, where possible; and
- Updated the 100-year global warming potential (GWP) for methane (CH_4) to reflect the current Intergovernmental Panel on Climate Change's Fifth Assessment Report.[52]

[36] *Sierra Club* v. *U.S. Dep't of Energy,* Nos. 16–1186, 16–1252, 16–1253, 703 Fed. Appx. 1 (D.C. Cir. Nov. 1, 2017) (denying petitions of review of the LNG export authorization issued to Dominion Cove Point LNG, LP; Sabine Pass Liquefaction, LLC; and Cheniere Marketing, LLC, *et al.,* respectively).

[37] *See Sierra Club* v. *U.S. Dep't of Energy,* No. 16–1426, Per Curiam Order (D.C. Cir. Jan. 30, 2018) (granting Sierra Club's unopposed motion for voluntarily dismissal).

[38] *Sierra Club I,* 867 F.3d at 203.

[39] *Sierra Club,* 703 Fed. Appx. 1 at *2.

[40] *Id.*

[41] *See* U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports; Notice of Availability of the 2018 LNG Export Study and Request for Comments, 83 FR 27314 (June 12, 2018) [hereinafter 2018 Study Notice].

[42] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *available at: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf* [hereinafter 2018 LNG Export Study or 2018 Study].

[43] *See* 2018 Study Notice.

[44] U.S. Energy Info. Admin., *Annual Energy Outlook 2017* (with projections to 2050) (Jan. 5, 2017), *available at: https://www.eia.gov/outlooks/aeo/pdf/0383(2017).pdf.*

[45] *See* 2018 Study Notice, 83 FR 27316.

[46] *See* 2018 Study Response to Comments, 83 FR 67260–67272.

[47] *See id.*

[48] *See id.* In its Response to Comments document, DOE also highlighted the key findings of the Study. *See id.* 83 FR 67273.

[49] *See id.*

[50] Nat'l Energy Technology Laboratory, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (DOE/NETL 2019/2041) (Sept. 12, 2019), *available at: https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf.* Although the LCA GHG Update is dated September 12, 2019, DOE announced the availability of the LCA GHG Update on its website and in the **Federal Register** on September 19, 2019.

[51] Nat'l Energy Technology Laboratory, *Life Cycle Analysis of Natural Gas Extraction and Power Generation* (DOE/NETL–2019/2039) (Apr. 19, 2019), *available at: https://www.netl.doe.gov/energy-analysis/details?id=3198.*

[52] *See* U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States; Notice of Availability of Report Entitled Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update and Request for Comments, 84 FR 49278, 49279 (Sept. 19, 2019).

In all other respects, the LCA GHG Update was unchanged from the 2014 Report.

On September 19, 2019, DOE published notice of availability (NOA) of the LCA GHG Update and a request for comments.[53] DOE received seven comments in response to the NOA. In a Response to Comments document that was effective on December 19, 2019, and published in the **Federal Register** on January 2, 2020, DOE responded to the public comments and summarized its conclusions drawn from the LCA GHG Update.[54]

As DOE explained, the analysis in the LCA GHG Update was based on the most current available science, methodology, and data from the U.S. natural gas system to assess the GHGs associated with exports of U.S. LNG. The Update demonstrated that the conclusions of the 2014 LCA GHG Report have not changed. Specifically, the Update concluded that the use of U.S. LNG exports for power production in European and Asian markets will not increase GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production.[55]

The LCA GHG Update estimated the life cycle GHG emissions of U.S. LNG exports to Europe and Asia, compared with certain other fuels used to produce electric power in those importing countries. While acknowledging uncertainty, the LCA GHG Update showed that, to the extent U.S. LNG exports are preferred over coal in LNG-importing nations, U.S. LNG exports are likely to reduce global GHG emissions on per unit of energy consumed basis for power production. Further, to the extent U.S. LNG exports are preferred over other forms of imported natural gas, they are likely to have only a small impact on global GHG emissions.[56]

The conclusions of the LCA GHG Update, combined with the observation that many LNG-importing nations rely heavily on fossil fuels for electric generation, suggest that exports of U.S. LNG may decrease global GHG emissions, although there is substantial uncertainty on this point, as indicated above.[57] Further, based on the evidence, DOE saw no reason to conclude that U.S. LNG exports will increase global GHG emissions in a material or predictable way.[58]

In sum, DOE found that the LCA GHG Update supports the proposition that exports of LNG from the lower-48 states will not be inconsistent with the public interest. DOE stated it will evaluate each pending and future non-FTA application as required under the NGA and NEPA, based on the administrative record compiled in each individual proceeding.[59]

E. Existing Non-FTA Authorizations and Pending Applications

To date, DOE has issued 38 final long-term authorizations to export domestically produced (or U.S.) LNG or compressed natural gas to non-FTA countries.[60] The cumulative volume of approved non-FTA exports under these authorizations is 38.06 billion cubic feet per day (Bcf/d) of natural gas, or 13.9 trillion cubic feet per year.[61] As noted above, each of these final non-FTA orders authorize an export term of 20 years.

Additionally, 18 long-term non-FTA applications requesting to export domestically produced LNG from the lower-48 states are currently pending before DOE. These applications represent a cumulative volume of 24.5 Bcf/d of natural gas, or 8.94 trillion cubic feet per year.[62]

To date, DOE also has authorized exports to FTA countries in a volume of 56.24 Bcf/d of natural gas. The volumes authorized for export to FTA and non-FTA countries, however, are not additive to one another. Rather, each order grants authority to export the entire volume of a facility to FTA or non-FTA countries, respectively, to provide the authorization holder with maximal flexibility in determining its export destinations.[63] According to EIA estimates, U.S. domestic dry natural gas production for the year 2019 averaged a rate of 92.03 Bcf/d, well in excess of current long-term FTA and non-FTA authorizations (in non-additive volumes of 56.24 Bcf/d and 38.06 Bcf/d, respectively).[64]

Finally, DOE notes that the amount of U.S. LNG export capacity that is currently operating or under construction totals 15.54 Bcf/d of natural gas across eight large-scale export projects in the lower-48 states.[65]

II. Proposed Policy Statement

A. Proposal To Extend Standard Term of Non-FTA Authorizations

1. Basis for Proposal and Effect on Export Volume

Recently, authorization holders have indicated that a 30-year export term would better match the operational life of their physical asset—the LNG export facility—allowing them more security in financing their facility and maximizing their ability to contract for exports. LNG export terminals are typically designed for a service life of 30 to 50 years.[66] Although DOE has limited its non-FTA export authorizations to a 20-year export term based on the projections in the 2012, 2014, and 2015 LNG Export Studies, that limitation is no longer required based on the findings of the 2018 LNG Export Study that included analysis on an expanded time period. Because the 2018 LNG Export Study considered unconstrained (or market-determined) levels of LNG exports and included analysis through the year 2050, the 2018 Study supports export terms lasting through December 31, 2050.[67]

A proposed change in export terms through the year 2050 would not alter the maximum daily rate of export currently approved under each existing non-FTA authorization. The maximum daily rate of export, set in billion cubic

[53] *See id.*

[54] *See* U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020).

[55] *See id.* 85 FR 78, 85.

[56] *See id.* 85 FR 85.

[57] *See id.* 85 FR 86.

[58] *See id.*

[59] *See id.*

[60] *See Venture Global Plaquemines LNG, LLC,* DOE/FE Order No. 4446, FE Docket No. 16–28–LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 43 (Oct. 15, 2019).

[61] *See id.*

[62] U.S. Dep't of Energy, Summary of LNG Export Applications as of Jan. 8, 2020, *available at: https://www.energy.gov/fe/downloads/summary-lng-export-applications-lower-48-states.*

[63] *See, e.g., Venture Global Plaquemines LNG, LLC,* DOE/FE Order No. 4446, at 53 (Ordering Para. I) (as a condition of the order, ''Plaquemines LNG may not treat the FTA and non-FTA export volumes as additive to one another.'')

[64] U.S. Energy Info. Admin., ''Short-Term Energy Outlook'' (Jan. 14, 2020), *available at: https://www.eia.gov/outlooks/steo/data/browser/#/?v=15&f=A&s=0&maptype=0&ctype=linechart* (Table 5a, U.S. Natural Gas Supply, Consumption, and Inventories, ''Total Dry Gas Production'').

[65] U.S. Energy Info. Admin., *U.S. Liquefaction Capacity* (Jan. 30, 2020), *available at: https://www.eia.gov/naturalgas/U.S.liquefactioncapacity.xlsx* (total of 15.54 Bcf/d calculated by adding Column N in ''Existing & Under Construction'' worksheet).

[66] *See, e.g., Texas LNG Brownsville LLC,* Order Granting Authorization Under Section 3 of the Natural Gas Act, 169 FERC ¶ 61,130, at ¶ 6 (Nov. 22, 2019) (stating that the minimum expected operational life of the LNG terminal is 25–30 years); Federal Energy Regulatory Comm'n, *Gulf LNG Liquefaction Project Final Environmental Impact Statement,* Docket No. CP15–521–000, at 4–197 (Apr. 17, 2019), *available at: https://www.ferc.gov/industries/gas/enviro/eis/2019/04-17-19-FEIS/FEIS.pdf* (the expected physical operational service life of the LNG terminal is 50 years); International Gas Union, *2019 World LNG Report,* at 35 (Apr. 2, 2019) (discussing LNG facilities in operation for ''35 years or longer'').

[67] *See supra* at § I.D.1.

feet per day (Bcf/d), is already based on each facility's maximum approved liquefaction production capacity as set by the agency approving the siting and construction of the facility—either the Federal Energy Regulatory Commission or the U.S. Maritime Administration (*see supra* note 9). But, by extending the period over which these exports would occur, a term extension would provide a mechanism for existing authorization holders to increase the total volume of LNG exports over the life of their authorization.

For the non-FTA applications currently pending before DOE (involving exports from the lower-48 states), the total requested export volume for each application also would increase if DOE ultimately were to grant each application for an export term lasting through the year 2050 (as opposed to the standard 20-year term).

In sum, the Proposed Policy Statement, if adopted, would not increase the approved *rate* of exports from a particular facility, but it would result in an increase in the total approved *volume* of exports from each participating facility due to the longer export term. DOE notes that the 2018 LNG Export Study and the recent EIA Annual Energy Outlooks assume a steady rate of exports between 2040 and 2050.

2. Comments of Cheniere Energy, Inc. Requesting Term Extension

On July 27, 2018, Cheniere Energy, Inc. (Cheniere) filed comments in the 2018 LNG Export Study proceeding.[68] Cheniere is the parent company of three companies that currently export U.S. LNG under long-term authorizations: Sabine Pass Liquefaction, LLC; Cheniere Marketing, LLC; and Corpus Christi Liquefaction, LLC. As part of its comments, Cheniere asked DOE to: (i) begin issuing export authorizations with a term of 30 years based on the analysis provided in the 2018 LNG Export Study, and (ii) provide a procedure whereby authorization holders with existing 20-year authorizations (such as Cheniere's subsidiaries) could request such a term extension.[69]

In support of this request, Cheniere first noted that the 2018 LNG Export Study extends for 30 years and shows macroeconomic benefits to the United States over the entire period.[70] Second, Cheniere asserted that it has received interest from LNG buyers who are seeking contracts that extend beyond 20 years. Cheniere stated that this interest in U.S. LNG may be ''inhibited'' if the seller lacks export authority over the entire contract term.[71] Cheniere further stated that, once LNG projects enter operation, the flexibility to extend contracts beyond the initial 20-year term will be even more important. Cheniere maintained that, for foreign buyers deciding between U.S. LNG and alternative long-term sources, a 30-year term may prove decisive.[72]

3. Canadian Export Term for LNG

On December 4, 2019, Canada granted its first 40-year LNG export license, which it issued to Chevron Canada Limited (Chevron) for a proposed LNG export facility called the Kitimat LNG project.[73] Under the terms of that license, Chevron is authorized to export LNG from Canada in a volume of 996.93 billion cubic feet per year (Bcf/yr) of natural gas for a term of 40 years beginning on the date of first export—with a period of 10 years to commence exports.[74] Canada's regulatory agency, the Canada Energy Regulator,[75] approved the requested 40-year export term over an argument by a commenter that Canada's existing natural gas forecasts supported an export term of only 25 years.[76] In rejecting this argument, the Canada Energy Regulator found that ''the natural gas resource base in Canada, as well as North America overall, is large and can accommodate reasonably foreseeable Canadian demand, including the natural gas exports proposed in this Application, and a plausible potential increase in demand'' over a 40-year export term.[77] This recent development underscores the importance of U.S. LNG export projects being able to offer the same or similar contract terms as their Canadian counterparts.

4. Summary of Proposal

Based on the 2018 LNG Export Study, the LCA GHG Update, and the current status of the U.S. LNG export market, DOE believes there is new evidence to support changing from the standard 20-year export term for non-FTA orders to an extended export term with an end date of December 31, 2050. This Proposed Policy Statement, if adopted, would effectively extend the export term for existing authorization holders from 20 to 30 (or more) years, depending on when they commenced (or will commence) export operations.

For example, Sabine Pass Liquefaction, LLC received DOE's first final long-term non-FTA authorization (DOE/FE Order No. 2961–A) on August 7, 2012, and began exporting LNG in February 2016.[78] In addition to Sabine Pass, seven other non-FTA authorization holders are exporting LNG to date (Dominion Energy Cove Point LNG, LP; Cheniere Marketing, LLC; Corpus Christi Liquefaction, LLC; Cameron LNG, LLC; Freeport LNG Expansion, L.P., *et al.;* American LNG Marketing LLC; and Southern LNG Company, LLC).[79] If this Proposal is adopted and these authorization holders elect to apply for an extended export term, they ultimately could have authority to export for more than 30 years in total. For example, if Sabine Pass were to obtain an extended export term for Order No. 2961–A through December 31, 2050, it ultimately would be authorized to export LNG for a total of 38 years, with an actual export period of up to 34 years, 10 months (if Sabine Pass exported continuously through the year 2050).

For the majority of existing authorization holders, however, this Proposal would result in a maximum 30-year export term (depending on whether and when the authorization holders begin exporting LNG). Likewise, the Proposal would provide up to a 30-year export term for future authorizations issued beginning in 2020.

Under this Proposal, the December 31, 2050 date would be the end of the authorization period for all non-FTA exports, inclusive of any ''make-up'' export periods.[80] DOE will continue to

[68] Cheniere Energy, Inc., Comments on the 2018 LNG Export Study (July 27, 2018), *available at: https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/567* [hereinafter Cheniere Comments].

[69] *Id.* at 5.

[70] *Id.* (citing 2018 LNG Export Study at Appendix F).

[71] *Id.* at 5–6.

[72] *Id.* at 6.

[73] *See* Canada Energy Regulator, Letter Decision, Application of Chevron Canada Limited for a 40-Year License to Export Natural Gas as Liquefied Natural Gas (LNG), at 6 & Exh. 1 (Dec. 4, 2019) [hereinafter Canada Energy Regulator Decision], *available at: https://docs2.cer-rec.gc.ca/ll-eng/llisapi.dll/fetch/2000/90466/94153/552726/3760154/3760155/3893823/C03430-1_CER_%E2%80%93_Letter_Decision_%E2%80%93_Chevron_Application_for_a_40-year_Licence_to_Export_LNG_-_A7A5Z5.pdf?nodeid=3891530&vernum=-2.*

[74] *See id.* at 1 & Appendix I.

[75] On August 28, 2019, Canada's National Energy Board became the Canada Energy Regulator. *See id.* at 1 n.1.

[76] *See* Canada Energy Regulator Decision at 3.

[77] *Id.* at 6.

[78] *See supra* at § I.B.4.

[79] *See* U.S. Dep't of Energy, Office of Fossil Energy, *LNG Monthly* (Dec. 2019), at 9–25 (Tables 2a(i)–2a(vi), 2b), *available at: https://www.energy.gov/sites/prod/files/2019/12/f69/LNG%20Monthly%202019_0.pdf* (identifying exporters of U.S. LNG). DOE notes that Southern LNG Company, LLC began exporting LNG in December 2019, but those exports are not yet reflected in DOE's *LNG Monthly* report.

[80] *See supra* note 34.

monitor developments in the LNG export market, however, including EIA's projections about natural gas supply and demand. Consistent with its longstanding practice, DOE anticipates that it will commission new economic studies and consider any extensions in the export period beyond the year 2050 at the appropriate time in the future.[81]

5. Potential Impact on FTA Authorizations and Applications

This Proposal does not apply to FTA applications and authorizations, since DOE is required to grant FTA applications ''without modification or delay'' under NGA section 3(c). Because of this statutory standard, applicants for FTA orders are not subject to DOE's standard 20-year term for non-FTA authorizations, and numerous FTA orders already have export terms of 25 or more years. Nonetheless, authorization holders typically apply for both FTA and non-FTA authorizations, and they prefer to align their FTA and non-FTA exports over the same time period for administrative efficiencies. Therefore, if this Proposal is adopted, DOE anticipates that authorization holders may elect to request a comparable extension in the export term of their existing FTA authorization(s) or any pending FTA applications.

B. Proposed Implementation Process

DOE proposes to implement the Proposed Policy Statement as follows:

(1) *For existing non-FTA authorizations:* Existing authorization holders would request the change on a voluntary opt-in basis. Specifically, each non-FTA authorization holder would file an application requesting an amendment to its authorization to extend its export term through December 31, 2050, with an attendant increase in the total export volume over the life of the authorization;

(2) *For pending non-FTA applications:* Existing applicants would request the change as an amendment to their pending application, on a voluntary opt-in basis.[82] Each applicant would file an amendment to its application to extend its requested export term through December 31, 2050, with an attendant increase in the total export volume over the life of the authorization; and

(3) *For future applications:* The extended term would become DOE's standard export term for all future non-FTA authorizations. Accordingly, for any application filed after the date the Proposed Policy Statement is finalized (if it is adopted), the applicant would request an export term lasting through December 31, 2050, unless the applicant prefers a shorter export term.

In each individual docket proceeding, the authorization holder or applicant would be required to submit an application (for #1 and #3) or an amendment to its pending application (for #2) with relevant facts and argument supporting the term request.[83] DOE would provide notice of the application or amendment in the **Federal Register**.[84] Additionally, if this Proposed Policy Statement is adopted, DOE anticipates that it would provide suggested application templates on its website (including an option for consolidated non-FTA and FTA application proceedings, *see supra* at Section II.A.5) to ensure more consistent, streamlined proceedings.

Following the notice and comment period in each proceeding, DOE would conduct a public interest analysis of the application (or amended application) under NGA section 3(a). DOE would also have to comply with NEPA, as discussed herein. For existing non-FTA orders, the public interest analysis would be limited to the application for an extended export term—meaning an intervenor or protestor could challenge the requested extension but not the existing non-FTA order. Consistent with its established practice, DOE would respond to any comments received in its final order on each application (or amendment) requesting the extended export term.

DOE notes that, in Cheniere's comments on the 2018 LNG Export Study requesting that DOE implement a 30-year export term, Cheniere urged DOE to consider a ''consolidated proceeding'' for all existing authorizations. Under this approach, Cheniere stated that DOE should ''consider the [export term] extension of all existing authorizations in a single proceeding . . . because the public interest question in each case is identical.'' [85] Cheniere also asserted that DOE's decision to extend all existing export terms in a consolidated proceeding would be eligible for a categorical exclusion from NEPA [86]—specifically, categorical exclusion B5.7 (10 CFR part 1021, subpart D, appendix B5).[87]

As indicated, DOE is currently proposing a voluntary application process for existing authorization holders that would be adjudicated in each individual proceeding (#1). DOE believes that not every authorization holder may want to have an extended export term, and that the public interest considerations in individual proceedings may vary. Additionally, DOE takes no position on Cheniere's suggestion that any decision by DOE to extend an existing export term would be eligible for a categorical exclusion from NEPA (such as categorical exclusion B5.7). If this Proposed Policy Statement is adopted, DOE would comply with its NEPA obligations in each individual application proceeding, consistent with its current practice.[88]

III. Invitation To Comment

In response to this document, any person may file comments addressing the Proposed Policy Statement. The comments will help to inform DOE's decision as to whether to adopt the Proposed Policy Statement for use in current and future non-FTA proceedings. DOE invites comment on any aspect of the Proposed Policy Statement, including but not limited to the potential benefits and impacts associated with the Proposal and the voluntary opt-in process for existing authorization holders and applicants. Interested parties will be provided 30 days from the date of publication of this Notice of proposed policy statement in which to submit their comments.

IV. Public Comment Procedures

DOE is not establishing a new proceeding or docket in this document. Comments submitted in compliance with the instructions in this document will be placed in the administrative record for all of the above-referenced proceedings and need only be submitted once.

Additionally, the submission of comments in response to this Notice of proposed policy statement will not make commenters parties to any of the affected dockets. Persons with an

[81] DOE previously affirmed its commitment to export authorizations issued under the NGA, including existing and future long-term non-FTA authorizations at issue under this Proposal. *See* U.S. Dep't of Energy, Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 FR 28841, 28843 (June 21, 2018) (stating that authorization holders and interested stakeholders ''should have the utmost confidence in the validity of DOE/FE's LNG export authorizations for the full term of each non-FTA order'').

[82] *See* 10 CFR 590.204.

[83] *See* 10 CFR 590.201, 590.202, 590.204.

[84] *See* 10 CFR 590.205.

[85] Cheniere Comments at 6.

[86] *Id.* at 6–7.

[87] *See* 10 CFR 1021.410, appendix B to subpart D of part 1021, Categorical Exclusion B5.7 (''Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.'').

[88] *See supra* at § I.A.

interest in the outcome of one or more of the affected dockets already have been given an opportunity to intervene in or protest those matters by complying with the procedures established in the notice of application issued in each respective docket and published in the **Federal Register**. Future opportunities for intervention or protest will be published in the **Federal Register** only for the applications to extend the term.

Comments may be submitted using one of the following methods:

(1) Submitting the comments using the online form at *https://fossil.energy.gov/app/docketindex/docket/index/22.*

(2) Mailing an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**; or

(3) Hand delivering an original and three paper copies of the filing to the Office of Regulation, Analysis, and Engagement at the address listed in **ADDRESSES**.

For administrative efficiency, DOE prefers comments to be filed electronically using the online form (method 1). All comments must include a reference to ''Term Extension—Proposed Policy Statement'' in the title line. The record in the above-referenced proceedings will include all comments received in response to this Notice of proposed policy statement. DOE will review the comments received on a consolidated basis.

The Proposed Policy Statement is available for inspection and copying in the Division of Natural Gas Regulation docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Additionally, the Proposed Policy Statement and any comments filed in response to this document will be available on the following DOE website: *https://fossil.energy.gov/app/docketindex/docket/index/22.*

V. Administrative Benefits

In this Proposed Policy Statement, DOE is not proposing any new requirements for applicants or authorization holders under 10 CFR part 590. Rather, DOE's intent is to minimize administrative burdens and to enhance certainty for authorization holders in the U.S. natural gas export market, as well as for those who may purchase U.S. LNG.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Proposed Policy Statement.

Signed in Washington, DC, on January 31, 2020.

Steven Eric Winberg,

Assistant Secretary, Office of Fossil Energy.

[FR Doc. 2020–02358 Filed 2–10–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0791; Airspace Docket No. 19–ACE–13]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Shenandoah, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Shenandoah Municipal Airport, Shenandoah, IA. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Shenandoah non-directional radio beacon (NDB), which provided navigation information for the instrument procedures at this airport. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before March 27, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0791; Airspace Docket No. 19–ACE–13, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Shenandoah Municipal Airport, Shenandoah, IA, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0791 Airspace Docket No. 19–ACE–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increased from a 6.4-mile radius) of the Shenandoah Municipal Airport.

This action is necessary due to an airspace review caused by the decommissioning of the Shenandoah NDB, which provided navigation information for the instrument procedures at this airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 Shenandoah, IA [Amended]

Shenandoah Municipal Airport, IA
(Lat. 40°45′06″ N, long. 95°24′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Shenandoah Municipal Airport.

Issued in Fort Worth, Texas, on February 4, 2020.

Marty Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–02600 Filed 2–10–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2020–F–0151]

LANXESS Corporation; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that LANXESS Corporation has filed a petition proposing that the food additive regulations be amended to provide for the safe use of calcium formate as a feed acidifying agent, to lower the pH, in complete feeds for swine or poultry.

DATES: The food additive petition was filed on December 27, 2019.

ADDRESSES: For access to the docket, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Carissa Adams, Center for Veterinary

Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6283, *Carissa.Adams@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2310) has been filed by LANXESS Corporation, 111 RIDC Park West Dr., Pittsburgh, PA 15275. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of calcium formate as a feed acidifying agent, to lower the pH, in complete feeds for swine or poultry.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: February 5, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02664 Filed 2–10–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AQ37

Servicemembers' Group Life Insurance—Family Servicemembers' Group Life Insurance—Member Married to Member

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: VA proposes to clarify implementation of sec. 642 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013 (FY13), which eliminated automatic enrollment in Family Servicemembers' Group Life Insurance (FSGLI) for insurable dependents who are members of a uniformed service and are automatically covered under Servicemembers' Group Life Insurance (SGLI). VA proposes that a SGLI-covered member who marries another SGLI-eligible member after January 1, 2013, the date on which the FY13 NDAA was enacted, or is married to a person who becomes eligible for SGLI after January 1, 2013, may only enroll or re-enroll in or increase FSGLI-spousal coverage, upon applying for such coverage and providing proof of his or her spouse's good health. Further, VA proposes not to require a SGLI covered member to apply or provide proof of good health for a member spouse or for a member dependent child to continue FSGLI coverage in force at the time the spouse or dependent child became a SGLI eligible member.

DATES: Comments must be received on or before April 13, 2020.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ37—Servicemembers' Group Life Insurance—Family Servicemembers' Group Life Insurance Regulation Update—Member Married to Member.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Department of Veterans Affairs Insurance Center (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4404. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Veterans' Survivor Benefits Improvements Act of 2001 (''2001 Act''), Public Law 107–14, sec. 4, 115 Stat. 25, originally created FSGLI, which provides automatic coverage for spouses and dependent children of SGLI-covered members. The FSGLI automatic coverage provisions were created to simplify the process for obtaining FSGLI coverage during deployment. The 2001 Act provides for free, automatic dependent coverage for children in the amount of $10,000, which cannot be declined or reduced so long as the member carries SGLI. *See* 38 U.S.C. 1967(a)(1)(A)(ii), (a)(2), (a)(3)(A)(iii), (a)(3)(B); 1969(g)(1)(A). In addition, the 2001 Act prohibits requiring proof of good health for a child. *See* 38 U.S.C. 1967(c). FSGLI dependent child coverage is effective from the latest of the applicable dates enumerated under 38 U.S.C. 1967(a)(5)(A)–(D) and (F), which refers to the date a child becomes an insurable dependent, namely the date of birth, date of adoption, or the date of entrance into the member's household, and this coverage remains effective for as long as the member maintains SGLI coverage or until the child no longer qualifies as an insurable dependent.

In contrast, automatic FSGLI-spousal coverage requires payment of premiums and can be declined or reduced by the member to less than the $100,000 statutory maximum as long as the spousal coverage is equal to or less than the amount of SGLI coverage held by the member. *See* 38 U.S.C. 1967(a)(2)(B), (a)(3). Once a member declines or reduces FSGLI-spousal coverage, or when a spouse eligible for FSGLI coverage is otherwise not insured under FSGLI, an application and proof of the spouse's good health is required to elect, reinstate, or increase coverage. *See* 38 U.S.C. 1967(c). FSGLI-spousal coverage is effective from the latest of any of the applicable dates enumerated under 38 U.S.C. 1967(a)(5)(A)–(D) and (E), which refers to the date of marriage of the spouse to the member.

However, the automatic coverage provisions of the 2001 Act caused the unintended consequence of creating debts for servicemembers when lags occurred in updating personnel records to reflect changed marital status, *i.e.,* in the case of marriage. Such delays created premium debts requiring the member to pay back premiums for automatic FSGLI-spousal coverage in force prior to the branch of service receiving notification of the member's marriage. In other words, a member was required to pay premiums for automatic spousal coverage, even if it meant paying retroactive premiums for a covered period during which the branch of service was unaware of the member's marriage. In a case in which a member married another member, since each married member was responsible to pay any retroactive premiums associated with FSGLI-spousal coverage for the other, the impact on multiple-member families was magnified.

The FY13 NDAA, sec. 642, 126 Stat. 1632, 1783, was signed into law on January 2, 2013, to address the problem of premium debts, at least in multiple-

member families, by eliminating automatic FSGLI coverage for insurable dependents who are also members of a uniformed service. Section 642 eliminated automatic FSGLI enrollment for any insurable dependent covered under SGLI based on his or her own member status. The term ''insurable dependent'' includes a child as well as a spouse. *See* 38 U.S.C. 1965(10)(A) and (B). However, current law does not address certain issues, such as what happens to FSGLI coverage of a spouse or dependent child who later becomes a member, *i.e.,* whether existing FSGLI coverage continues for a member's spouse or dependent child who is insured under FSGLI at the time he or she becomes a member; whether a member can obtain or increase FSGLI coverage for a spouse or dependent child who becomes a member or when a member marries another member even though the coverage is not automatic; and what happens to FSGLI coverage when a spouse or dependent child leaves service.

To promptly address the statutory gaps noted above, VA adopted an interim policy that (1) allows FSGLI coverage to continue for a spouse or dependent child who was covered by FSGLI prior to becoming a SGLI-covered member based on his or her own member status after January 1, 2013, and (2) permits a servicemember who marries another SGLI-eligible member after January 1, 2013, or is married to a person who becomes a SGLI-eligible member based on his or her own member status after January 1, 2013, to enroll or re-enroll in or increase FSGLI-spousal coverage only upon applying for such coverage and providing proof of the spouse's good health. In accordance with 38 U.S.C. 1967(c), this policy continues any FSGLI coverage in force, while requiring an application from the member and proof of the eligible spouse's good health to enroll or re-enroll an FSGLI-eligible spouse who is not so insured or to increase FSGLI coverage for the spouse. As such, this policy applies to member-spouses while they are in service as well as those member-spouses who separate from service. *See* 38 U.S.C. 1967(c). VA believes that this policy effectively addresses some of the issues arising from the FY13 NDAA that eliminated automatic FSGLI coverage for the limited class of dependents addressed by the law, and we now seek to codify this policy in regulations.

VA proposes to implement regulatory guidance for the amended section 1967(a)(1) by adding a new paragraph (f) to 38 CFR 9.2, redesignating §§ 9.3 through 9.22 as §§ 9.4 through 9.23 and adding a new § 9.3. New paragraph (f) of 38 CFR 9.2 would state that the effective date of coverage for an insurable spouse who qualifies for FSGLI under 38 U.S.C. 1967(a)(1) but who was not so insured or was insured at a reduced rate will be the date the uniformed service receives an application and proof of the insurable spouse's good health, subject to newly created 38 CFR 9.3.

New 38 CFR 9.3 would clarify VA's implementation of the amendments to 38 U.S.C. 1967(a) made by the FY13 NDAA that was enacted on January 2, 2013. VA therefore proposes to provide, in proposed § 9.3(a), that a SGLI-covered member who (1) marries another SGLI-eligible member after January 1, 2013, or (2) is married to a person who becomes a SGLI-eligible member after January 1, 2013, may only enroll or re-enroll the member-spouse in or increase FSGLI-spousal coverage upon applying for such coverage and providing proof of the member-spouse's good health. As proposed in § 9.3(c), consistent with 38 U.S.C. 1967(c), the requirements for application and proof of the spouse's good health also apply when a member seeks to enroll or re-enroll a member-spouse who is not insured in FSGLI, or seeks to increase FSGLI-spousal coverage, after the member-spouse separates from service. However, as provided in proposed § 9.3(b), if a member's spouse was insured under FSGLI at the time the spouse became a member, the pre-service FSGLI-spousal coverage would continue without the need for the member to apply or provide proof of the spouse's good health. Similarly, as provided in proposed § 9.3(c), if a member's spouse was insured under FSGLI at the time the spouse separates from military service, the FSGLI-spousal coverage carried in service would continue post-separation without the need for the member to apply or provide proof of the spouse's good health.

For a member married to another member, VA has determined that requiring an application that asks for proof of good health to enroll or re-enroll in or to increase spousal FSGLI strikes the appropriate balance between offering FSGLI coverage to the extent permitted by law and adhering to sound actuarial principles. By requiring an application that asks for proof of good health to enroll a member's spouse for FSGLI-spousal coverage, the proposed rule would provide insureds the opportunity to meet their financial needs while mitigating the potentially negative impact of ''adverse selection'' in the program.

Adverse selection occurs when individuals use their superior knowledge of their insurability to minimize the period of time over which they are likely to pay premiums for coverage. Such a practice unfairly shifts the premium paying burden to other individuals paying premiums for coverage over a longer period of time, and potentially undermines the financial health of the program to the detriment of all insureds. Insurance programs rely on a pooling of risks, and premium rates are set according to the expected mortality of the insurance pool. If a disproportionate number of insureds in substandard health enter the program or carry higher coverage amounts than healthier individuals in the program, the increased mortality experience will exceed that upon which the premium rates are based and could impact the program negatively by driving up the cost of premiums for all program participants. As such, the proof of health requirement incorporated in the proposed rule would minimize the potential for adverse selection.

Further, by initiating coverage from the date the member submits an FSGLI application to enroll their SGLI-eligible spouse, the proposed rule would remain consistent with Congressional intent to prevent debts resulting from retroactive coverage during an extensive period when the member had not paid premiums. Moreover, VA has determined that maintaining existing coverage for dependent spouses enrolled in FSGLI prior to becoming a SGLI-eligible member, or enrolled in FSGLI at the time of separation from service, should continue because it is not the type of ''automatic coverage'' intended to be curtailed by the FY13 NDAA and would not invoke the concerns with overpayments sought to be remedied by the change in law.

VA notes that SGLI-insurable dependent children, like a member married to another member (*i.e.,* a member-spouse), are automatically enrolled in SGLI based on their status as members. Since passage of the 2013 NDAA, however, they are no longer automatically insured for FSGLI under their parent's coverage.

We propose to provide in 38 CFR 9.3(d) that, after January 1, 2013, an insurable child who is a member when a parent's SGLI coverage commences is not eligible for automatic dependent coverage under the parent's FSGLI. We further propose that dependent coverage in effect for an insurable child prior to the child becoming a member shall remain in effect so long as the child remains an insurable dependent. However, if an insurable child was not

covered prior to becoming a member, the child could not be covered under a parent's FSGLI after the child becomes a member.

VA believes that this proposal would comply with the 2013 law change and allow FSGLI coverage to remain in place for those multiple-member families who (1) had been carrying FSGLI prior to a dependent child becoming a SGLI-eligible member and (2) anticipate keeping FSGLI coverage for the duration of their member-child's status as a dependent.

Because current statute at 38 U.S.C. 1967(c) prohibits requiring proof of good health to enroll any dependent child in FSGLI, regardless of whether the child is also eligible for SGLI as a member, VA cannot allow enrollment in FSGLI for this limited class of dependent children upon application and providing proof of good health. The statutory bar to requiring proof of good health to enroll dependent children makes such a policy necessary. VA believes that allowing dependent children with automatic SGLI coverage to also enroll in FSGLI by simply submitting an application, without also requiring proof of good health, would run counter to sound actuarial principles by encouraging adverse selection. VA recognizes that dependent children who are also eligible for SGLI would only be eligible to retain FSGLI coverage in force prior to becoming a member, and unlike a member married to another member, they would not be able to enroll in new FSGLI coverage upon application and providing proof of good health. However, because VA is precluded by statute from requiring proof of good health to enroll any dependent in FSGLI, we cannot adopt such a policy as was done for a member married to another member.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612.

Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

List of Subjects in Part 9

Life insurance, Military personnel, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Department of Veterans Affairs, approved this document on February 5, 2020, for publication.

Luvenia Potts,

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

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 9 as set forth below:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

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

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

■ 2. Section 9.2 is amended by adding paragraph (f) to read as follows:

§ 9.2 Effective date; applications.

* * * * *

(f) Except as provided in § 9.3:

(1) For an insurable spouse who was eligible for coverage under 38 U.S.C. 1967(a)(1)(A)(ii) but was not so insured or was insured at a reduced rate and who became a member, and

(2) For a member-spouse covered under 38 U.S.C. 1967(a)(1)(A)(i) and who was also eligible for coverage under 38 U.S.C. 1967(a)(1)(A)(ii) but who was not so insured or was insured at a reduced amount, the effective date of enrollment, re-enrollment, or an increase in coverage under 38 U.S.C. 1967(a)(1) shall be the date the uniformed service receives an application and proof of the insurable spouse's good health.

§§ 9.3 through 9.22 [Redesignated]

■ 3. Redesignate §§ 9.3 through 9.22 as §§ 9.4 through 9.23.

■ 4. Add a new § 9.3 to read as follows:

§ 9.3 Family Servicemembers' Group Life Insurance insurable dependents who become Servicemembers' Group Life Insurance eligible members, and Servicemembers' Group Life Insurance eligible members who marry Servicemembers' Group Life Insurance eligible members.

(a) A Servicemembers' Group Life Insurance-covered member who—

(1) Marries another Servicemembers' Group Life Insurance eligible member after January 1, 2013, or

(2) Is married to a person who becomes a Servicemembers' Group Life Insurance eligible member after January 1, 2013, may only enroll or re-enroll the member-spouse in or increase Family Servicemembers' Group Life Insurance spousal coverage upon applying for such coverage and providing proof of the spouse's good health.

(b) A spouse shall remain eligible to be covered by any existing Family Servicemembers' Group Life Insurance spousal coverage without the member applying for such coverage or providing proof of the spouse's good health in a case where the spouse is enrolled in coverage under 38 U.S.C. 1967(a)(1)(A)(ii) prior to becoming a member married to another member.

(c) A member's spouse who was insured under Family Servicemembers' Group Life Insurance at the time the spouse separates from military service will continue to be covered under the spousal Family Servicemembers' Group Life Insurance carried while in service, and the member will not need to apply or provide evidence of the spouse's good health post-separation. However, if a member seeks to enroll or re-enroll for coverage under Family Servicemembers' Group Life Insurance a spouse who did not have such spousal insurance coverage, or seeks to increase Family Servicemembers' Group Life Insurance coverage for such spouse, after the spouse separates from military service, the member will need to apply and provide proof of the spouse's good health post-separation.

(d) After January 1, 2013, an insurable child who is a member at the time a parent's Servicemembers' Group Life Insurance coverage commences is not eligible for automatic dependent coverage under 38 U.S.C. 1967(a)(1)(A)(ii). Dependent coverage in effect for an insurable child prior to becoming a member shall remain in effect so long as the child remains an insurable dependent. If an insurable child was not covered prior to becoming a member, the child cannot be covered under 38 U.S.C. 1967(a)(1)(A)(ii) after the child becomes a member.

[FR Doc. 2020–02673 Filed 2–10–20; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0294; FRL–10005–10–Region 4]

Air Plan Approval; Tennessee: Chattanooga NSR Reform

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Tennessee State Implementation Plan (SIP) submitted through two letters dated June 25, 2008, and September 12, 2018. The SIP revisions were submitted by the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau and modify the Prevention of Significant Deterioration (PSD) regulations in the Chattanooga portion of the Tennessee SIP to address changes to the federal new source review (NSR) regulations in recent years for the implementation of the national ambient air quality standards (NAAQS). Additionally, the SIP revisions include updates to Chattanooga's regulations of nitrogen oxides (NOx) and other miscellaneous typographical and administrative updates. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0294 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8966. Mr. Febres can also be reached via electronic mail at *febres-martinez.andres@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve changes to the Chattanooga portion of the Tennessee SIP regarding PSD permitting, as well as updates to the regulations of NOx and other miscellaneous typographical and administrative updates, submitted by TDEC on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau (Bureau) through two letters dated June 25, 2008, and September 12, 2018.[1] [2] [3] EPA is proposing to approve portions of these SIP revisions that make changes to the Chattanooga City Code, Part II, Chapter 4, Article II, Section 4–41. Specifically, EPA is proposing to approve changes in Section 4–41, which include updates to Rule 2—*Regulation of Nitrogen Oxides;* Rule 9—*Regulation of Visible Emissions from Internal Combustion Engines,* and Rule 18—*Prevention of Significant Deterioration of Air Quality.*[4] [5] [6] [7]

[1] EPA notes that the Agency received the SIP revisions on July 8, 2008, and September 18, 2018, respectively.

[2] The Bureau is comprised of Hamilton County and the municipalities of Chattanooga, Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Signal Mountain, Soddy Daisy, and Walden. The Bureau recommends regulatory revisions, which are subsequently adopted by the eleven jurisdictions. The Bureau then implements and enforces the regulations, as necessary, in each jurisdiction.

[3] On January 16, 2020, TDEC submitted, on behalf of the Bureau, a letter dated January 15, 2020, providing supplemental information for the September 12, 2018, submittal. This letter is discussed in this proposed action and is available in the Docket.

[4] The list of SIP-approved rules for Chattanooga/Hamilton County, found at Table 4 of 40 CFR 52.2220(c), currently shows the title of Section 4–41, Rule 18 as ''Prevention of Significant Air Quality Deterioration.'' In this notice of proposed rulemaking (NPRM), EPA is also proposing to approve a change to this title to instead show ''Prevention of Significant Deterioration of Air Quality.''

[5] The June 25, 2008, and September 12, 2018, SIP packages include other proposed changes to the Chattanooga portion of the Tennessee SIP. Some of these revisions were only included for information and are not being requested for approval. EPA has taken separate action or will consider taking separate action to approve the remaining portions of these revisions. EPA will address only the aforementioned rules in this NPRM.

[6] In this proposed action, EPA is also proposing to approve substantively identical changes from Chattanooga's Section 4–41, Rule 18, in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County—Section 41, Rule 18 (9/6/17); City of Collegedale—Section 14–341, Rule 18 (10/16/17); City of East Ridge—Section 8–41, Rule 18 (10/12/17); City of Lakesite—Section 14–41, Rule 18 (10/17/17); City of Red Bank—Section 20–41, Rule 18 (11/21/17); City of Soddy-Daisy—Section 8–41, Rule 18 (10/5/17); City of Lookout Mountain—Section 41, Rule 18 (11/14/17); City of Ridgeside Section 41, Rule 18 (1/16/18); City of Signal Mountain Section 41, Rule 18 (10/20/17); and City

Aside from making typographical and administrative corrections to some of the rules, these SIP revisions are meant to address changes to the federal NSR regulations, as promulgated by EPA in various rules and described below. Additional detail on EPA's analysis of these SIP revisions and its reasoning for proposing to approve them is presented in the sections below.

II. Background

A. 2002 NSR Reform Rules

On December 31, 2002, EPA published final rule revisions to title 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the CAA's PSD and Nonattainment New Source Review (NNSR) programs. *See* 67 FR 80186 (hereinafter referred to as the 2002 NSR Rule). The revisions included five changes to the major NSR program that would reduce burden, maximize operating flexibility, improve environmental quality, provide additional certainty, and promote administrative efficiency. Initially, these updates to the federal NSR program included the adoption of baseline actual emissions, actual-to-projected-actual emissions methodology, plant-wide applicability limits (PALs), Clean Units, and pollution control projects (PCPs). The final rule also codified a longstanding policy regarding the calculation of baseline emissions for electric utility steam generating units and the definition of ''regulated NSR pollutant'' that clarifies which pollutants are regulated under the Act for purposes of major NSR.

Following publication of the 2002 NSR Rule, EPA received numerous petitions requesting reconsideration of several aspects of the final rule, along with portions of EPA's 1980 NSR Rules. *See* 45 FR 52676 (August 7, 1980). On July 30, 2003, EPA granted petitions for reconsideration of six issues presented by the petitioners and opened a new comment period for the public.[8] As a result of the reconsideration, on November 7, 2003 (68 FR 63021), EPA published the NSR Reform Reconsideration Rule. In the reconsideration rule, EPA made a final determination not to change any of the six issues opened for reconsideration but did make two clarifications to the rule. These two clarifications included: (1) Adding the definition of ''replacement unit'' to indicate that it is considered an existing unit in terms of major NSR applicability, and (2) specifying that the PAL baseline calculation procedures for newly constructed units do not apply to modified units. The 2002 NSR Rule and the NSR Reform Reconsideration Rule are hereinafter collectively referred to as the ''2002 NSR Reform Rules.''

The 2002 NSR Reform Rules were challenged in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), and the court issued a decision on the challenges on June 24, 2005. *See New York* v. *United States,* 413 F.3d 3 (D.C. Cir. 2005). In summary, the D.C. Circuit vacated portions of EPA's NSR rules pertaining to Clean Units and PCPs, remanded a portion of the rules regarding recordkeeping and the term ''reasonable possibility'' found in 40 CFR 52.21(r)(6), 40 CFR 51.166(r)(6), and 40 CFR 51.165(a)(6) to EPA, and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to exclude the portions that were vacated by the D.C. Circuit.

Meanwhile, EPA continued to move forward with its evaluation of the portion of its NSR Reform Rules that were remanded by the D.C. Circuit. On March 8, 2007 (72 FR 10445), EPA responded to the Court's remand regarding the recordkeeping provisions by proposing two alternative options to clarify what constitutes ''reasonable possibility'' and when the ''reasonable possibility'' recordkeeping requirements apply. The ''reasonable possibility'' standard identifies the circumstances under which a major stationary source must keep records for modifications that do not trigger major NSR. EPA later finalized these changes on December 21, 2007 (72 FR 72607).

Separately from the petitions received that led to the 2002 NSR Reconsideration Rule, EPA received another petition for reconsideration on July 11, 2003. Specifically, the petitioner requested EPA to reconsider the inclusion of ''fugitive emissions'' when assessing whether a proposed physical or operational change qualified as a ''major modification.'' On November 13, 2007, EPA granted the petition for reconsideration, and on December 19, 2008, finalized the revision of the language to clarify which types of sources were required to include ''fugitive emissions'' in their calculations. *See* 73 FR 77882 (hereinafter referred to as the Fugitive Emissions Rule).

Finally, on February 17, 2009, EPA received one additional petition challenging the Fugitive Emissions Rule. Due to this petition, and after several stays,[9] EPA established an interim stay on March 30, 2011 (76 FR 17548), in which most of the Fugitive Emissions Rule language was stayed indefinitely. With the March 30, 2011, stay, EPA specified which portions of 40 CFR 51.165, 40 CFR 51.166, and 40 CFR 52.21 were stayed indefinitely, which were reinstated, and which were revised, in order to revert the federal rules to regulatory language that existed prior to the Fugitive Emissions Rule.

In summary, after several court decisions and public petitions, the federal major NSR program (found in 40 CFR 51.165, 51.166, and 52.21) no longer includes the provisions related to Clean Units or PCPs that were part of the 2002 NSR reform rules. Additionally, an indefinite stay has been placed on the language related to the Fugitive Emissions Rule. Chattanooga is adopting all of the surviving provisions from the 2002 NSR Reform Rules and is not adopting all those provisions that were either vacated or stayed indefinitely. More details on Chattanooga's adoption of the 2002 NSR Reform Rules and our analysis of its submittals can be found in section III below.

B. Fine Particulate Matter ($PM_{2.5}$) NAAQS

1. Implementation of NSR for the $PM_{2.5}$ NAAQS and Grandfathering Provisions

On May 16, 2008 (73 FR 28321), EPA published the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' Final Rule (hereinafter referred to as the NSR $PM_{2.5}$ Rule). The 2008 NSR $PM_{2.5}$ Rule revised the NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. As indicated in the 2008 NSR $PM_{2.5}$ Rule,

of Walden Section 41, Rule 18 (10/16/17). However, changes to Chattanooga's Section 4–41, Rule 2 and Rule 9, only apply to the City of Chattanooga (12/12/07), Hamilton County—Section 4–41, Rules 2 and 9 (11/7/07), and City of Collegedale—Section 14–341, Rules 2 and 9 (1/22/08); therefore, EPA is not proposing approval of any corresponding Regulations/Ordinances for the remaining municipalities.

[7] Because the air pollution control regulations/ordinances adopted by the jurisdictions within the Bureau are substantively identical, EPA refers solely to Chattanooga and the Chattanooga rules throughout the notice as representative of the other ten jurisdictions for brevity and simplicity.

[8] For full details on the six issues reconsidered by EPA, refer to the July 30, 2003, notice. *See* 68 FR 44624.

[9] EPA originally established a three-month stay that became effective September 30, 2009 (74 FR 50115), which was later extended for an additional three months, effective December 31, 2009. *See* 74 FR 65692. In order to allow for more time for the reconsideration and for public comment on any potential revisions to the Fugitive Emissions Rule, EPA established a longer 18-month stay that became effective on March 31, 2010. *See* 75 FR 16012.

major stationary sources seeking permits must begin directly satisfying the $PM_{2.5}$ requirements, as of the effective date of the rule, rather than relying on PM_{10} as a surrogate, with two exceptions. The first exception was a ''grandfathering'' provision in the federal PSD program at 40 CFR 52.21(i)(1)(xi). This grandfathering provision applied to sources that had applied for, but had not yet received, a final and effective PSD permit before the July 15, 2008, effective date of the May 2008 final rule. The second exception was that states with SIP-approved PSD programs could continue to implement a policy in which PM_{10} served as a surrogate for $PM_{2.5}$ for up to three years (until May 2011) or until the individual revised state PSD programs for $PM_{2.5}$ are approved by EPA, whichever came first.[10]

On February 11, 2010 (75 FR 6827), EPA proposed to repeal the grandfathering provision for $PM_{2.5}$ contained in the federal PSD program at 40 CFR 52.21(i)(1)(xi) and to end early the PM_{10} Surrogate Policy applicable in states that have a SIP-approved PSD program. In support of this proposal, EPA explained that the $PM_{2.5}$ implementation issues that led to the adoption of the PM_{10} Surrogate Policy in 1997 had been largely resolved to a degree sufficient for sources and permitting authorities to conduct meaningful permit-related $PM_{2.5}$ analyses. On May 18, 2011 (76 FR 28646), EPA took final action to repeal the $PM_{2.5}$ grandfathering provision at 40 CFR 52.21(i)(1)(xi). This final action ended the use of the 1997 PM_{10} Surrogate Policy for PSD permits under the federal PSD program at 40 CFR 52.21. In effect, any PSD permit applicant previously covered by the grandfathering provision (for sources that completed and submitted a permit application before July 15, 2008)[11] that did not have a final and effective PSD permit before the effective date of the repeal will not be able to rely on the 1997 PM_{10} Surrogate Policy to satisfy the PSD requirements for $PM_{2.5}$ unless the application includes a valid surrogacy demonstration.

The NSR $PM_{2.5}$ Rule also established the following NSR requirements for PSD to implement the $PM_{2.5}$ NAAQS: (1) Required NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) established significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and NO_X); and (3) required states to account for gases that condense to form particles (''condensables'') in $PM_{2.5}$ and PM_{10} emission limits in PSD or NNSR permits.

2. $PM_{2.5}$ Condensables Correction Rule

Among the changes included in the 2008 NSR $PM_{2.5}$ Rule mentioned above, the EPA also revised the definition of ''regulated NSR pollutant'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures'' and that on or after January 1, 2011, ''such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits.'' *See* 73 FR 28321 at 28348 (May 16, 2008). A similar paragraph added to the NNSR rule did not include ''particulate matter (PM) emissions.'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

On October 25, 2012 (77 FR 65107), EPA took final action to amend the definition, promulgated in the 2008 NSR $PM_{2.5}$ Rule, of ''regulated NSR pollutant'' contained in the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and Appendix S to 40 CFR 51 (hereinafter referred to as the $PM_{2.5}$ Condensables Correction Rule). The $PM_{2.5}$ Condensables Correction Rule removed the inadvertent requirement in the 2008 NSR $PM_{2.5}$ Rule that the measurement of condensable particulate matter be included as part of the measurement and regulation of ''particulate matter emissions'' under the PSD program. The term ''particulate matter emissions'' includes only filterable particles that are larger than $PM_{2.5}$ and larger than PM_{10}.

C. 1997 8-Hour Ozone NAAQS Phase 2 Rule

On November 29, 2005 (70 FR 71612), EPA published a final rule entitled ''Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (hereinafter referred to as the Phase 2 Rule). The Phase 2 Rule addressed control and planning requirements as they applied to areas designated nonattainment for the 1997 8-hour ozone NAAQS[12] such as reasonably available control technology, reasonably available control measures, reasonable further progress, modeling and attainment demonstrations, NSR, and the impact to reformulated gasoline for the 1997 8-hour ozone NAAQS transition. Additionally, regarding the NSR permitting requirements which are relevant to this action, the Phase 2 Rule included the following provisions: (1) Recognized NO_X as an ozone precursor for PSD purposes; and (2) established significant emission rates for the 8-hour ozone, PM_{10} and carbon monoxide NAAQS.

The June 25, 2008, and September 12, 2018, revisions requesting adoption of Chattanooga's Rule 18 adopt all the NSR provisions of the Phase 2 Rule as they appear in the federal PSD rules, effectively recognizing NO_X as a precursor to ozone as well as establishing significant emission rates for PM_{10}. The adoption of these provisions is consistent with the federal NSR rules as well as TDEC's rules.

D. Equipment Replacement Provision

Under federal regulations, certain activities are not considered to be a physical change or a change in the method of operation at a source, and thus do not trigger NSR review. One category of such activities is routine maintenance, repair and replacement (RMRR). On October 27, 2003 (68 FR 61248), EPA published a rule titled ''Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion'' (hereinafter referred to as the ERP Rule). The ERP Rule provided criteria for determining whether an activity falls within the RMRR exemption. The ERP Rule also provided a list of equipment replacement activities that are exempt

[10] After EPA promulgated the NAAQS for $PM_{2.5}$ in 1997, the Agency issued a guidance document entitled ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$,'' which allows for the regulation of PM_{10} as a surrogate for $PM_{2.5}$ until significant technical issues were resolved (the ''PM_{10} Surrogate Policy''). John S. Seitz, EPA, October 23, 1997.

[11] Sources that applied for a PSD permit under the federal PSD program on or after July 15, 2008, are already excluded from using the 1997 PM_{10} Surrogate Policy as a means of satisfying the PSD requirements for $PM_{2.5}$. *See* 73 FR 28321.

[12] On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm)—also referred to as the 1997 8-hour ozone NAAQS. On April 30, 2004, EPA designated areas as unclassifiable/attainment, nonattainment and unclassifiable for the 1997 8-hour ozone NAAQS. In addition, on April 30, 2004 (69 FR 23951), as part of the framework to implement the 1997 8-hour ozone NAAQS, EPA promulgated an implementation rule in two phases (Phase I and II). The Phase I Rule (effective on June 15, 2004), provided the implementation requirements for designating areas under subpart 1 and subpart 2 of the CAA.

from NSR permitting requirements, while ensuring that industries maintain safe, reliable, and efficient operations that will have little or no impact on emissions. Under the ERP Rule, a facility undergoing equipment replacement would not be required to undergo NSR review if the facility replaced any component of a process unit with an identical or functionally equivalent component. The rule included several modifications to the NSR rules to explain what would qualify as an identical or functionally equivalent component.

Shortly after the October 27, 2003, rulemaking, several parties filed petitions for review of the ERP Rule in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The D.C. Circuit stayed the effective date of the rule pending resolution of the petitions. A collection of environmental groups, public interest groups, and States, subsequently filed a petition for reconsideration with EPA, requesting that the Agency reconsider certain aspects of the ERP Rule. EPA granted the petition for reconsideration on July 1, 2004 (69 FR 40278).[13] After the reconsideration, EPA published its final response on June 10, 2005 (70 FR 33838), which stated that the Agency would not change any aspects of the ERP. On March 17, 2006, the D.C. Circuit acted on the petitions for review and vacated the ERP Rule.[14]

The June 25, 2008, submittal includes portions of the ERP Rule for adoption. Although the ERP rule is vacated, EPA is proposing to approve those portions of the June 25, 2008, submittal, consistent with EPA's December 20, 2019,[15] proposed rulemaking which would add certain portions back to the major NSR rules, as explained further in Section III of this proposed action.

III. Analysis of State's Submittal

A. Section 4–41, Rule 18—Prevention of Significant Deterioration of Air Quality

Chattanooga currently has a SIP-approved PSD program for new and modified stationary sources who wish to construct or modify in an area designated attainment, under Section 4–41, Rule 18, *Prevention of Significant Deterioration of Air Quality.* The June 25, 2008, and September 12, 2018, SIP revisions propose changes to Rule 18 to address changes to the federal NSR regulations, as promulgated by EPA in the 2002 NSR Reform Rules, and subsequent changes in other relevant rulemakings as described in section II, above.

As part of the changes to Rule 18, Chattanooga adopts all the necessary provisions of the federal PSD rules (found in 40 CFR 51.166) to make them consistent with, and in some cases more stringent than, the federal rules. These changes include the adoption of several definitions in the federal PSD rules, such as the definition of ''regulated NSR pollutant,'' as well as provisions regarding major NSR applicability procedures, actual-to-projected-actual applicability tests, PALs, and recordkeeping. Slight differences between the Chattanooga PSD rules and the federal rules are discussed below in Section III.A.1.–5.

Additionally, as part of the changes included in the June 25, 2008, and September 12, 2018, SIP revisions, Chattanooga adopts the provisions from the Ozone Phase 2 Rule, as discussed in section II.C of this rulemaking. Consistent with TDEC's rules and the federal rules, Chattanooga adopts the same language regarding the Phase 2 rule found at 40 CFR 51.166. This includes amendments found in the federal PSD rules in subparagraphs 51.166(b)(1)(ii), 51.166(b)(2)(ii), 51.166(b)(23)(i), and 51.166(b)(49)(i).

EPA believes that the proposed approval of these changes, including all amendments mentioned in the following sections, will not have a negative impact on air quality in the Chattanooga-Hamilton County area. With these proposed changes, the local regulations will now be consistent with the State's current SIP-approved PSD program, which is slightly more stringent than the federal rules. Tennessee's PSD program already underwent updates concerning the 2002 NSR reform on September 14, 2007. *See* 72 FR 52472.

It is also important to note that the Chattanooga-Hamilton County area currently does not have any designated nonattainment areas, and all previous nonattainment areas have been redesignated to attainment and have clean data.[16] Additionally, during the most recent designations process, for the 2010 1-hour SO_2 and the 2015 8-hour Ozone NAAQS, the entire Hamilton County Area was designated as attainment/unclassifiable for both standards.[17]

Although in most cases Chattanooga adopts the federal rules as enacted at 51.166, certain portions were modified or not adopted. These differences from the federal PSD rules, which are all discussed in the sections below, include: (1) Adopting a modified definition of ''baseline actual emissions;'' (2) not adopting the stayed language in the Fugitive Emissions Rule; (3) adopting a different major source baseline date for $PM_{2.5}$; (4) adopting vacated language from the ERP rule; and (5) not adopting changes from a May 1, 2007, final rule regarding facilities that produce ethanol through natural fermentation.[18]

1. Definition of ''baseline actual emissions''

Regarding the definition of ''baseline actual emissions,'' as promulgated in 40 CFR 51.166(b)(47), Chattanooga adopts into Section 4–41, Rule 18, a definition mostly consistent with the federal definition. However, Chattanooga excluded a portion of the definition that would allow for different 24-month periods to be chosen for each regulated NSR pollutant when calculating baseline actual emissions for either PSD applicability determinations.

Chattanooga's adoption of ''baseline actual emissions'' in Rule 18 excludes the last sentence of subparagraphs 51.166(b)(47)(i)(c) and 51.166(b)(47)(ii)(d) of the federal PSD rules, which states that ''a different consecutive 24-month period can be used for each regulated NSR pollutant.'' Instead, Chattanooga adopts specific language at Section 4–41, Rule 18.2(d)(1)(c), which states, ''For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed.'' With this difference in the definition, Chattanooga is not allowing for different baseline periods to be chosen for a single project that involves multiple units, which removes an additional flexibility built into the federal rules and makes the local rules slightly more stringent than the federal

[13] The reconsideration granted by EPA opened a new 60-day public comment period, including a new public hearing, on three issues of the ERP: (1) The basis for determining that the ERP was allowable under the CAA; (2) the basis for selecting the cost threshold (20 percent of the replacement cost of the process unit) that was used in the final rule to determine if a replacement was routine; and (3) a simplified procedure for incorporating a Federal Implementation Plan into State Plans to accommodate changes to the NSR rules.

[14] *New York* v. *EPA,* 443 F.3d 880 (D.C. Cir. 2006).

[15] *See* 84 FR 70092.

[16] Air quality design values for all criteria air pollutants are available at: *https://www.epa.gov/air-trends/air-quality-design-values.*

[17] See 83 FR 1098 for the third round of designations for the 2010 1-hour SO_2 NAAQS, and 82 FR 54232 for the 2015 8-hour ozone NAAQS.

[18] The May 1, 2007, final rule finalized changes to the definition of ''chemical process plants'' as it applies to the federal PSD, NNSR and Title V programs, including applicability thresholds for PSD and the treatment of fugitive emissions in determining applicability for major NSR and title V.

rules. This portion of Chattanooga's definition is consistent with TDEC's SIP-approved definition of ''baseline actual emissions,'' which also does not allow for different pollutant-specific 24-month baseline periods.

However, like TDEC, Chattanooga does retain the authority to allow for the use of multiple 24-month baseline periods only if certain conditions are met. These conditions are: (1) The new source or modification would still be subject to major NSR when using a single 24-month period; (2) one or more pollutants were emitted at lower amounts than permitted during that time; (3) the use of multiple baseline periods for any of the pollutants in item (2) above would result in the source or modification not being subject to major NSR; and (4) the use of the multiple baselines is not prohibited by any applicable provision of the federal NSR regulations. Although this portion of the definition does allow for the Director to authorize the use of multiple baseline periods, Chattanooga's definition is still more stringent than the federal definitions because the source or modification would have to meet very specific conditions, would have to bear the burden for demonstrating that these conditions are met, and must obtain the Director's approval in order to use this flexibility.

2. Fugitive Emissions Rule

As mentioned in Section II.A of this rulemaking, a portion of the Fugitive Emissions Rule was stayed indefinitely on March 30, 2011. For this reason, Chattanooga did not adopt into Section 4–41, Rule 18, the language found in the federal PSD rules at 40 CFR 51.166(b)(2)(v) and 51.166(b)(3)(iii)(d), which are part of the stayed Fugitive Emissions Rule provisions that can still be found in the CFR.

Given that the omitted language has been stayed indefinitely, EPA is proposing to approve the changes into the Chattanooga portion of the Tennessee SIP as consistent with federal requirements, and the Tennessee SIP.

3. ERP Rule

Chattanooga's June 25, 2008, SIP revision makes changes to Chattanooga's PSD permitting regulations, in part, by adding a definition of ''replacement unit'' at Rule 18.2(vv) and by adding Section 18.22, which describes ''basic design parameters'' to be considered in determining whether the replacement of equipment should be considered a new or existing emission unit. Chattanooga's definition of ''replacement unit'' mirrors the definition in 40 CFR 51.166(b)(32). Therefore, EPA is proposing to approve these changes.

In addition, EPA's definition of ''replacement unit'' cross references the description of ''basic design parameters'' in 40 CFR 51.166(y)(2). The description of ''basic design parameters'' was added to the EPA's PSD regulations on October 27, 2003, as part of the ERP Rule, to provide a category of equipment replacement activities that are not subject to the NSR requirements under the existing RMRR. Soon after, the ERP Rule was vacated in its entirety, as noted in Section II.D of this proposed rulemaking, by the D.C. Circuit in the 2006 *New York* v. *EPA* decision. 443 F.3d 880 (D.C. Cir. 2060). However, the definition of ''replacement unit'' was not vacated as part of that decision even though it cross referenced the vacated description of ''basic design parameters'' because it was not part of the ERP, 68 FR 61247 (October 27, 2003), but rather was added during the final reconsideration of NSR Reform, 68 FR 63021 (November 7, 2003). Nevertheless, the cross reference to the use of ''basic design parameters'' indicates EPA's intention to interpret that term consistently between the use of ''replacement unit'' and the ERP.

Lastly, on December 20, 2019, EPA published a NPRM intended to correct various errors in the NSR regulations, which proposed to remove the vacated ERP provisions. However, this proposal included incorporating into the federal regulations at 40 CFR 51.165(h), 51.166(y), and 52.21(cc) the concept of ''basic design parameters'' because EPA believes that as used in the definition of ''replacement unit,'' this is consistent with EPA's interpretation of that provision. *See* 84 FR 70092, 70094 (December 20, 2019). Therefore, EPA is proposing to approve Chattanooga's definition of ''replacement unit'' at Rule 18.2(vv), as well as the addition of Section 18.22 prescribing ''basic design parameters,'' because these provisions are consistent with and are as stringent as EPA's interpretation of the criteria for ''basic design parameters'' and the definition of ''replacement unit.''

4. $PM_{2.5}$ NAAQS

The September 12, 2018, submittal adopts the $PM_{2.5}$ provisions necessary to implement PSD for the $PM_{2.5}$ NAAQS. However, one difference from the federal rules is that the ''major source baseline date'' for $PM_{2.5}$, the date after which actual emissions increases associated with construction at any major stationary source consume the PSD increment, is adopted at Rule 18.2(gg)(1) as October 20, 2011, rather than October 20, 2010.[19] This locally effective date was adopted in error.[20] However, on January 16, 2020, TDEC submitted, on behalf of the Bureau, a letter dated January 15, 2020, certifying that no construction activity affecting actual emissions at a major source took place within Chattanooga, Hamilton County, or the other municipalities within the Bureau, between the dates of October 20, 2010, and October 20, 2011.[21] Thus, as the letter explains, no $PM_{2.5}$ increment was consumed in that time period. Consequently, there are no functional differences for PSD in Hamilton County versus what is required in other areas by the State and/or federal rules for the purposes of implementing the $PM_{2.5}$ NAAQS.

5. Other PSD Changes Not Related to NSR Reform

In addition to proposing revisions to Section 4–41, Rule 18, to address changes to the federal NSR regulations, as promulgated by EPA in the 2002 NSR Reform Rules, Chattanooga also seeks to delete several exemptions from the rule. Under Rule 18.8, Chattanooga currently has several exemptions for sources that have obtained or have requested to obtain a permit prior to a certain date, which range from 1977 through 1988.

The exemptions being proposed for deletion were found in Rule 18.8, paragraphs (a)(1) through (5), (9), and (10), as well as paragraphs (f) through (j). According to the Bureau, there are currently no sources operating within Hamilton County which obtained a PSD permit before 1988, and it is no longer possible for a source to request a permit before this date. As part of the June 25, 2008, and September 12, 2018, SIP revisions, Chattanooga seeks to delete the language in the paragraphs mentioned above, and instead place a ''(Reserved)'' notification in their place.

EPA has reviewed the changes to the exemptions in Section 4–41, Rule 18, and has determined that the changes do not decrease the stringency of the PSD

[19] The major source baseline date is the date after which actual-emissions changes at a major stationary source affect the available PSD increment. Other changes in actual emissions occurring at any source after the major source baseline date do not affect the increment, but instead (until after the minor source baseline date is established) contribute to the baseline concentration. After the minor source baseline date, all types of emissions changes—and not just modifications at major sources—consume or expand the available increment.

[20] The SIP submission, available in the Docket for this proposed action, shows that EPA commented on the typographical error, and Chattanooga agreed that it was an error and intended to correct the error by adopting the correct October 20, 2010 date.

[21] The January 15, 2020, letter is available in the Docket for this proposed action.

rules. The deletion of these exemptions, although not functional at this time, would be a SIP-strengthening change to Chattanooga's PSD rules. Therefore, EPA believes that these changes are approvable pursuant to section 110 of the Act and is proposing to approve the aforementioned changes into the Chattanooga portion of the Tennessee SIP.

Lastly, the changes to Section 4–41, Rule 18, together with the differences mentioned above in section III.A.1. through 5., make Chattanooga's PSD regulations generally consistent with the federal requirements (and in some cases more stringent, as is the case of the definition of ''baseline actual emissions''), as well as consistent with TDEC's PSD rules. With the exception of the vacated or stayed portions, as mentioned in section II, the adoption of vacated language from the ERP rule, the difference in the $PM_{2.5}$ major source baseline date from the federal provisions, and a minor change to the permit-rescission provision that was recently adopted by EPA,[22] Chattanooga is adopting all other necessary provisions of the federal PSD rules. Therefore, EPA is proposing to approve the aforementioned changes to the Chattanooga portion of the Tennessee SIP.

B. Section 4–41, Rule 9—Regulation of Visible Emissions From Internal Combustion Engines

Rule 9, of Section 4–41, regulates visible emissions from internal combustion engines in order to protect the visibility of an area by limiting the time an internal combustion engine may operate at certain conditions, as well as the level of opacity that may be caused by the visible emissions. The June 25, 2008, SIP revision seeks to correct a typographical error that was mistakenly approved into the rule.

Under paragraph 9.2, the rule currently states that ''no person shall cause, suffer, allow or permit the visible emission of air contaminants from diesel type engines for a period of more than sixty (60) consecutive seconds in excess of twenty (20) *capacity* opacity'' (emphasis added). The typographical correction included in the June 25, 2008, SIP revision seeks to change the word ''capacity'' to ''percent'' in order to clarify that the rule imposes a 20 *percent* opacity limit.

EPA has reviewed this change and has preliminarily determined that the change to Section 4–41, Rule 9 is a minor typographical correction. Therefore, EPA believes that this change is approvable pursuant to section 110 of the Act and is proposing to approve the aforementioned change into the Chattanooga portion of the Tennessee SIP.

C. Section 4–41, Rule 2—Regulation of Nitrogen Oxides

Rule 2 of Section 4–41 regulates the emissions of NO_X from several sources, which include fuel burning equipment, nitric acid plants, Portland cement plants, and emergency generators. The June 25, 2008, SIP revisions seek to lower the amount of NO_X that a Portland cement plant kiln may emit within a 3-hour period, restrict the time of year that these kilns may be operated, and add new reporting requirements.

Under the current SIP-approved version of Section 4–41, Rule 2, Portland cement plants are addressed in paragraph 2.6, which imposes a NO_X limit of no more than 1,500 ppm when averaged over a period of three hours. The June 25, 2008, SIP revision proposes to lower this limit by fifty percent, to allow emissions of NO_X of only 750 ppm over a three-hour average.

Additionally, the proposed changes seek to restrict the time of year that Portland cement plant kilns may be operated. Currently, these do not have any restriction on when they may operate, as long as they stay within the current 1,500 ppm, 3-hour-average limit on NO_X emissions. The proposed changes would restrict kilns' operation between May 1 and September 30, unless they meet certain criteria. In order to operate during the May 1 through September 30 timeframe, a kiln must have one of the following installed: (1) Low-NO_X burner(s); (2) mid-kiln system firing; (3) an alternative control technique, approved by the Director of the Chattanooga-Hamilton County Air Pollution Control Bureau (Director) and the EPA, that achieves the same level of control as low-NO_X burners or mid-kiln system firing; or (4) reasonably available control technology (RACT) approved by the Director and the EPA.

Lastly, the revisions add a new reporting requirement for sources previously subject to this rule. Although the time has expired for sources to meet the first condition of the reporting requirements, sources that were subject to this rule at the time of the local adoption were required to submit an initial report by April 30, 2007. This initial report was intended to provide the Director with two things: (1) A statement to confirm that the kiln is subject to the rule; and (2) a report demonstrating compliance with the new requirements of the rule. After the initial report was received, the source had to provide a NO_X emissions report for the period of May 31, 2007, through September 30, 2007, to show compliance was being achieved. Thereafter, the source is required to submit an annual NO_X emissions report, for the May 31 through September 30 time period, due October 31 of each year. Finally, the annual report is required to include a certification that the kiln continues to be in compliance with the rule, as stated in the initial certification.

These changes to Section 4–41, Rule 2, are consistent with TDEC's regulations regarding the control of NO_X emissions from Portland cement plants. Additionally, EPA believes that these changes are SIP strengthening, and help better control the emissions from cement kilns. Therefore, EPA is proposing to approve the aforementioned changes to the Chattanooga portion of the Tennessee SIP.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Chattanooga City Code, Part II, Chapter 4, Article II, Section 4–41, Rule 2—*Regulation of Nitrogen Oxides;* and Rule 9—*Regulation of Visible Emissions from Internal Combustion Engines,* both state effective December 12, 2007; as well as Rule 18—*Prevention of Significant Deterioration of Air Quality,* state effective January 23, 2017.[23] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve the aforementioned changes to the

[22] Effective December 7, 2016, EPA removed the July 20, 1987, date restriction in its permit-rescission provision at 40 CFR 52.21(w)(2) and, at 52.21(w)(3), changed the word ''shall'' to ''may'' to clarify that the permit-rescission provision does not create a mandatory duty to grant a rescission request. *See* 81 FR 78043 (Nov. 7, 2016). Chattanooga's corresponding regulation at Rule 18.20 is consistent with the previous version of 40 CFR 52.21.

[23] As noted in footnote 6 above, EPA's proposed approval of the changes to the PSD regulations (Section 4–41, Rule 18) also includes substantively identical changes to regulations/ordinances submitted for the other ten jurisdictions within the Bureau. However, changes to Chattanooga's Section 4–41, Rule 2 and Rule 9, only apply to the City of Chattanooga, Hamilton County, and the City of Collegedale,

Chattanooga portion of the Tennessee SIP. EPA is proposing to approve the changes presented in the June 25, 2008, and September 12, 2018, SIP revisions that make changes to Chattanooga's City Code, Part II, Chapter 4, Article II, Section 4–41. Specifically, EPA is proposing to approve changes in Section 4–41, regarding updates to Rule 2—*Regulation of Nitrogen Oxides;* Rule 9—*Regulation of Visible Emissions from Internal Combustion Engines;* and Rule 18—*Prevention of Significant Deterioration of Air Quality.*[24] These SIP revisions are meant to address several changes to the federal NSR regulations, as promulgated by EPA on December 31, 2002, and reconsidered with minor changes on November 7, 2003, which are commonly referred to as the ''2002 NSR Reform Rules,'' as well as subsequent changes to the federal NSR regulations as described in Section II of this proposed rulemaking. Finally, these revisions are meant to make Chattanooga's PSD regulations consistent with those of the State of Tennessee. The other SIP revisions EPA is proposing to approve include updates to Chattanooga's regulations of NO_X and other miscellaneous typographical and administrative updates.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. These actions merely propose to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are 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);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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).

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, these rules do 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 28, 2020.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–02608 Filed 2–10–20; 8:45 am]

BILLING CODE 6560–50–P

[24] See footnote 23.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0203; FRL–10005–11–Region 4]

Air Plan Approvals; Tennessee; Prevention of Significant Deterioration Infrastructure Requirements for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve portions of the Tennessee infrastructure State Implementation Plan (SIP) submission for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) provided to EPA on September 13, 2018. Whenever EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA or Act) requires that states adopt and submit a SIP for the implementation, maintenance, and enforcement of each such NAAQS, commonly referred to as an ''infrastructure SIP.'' Specifically, EPA is proposing to conditionally approve the portions of the Tennessee infrastructure SIP submission related to the prevention of significant deterioration (PSD) infrastructure elements for the 2015 8-hour ozone NAAQS.

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2019–0203, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Ward can be reached by telephone at (404) 562–9140 or via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an ''infrastructure SIP.'' States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.[1]

EPA is proposing to conditionally approve[2] the portions of Tennessee's September 13, 2018, SIP revision provided to EPA through the Tennessee Department of Environment and Conservation (TDEC) that address the PSD-related infrastructure SIP requirements under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prohibiting interference with PSD in other states), and 110(a)(2)(J) (also referred to as infrastructure elements C, D(i) prong 3, and J, respectively) of the 2015 8-hour ozone NAAQS. These provisions are discussed in further detail in Section III, below. All other applicable infrastructure SIP requirements for this SIP submission have been or will be addressed in separate rulemakings.

With respect to the PSD elements of 110(a)(2)(C) and (J), EPA interprets the CAA to require each state to make, for each new or revised NAAQS, an infrastructure SIP submission that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated new source review (NSR) pollutants. The requirements of element 110(D)(i)(II) (prong 3) may also be satisfied by demonstrating that the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants.

II. What is EPA's approach to the review of infrastructure SIP submissions?

As discussed above, whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to submit infrastructure SIPs that meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[3] Unless otherwise noted below, EPA is following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's implementation plan for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[4] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

III. What are the infrastructure requirements for Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J) for Tennessee?

Section 110(a)(2)(C) has three components that must be addressed in infrastructure SIP submissions: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and PSD permitting of new major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by the CAA title I part C (*i.e.,* the major source PSD program).

Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

Section 110(a)(2)(J) has four components related to: (1) Consultation with government officials, (2) public notification, (3) PSD, and (4) visibility protection.

This proposed rulemaking relates only to the PSD-related requirements of sections 110(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J) which as previously described, requires that the SIP contain adequate provisions to provide for the preconstruction PSD permitting for major sources and prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state. More information on these requirements and EPA's rationale for this proposal that Tennessee is conditionally meeting this requirement for purposes of the 2015 8-hour ozone NAAQS is provided below. All other applicable infrastructure requirements

[1] In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

[2] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval automatically becomes a disapproval on that date and EPA will issue a finding of disapproval.

[3] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on Tennessee infrastructure SIP to address the 2010 Nitrogen Dioxide NAAQS. *See* 81 FR 45438 (July 14, 2016).

[4] *See* Mont. Envtl. Info. Ctr. v. Thomas, 902 F.3d 971 (9th Cir. 2018).

for the 2015 8-hour ozone NAAQS have been or will be addressed in separate rulemakings.

IV. What is EPA's analysis of how Tennessee addressed relevant portions of Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J)?

110(a)(2)(C) Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

For the major source PSD program sub-element of section 110(a)(2)(C), EPA interprets the CAA to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has a complete PSD permitting program in place covering the PSD requirements for all regulated NSR pollutants.[5] A state's PSD permitting program is complete for this sub-element (and prong 3 of D(i) and J related to PSD) if EPA has already approved or is simultaneously approving the state's implementation plan with respect to all PSD requirements that are due under EPA regulations or the CAA on or before the date of EPA's proposed action on the infrastructure SIP submission. Tennessee's 2015 8-hour ozone NAAQS infrastructure SIP submission cites a number of SIP provisions to address the major source PSD program sub-element of section 110(a)(2)(C) as described below.

Tennessee's infrastructure SIP submission cites Tennessee Air Pollution Control Regulations (TAPCR) 1200–03–09–.01(4) ''*Prevention of Significant Deterioration of Air Quality*'' to meet the PSD program requirements of 110(a)(2)(C). These SIP-approved regulations were submitted to EPA by Tennessee to provide that new major sources and major modifications in areas of the State designated attainment or unclassifiable for any given NAAQS are subject to a federally-approved PSD permitting program meeting all the current structural requirements of part C of title I of the CAA. However, the Tennessee SIP does not contain or reference the most recent version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W.[6] EPA's PSD regulations at 40 CFR 51.166(l) require that modeling be conducted in accordance with Appendix W. As detailed in EPA's September 2013 infrastructure SIP guidance, approval of element C requires a fully approved PSD permitting program, which requires application of Appendix W consistent with EPA's PSD implementing regulations, and approval of elements D(i)(II) and J is contingent on an approvable PSD program. Therefore, Tennessee has committed to update their PSD regulations to reference the most current version of Appendix W and submit SIP revisions containing the revised regulations. The commitment is discussed in more detail later in this section.

110(a)(2)(D)(i)(II)—prong 3: With regard to prong 3 of section 110(a)(2)(D)(i)(II), a state may meet this requirement by a confirmation in its infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting current structural requirements of part C, or (if the state contains a nonattainment area that has the potential to impact PSD in another state) a nonattainment NSR program. To meet prong 3, Tennessee cites its PSD program found in the Tennessee SIP at 1200–03–09–.01(4) ''*Prevention of Significant Deterioration of Air Quality*.''

110(a)(2)(J) PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement is met by a state's confirmation in an infrastructure SIP submission that the state has a SIP-approved PSD program meeting all the current requirements of part C of title I of the CAA for all NSR regulated pollutants. To meet element J, Tennessee cites TAPCR 1200–03–09–.01(4) ''*Prevention of Significant Deterioration of Air Quality*.''

As mentioned above, Tennessee cites to TAPCR 1200–03–09–.01(4) ''*Prevention of Significant Deterioration of Air Quality*'' to demonstrate that their respective SIPs meet the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3) and 110(a)(2)(J), but their SIP-approved PSD programs do not contain or reference the most recent version of Appendix W. On November 15, 2019, TDEC submitted a commitment letter to EPA requesting conditional approval of the PSD-related program requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3) and 110(a)(2)(J) of the aforementioned infrastructure SIP revision. In this letter, Tennessee commits to satisfy the PSD program requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) for the 2015 8-hour ozone NAAQS by revising their PSD regulations to reflect the most recent version of Appendix W and submitting SIP revisions containing these revised rules within, within one year of final conditional approval.[7] If Tennessee meets its commitment within one year of final conditional approval, the PSD-related requirements of the conditionally approved infrastructure SIP submission will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision. However, if the State fails to submit this revision within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

V. Proposed Action

EPA is proposing to conditionally approve the portions of Tennessee's September 13, 2018, 2015 8-hour ozone infrastructure SIP submission, respectively, that address the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J). All other outstanding applicable infrastructure requirements for this SIP submission have been or will be addressed in separate rulemakings.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed action merely proposes to approve 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;

[5] *See* EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).

[6] EPA approved the most recent version of Appendix W on January 17, 2017, at 82 FR 5182.

[7] See Tennessee's letter dated November 15, 2019, in the docket for this action, for a detailed description and schedule of adoption for the rules being modified. This letter is contained in the docket for this proposed action.

• 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).

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), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 28, 2020.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–02607 Filed 2–10–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0503; FRL–10005–09–Region 4]

Air Plan Approvals; GA and NC; Prevention of Significant Deterioration Infrastructure Requirements for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve portions of the Georgia and North Carolina infrastructure State Implementation Plan (SIP) submissions for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) provided to EPA on September 24, 2018, and September 27, 2018, respectively. Whenever EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA or Act) requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each such NAAQS, commonly referred to as an ''infrastructure SIP.'' Specifically, EPA is proposing to conditionally approve the portions of the Georgia and North Carolina infrastructure SIP submissions related to the prevention of significant deterioration (PSD) infrastructure elements for the 2015 8-hour ozone NAAQS.

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2019–0503, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Ward can be reached by telephone at (404) 562–9140 or via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an ''infrastructure SIP.'' States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.[1]

EPA is proposing to conditionally approve[2] the portions of Georgia's September 24, 2018, SIP revision provided to EPA through the Georgia Environmental Protection Division (GA EPD) and North Carolina's September

[1] In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

[2] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval automatically becomes a disapproval on that date and EPA will issue a finding of disapproval.

27, 2018,[3] SIP revision provided to EPA through the North Carolina Department of Environmental Quality (NC DEQ) that address the PSD-related infrastructure SIP requirements under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prohibiting interference with PSD in other states), and 110(a)(2)(J) (also referred to as infrastructure elements C, D(i) prong 3, and J, respectively) of the 2015 8-hour ozone NAAQS. These provisions are discussed in further detail in Section III, below. All other applicable infrastructure SIP requirements for these SIP submissions have been or will be addressed in separate rulemakings.

With respect to the PSD elements of 110(a)(2)(C) and (J), EPA interprets the CAA to require each state to make, for each new or revised NAAQS, an infrastructure SIP submission that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated new source review (NSR) pollutants. The requirements of element 110(D)(i)(II) (prong 3) may also be satisfied by demonstrating that the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants.

II. What is EPA's approach to the review of infrastructure SIP submissions?

As discussed above, whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to submit infrastructure SIPs that meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[4] Unless otherwise noted below, EPA is following that existing approach in acting on these submissions. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's implementation plan for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[5] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

III. What are the infrastructure requirements for sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) for Georgia and North Carolina?

Section 110(a)(2)(C) has three components that must be addressed in infrastructure SIP submissions: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and PSD permitting of new major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by the CAA title I part C (*i.e.,* the major source PSD program).

Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

Section 110(a)(2)(J) has four components related to: (1) Consultation with government officials, (2) public notification, (3) PSD, and (4) visibility protection.

This proposed rulemaking relates only to the PSD-related requirements of sections 110(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J) which as previously described, require that the SIP contain adequate provisions to provide for the preconstruction PSD permitting for major sources, and prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state. More information on these requirements and EPA's rationale for this proposal that Georgia and North Carolina are conditionally meeting these requirements for purposes of the 2015 8-hour ozone NAAQS is provided below. All other applicable infrastructure requirements for the 2015 8-hour ozone NAAQS associated with these States have been or will be addressed in separate rulemakings.

IV. What is EPA's analysis of how Georgia and North Carolina addressed relevant portions of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J)?

110(a)(2)(C) Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources: For the major source PSD program sub-element of section 110(a)(2)(C), EPA interprets the CAA to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has a complete PSD permitting program in place covering the PSD requirements for all regulated NSR pollutants.[6] A state's PSD permitting program is complete for this sub-element (and prong 3 of D(i) and J related to PSD) if EPA has already approved or is simultaneously approving the state's implementation plan with respect to all PSD requirements that are due under EPA regulations or the CAA on or before the date of EPA's proposed action on the infrastructure SIP submission. Georgia's and North Carolina's 2015 8-hour ozone NAAQS infrastructure SIP submissions cite a number of SIP provisions to address the major source PSD program sub-element of section 110(a)(2)(C) as described below.

Georgia

Georgia's infrastructure SIP submission cites the following rules to meet the PSD program requirements of 110(a)(2)(C): Georgia Rules for Air Quality Control 391–3–1–.02—''*Provisions. Amended,*'' including PSD requirements under Rule 391–3–1–.02(7)—''*Prevention of Significant Deterioration,*'' 391–3–1-.03—''*Permits. Amended,*'' including 391–3–1–.03(1)—''*Construction (SIP) Permit,*'' and 391–3–1–.03—''*Permits. Amended,*''

[3] The September 27, 2018, SIP submission provided by NC DEQ's Division of Air Quality was received by EPA on October 10, 2018.

[4] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior actions on Georgia and North Carolina infrastructure SIPs to address the 2010 Nitrogen Dioxide NAAQS. *See* 81 FR 41905 (June 28, 2016) and 81 FR 47115 (July 20, 2016), respectively.

[5] *See Mont. Envtl. Info. Ctr.* v. *Thomas,* 902 F.3d 971 (9th Cir. 2018).

[6] *See* EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).''

including 391–3–1–.03(2)—''*Operating (SIP) Permit.*''

North Carolina

North Carolina's infrastructure SIP submission cites the following rules to meet the PSD program requirements of 110(a)(2)(C): 15A North Carolina Administrative Code (NCAC) 2D .0500—''*Emission Control Standards*'' and 15A NCAC 2D .0530—''*Prevention of Significant Deterioration.*''

These SIP-approved regulations were submitted to EPA by Georgia and North Carolina to provide that new major sources and major modifications in areas of the State designated attainment or unclassifiable for any given NAAQS are subject to a federally-approved PSD permitting program meeting all the current structural requirements of part C of title I of the CAA. However, the Georgia and North Carolina SIPs do not contain or reference the most recent version of EPA's *Guideline on Air Quality Models,* codified at 40 CFR part 51, Appendix W.[7] EPA's PSD regulations at 40 CFR 51.166(l) require that modeling be conducted in accordance with Appendix W. As detailed in EPA's September 2013 infrastructure SIP guidance, approval of element C requires a fully approved PSD permitting program, which requires application of Appendix W consistent with EPA's PSD implementing regulations, and approval of elements D(i)(II) and J is contingent on an approvable PSD program. Therefore, Georgia and North Carolina have committed to update their PSD regulations to reference the most current version of Appendix W and submit SIP revisions containing the revised regulations. These commitments are discussed in more detail later in this section.

110(a)(2)(D)(i)(II)—prong 3: With regard to prong 3 of section 110(a)(2)(D)(i)(II), a state may meet this requirement by a confirmation in its infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting current structural requirements of part C, or (if the state contains a nonattainment area that has the potential to impact PSD in another state) a nonattainment NSR program. To meet prong 3, Georgia cites Rule 391–3–1–.02(7)—''*Prevention of Significant Deterioration*'' and North Carolina cites 15A NCAC 2D .0530—''*Prevention of Significant Deterioration.*''

110(a)(2)(J) PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement is met by a state's confirmation in an infrastructure SIP submission that the state has a SIP-approved PSD program meeting all the current requirements of part C of title I of the CAA for all NSR regulated pollutants. To meet element J, Georgia cites Rule 391–3–1–.02(7)—''*Prevention of Significant Deterioration*'' and North Carolina cites 15A NCAC 2D .0530—''*Prevention of Significant Deterioration.*''

As mentioned above, Georgia and North Carolina cite to several regulations to demonstrate that their respective SIPs meet the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J), but their SIP-approved PSD programs do not contain or reference the most recent version of Appendix W. On November 14, 2019, and December 16, 2019, GA EPD and NC DEQ, respectively, submitted commitment letters to EPA requesting conditional approval of the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) of the aforementioned infrastructure SIP revisions. In these letters, Georgia and North Carolina make commitments to satisfy the PSD program requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) for the 2015 8-hour ozone NAAQS by revising their PSD regulations to reflect the most recent version of Appendix W and submitting SIP revisions containing these revised rules within one year of final conditional approval.[8] If Georgia and North Carolina meet their respective commitments within one year of final conditional approval, the aforementioned PSD-related requirements of the conditionally approved portions of the infrastructure SIP submissions will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision(s). However, if either of the States fail to submit these revisions within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

V. Proposed Action

EPA is proposing to conditionally approve the portions of Georgia's and North Carolina's September 24, 2018, and September 27, 2018, 2015 8-hour ozone infrastructure SIP submissions, respectively, that address the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J). All other outstanding applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed action merely proposes to approve 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);

[7] EPA approved the most recent version of Appendix W on January 17, 2017, at 82 FR 5182.

[8] See Georgia and North Carolina's letters dated November 14, 2019, and December 16, 2019, respectively, for a detailed description and schedule of adoption for the rules being modified. These letters are contained in the docket for this proposed action.

• 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).

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), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 28, 2020.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–02609 Filed 2–10–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0230; FRL–9998–74]

RIN 2070–ZA16

Banda de Lupinus Albus Doce (BLAD); Proposal To Revoke Exemption and Establish Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Proposed rule; reproposal.

SUMMARY: On May 29, 2015, EPA proposed to revoke the current exemption from the requirement of a tolerance for residues of banda de *Lupinus albus* doce (BLAD) in or on all food commodities and to establish tolerances for residues of BLAD in or on almonds, grapes, strawberries, and tomatoes. Following the receipt of several comments, the Agency is reproposing this action in order to clarify its proposed rulemaking. In addition, since the publication of the initial proposal, the registrant has requested that the Agency establish tolerances for additional commodities. The Agency is undertaking this action under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: Comments must be received on or before April 13, 2020.

ADDRESSES: Submit your comments, identified by docket identification number EPA–HQ–OPP–2015–0230, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/where-send-comments-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Anne Overstreet, Deputy Director, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/commenting-epa-dockets#tips.*

II. This Proposal

A. What is the authority for this action?

EPA is taking this action under section 408(e) of the FFDCA, 21 U.S.C. 346a(e), which allows EPA to issue regulations, including establishing tolerances and revoking exemptions, on its own initiative. Under FFDCA section 408(e), the Agency applies the same standards for establishing tolerances and revoking exemptions found in FFDCA section 408(b) and (c), 21 U.S.C. 346a(b) and (c). FFDCA section 408(b)(2)(A)(i) 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.'' FFDCA section 408(b)(2)(A)(ii) 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. FFDCA section 408(b)(2)(C) 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. . . .''

The relevant portion of FFDCA section 408(c)(2)(A)(i) requires the Agency to modify or revoke an exemption if the Agency determines it is not safe, where ''safe'' has the same definition as in FFDCA section 408(b)(2)(A)(ii).

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of FFDCA section 408 and a complete description of the risk assessment process, see *http://www.epa.gov/pesticide-tolerances/setting-tolerances-pesticide-residues-foods.*

B. What action is the Agency taking?

EPA is proposing to revoke the existing exemption from the requirement of a tolerance for residues of the fungicide BLAD in or on all food commodities that was established in the **Federal Register** of March 22, 2013 (78 FR 17600) (FRL–9380–6). In place of the exemption, EPA is proposing to establish tolerances for residues of the fungicide BLAD at the level of quantitation (LOQ), *i.e.,* 0.02 parts per million (ppm), in or on the following commodities: Almond; almond, hulls; fruit, pome, group 11–10; fruit, stone, group 12–12; grape; hops, dried cones; strawberry; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8–10.

EPA is taking this action in response to concerns raised by the U.S. Food and Drug Administration (FDA) about the potential allergenicity of BLAD for lupin-sensitive and/or peanut-sensitive individuals following EPA's promulgation of the tolerance exemption of BLAD on all food commodities. (Ref. 1). Based on the potential uncertainty raised by those concerns, EPA sought additional data from the petitioner and reexamined the safety of the BLAD tolerance exemption. Following further review of BLAD and an assessment of the additional data that were provided, EPA has concluded that given the source of BLAD and the results of bioinformatics analysis, such data do not disprove the potential for BLAD to pose an allergenicity risk to lupin-sensitive and peanut-sensitive individuals. As a result, EPA no longer considers the existing tolerance exemption for residues of BLAD, which, on its face, permits unlimited residues of BLAD in or on all food commodities, to be safe. Nevertheless, EPA concludes that the available residue data and food processing information support a safety determination for establishing numerical tolerances at the LOQ for residues of BLAD in or on almond; almond, hulls; fruit, pome, group 11–10; fruit, stone, group 12–12; grape; hops, dried cones; strawberry; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8–10.

III. Guidance for Assessing Allergenicity

The Agency considered the following sources of internationally accepted guidance in assessing the potential allergenicity of BLAD. Although these documents are primarily concerned with the safety of foods that have been genetically modified, the allergenicity analysis is relevant since it outlines a process for evaluating whether the gene (or protein) engineered into the food has introduced an allergen or resulted in a food that may be allergenic. EPA considers the recommended approaches for assessing potential allergenicity to apply equally to proteins that may be applied directly onto the plant as well as those directly incorporated into the plant via genetic engineering.

A. Report of Joint FAO/WHO Expert Consultation (2001)

In 2001, the Joint Food and Agriculture Organization of the United Nations (FAO)/World Health Organization (WHO) Expert Consultation on Allergenicity of Foods Derived from Biotechnology was held at the headquarters of the FAO. The 28-expert consultation focused on the question of allergenicity of genetically modified foods and prepared a report providing scientific advice for the assessment of allergenicity of genetically modified foods. (Ref. 2, hereinafter ''2001 FAO/WHO Report''). The consultation developed a new decision tree identifying two paths for assessing allergenicity, depending upon whether the source of the gene is a known allergen. (*Id.* at 6, 26).

If the source of the gene is a known allergen, the analysis focuses on both sequence homology and specific sera testing. (*Id.* at 7–8). Determining sequence homology to a known allergen is the first step for genes derived from known allergenic sources. The 2001 FAO/WHO Report notes that significant sequence homology is indicated (and thus a potential for cross-reactivity between the new protein and a known allergen) when there is more than 35% identity between the amino acid sequence of the expressed protein and the known allergen, within a window of 80 amino acids. (*Id.* at 10–11).[1] If the sequence homology demonstrates similarity to a known allergen, the product is considered allergenic, *i.e.,* a person sensitive to a known allergen is likely to be allergic to the new protein as well. (*Id.* at 7). The 2001 FAO/WHO Report notes that for proteins derived from known allergenic sources where sequence homology to a known allergen is demonstrated, ''the product is considered allergenic, and no further testing is typically undertaken.'' (*Id.*)

The 2001 FAO/WHO Report provides that for proteins derived from known allergenic sources where the sequence homology analysis is negative, a specific serum screen is to be conducted. (*Id.* at 7). The 2001 FAO/WHO Report recommends using only patients with a level of sensitization to the allergen source of more than 10 kilointernational units per liter (kIU/L) of specific immunoglobulin E (IgE), in order to ensure that the test is conducted with sera from patients sufficiently allergic to the source material, and cautions that patients who have a low level of sensitization may not provide useful results for assessing reactivity to the expressed protein. (*Id.*) Assuming adequately sensitive sera are available, the 2001 FAO/WHO Report notes that the degree of confidence in the results of the specific serum screening will depend upon the number of sera available for analysis. To achieve a 95% certainty that a substance is not a major allergen, a negative result must be obtained with at least 6 relevant sera; 99% certainty, at least 8 relevant sera; 99.9% certainty, at least 14 relevant sera. To achieve 95% certainty that a substance is not a minor allergen, a negative result must be obtained with at least 17 relevant sera; 99% certainty, at least 24 relevant sera. Larger numbers of sera are recommended to increase the confidence associated with negative immunoassay results; using fewer sera carries the risk of a false negative outcome. (*Id.*) The 2001 FAO/WHO Report notes that the *in vitro* method applied to assess the results should be a validated assay measuring specific IgE. (*Id.*)

The 2001 FAO/WHO Report concludes that any positive results from the sera screen will define the product as likely to be allergenic and will normally lead to discontinuation of product development. (*Id.*) A negative outcome from the sera screen does not necessarily support a conclusion that the product is not allergenic, however;

[1] The 2001 FAO/WHO Report also recognizes that potential for cross-reactivity may require consideration of additional factors when proteins have less than 35% identity with a known allergen in a window of 80 amino acids. (Ref. 2 at 11). These considerations are not discussed in this document since the sequence homology for BLAD exceeds 35% identity with other known allergens.

rather, because of the allergenic nature of the source of the substance, a desire to continue with product development will normally prompt further analysis to rule out allergenicity concerns (*i.e.,* targeted serum screening, analysis of pepsin resistance, and animal modeling, and in selected cases, *in vivo/ex vivo* testing (*i.e.,* skin prick testing, basophil histamine release, and oral challenge)). (*Id.* at 7–8).

If the source of the protein is not a known allergen, the 2001 FAO/WHO Report decision tree advises consideration of four sets of data: (1) Sequence homology with known allergens; (2) targeted serum testing; (3) pepsin resistance; and (4) immunogenicity testing in animal models. (*Id.* at 8). If the sequence homology reveals a level of homology with a known allergen, the protein is ''considered to be an allergenic risk . . . [and n]o further evaluation for allergenicity would typically be necessary.'' (*Id.*) If the sequence homology does not identify any similarities, the 2001 FAO/WHO Report notes that it does not necessarily mean that the substance is not an allergen. Rather, because of potential limitations in the databases or limited information on the relevant allergen, the 2001 FAO/WHO Report recommends that a targeted serum screen be conducted to test for cross-reactivity of individual serum samples containing high levels of IgE antibodies specific to a source broadly related to the source of the substance at issue, *e.g.,* if the gene is derived from a monocot, sera from individuals with allergies to other monocots would be used in the screen. (*Id.* at 12). A positive result with one of these sera will indicate that the substance is likely to be allergenic and further study would not be necessary, unless further confirmation is sought through *in vivo/ex vivo* approaches mentioned above. (*Id.* at 8). Negative results would then lead to the analysis of the protein for pepsin resistance (*i.e.,* how completely the protein degrades in the presence of pepsin during digestion) and evidence of immunogenicity in appropriate animal models. (*Id.* at 12–13). The 2001 FAO/WHO Report recommends that any results of these analyses be taken into consideration in combination with the rest of the decision tree criteria. (*Id.* at 13.)

B. Codex Alimentarius Guidance (2009)

The Codex Alimentarius Guidance is a ''collection of internationally adopted food standards, guidelines, codes of practice and other recommendations,'' developed by an intergovernmental body with more than 180 members, within the framework of the Joint Food Standards Programme established by the FAO and WHO. (Ref. 3, preface). Contained within the Codex Alimentarius Guidance, the Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (''Codex Guideline'') addresses safety and nutritional aspects of genetically altered foods and recommends an approach for assessing the safety of foods derived from recombinant-DNA plants and plants altered by other techniques. (*Id.* at 7–33).

The Codex Guideline states that all newly expressed proteins in recombinant-DNA plants should be assessed for their potential to cause allergic reactions. (*Id.* at 15). The Codex Guideline describes stepwise approach to the assessment of the possible allergenicity of newly expressed proteins. (*Id.* at 20–23). The initial assessment involves three steps: (1) Identify the source of the protein; (2) assess the extent to which a protein is similar in structure to a known allergen; and (3) evaluate the resistance of the protein to degradation by pepsin. (*Id.* at 21–22).

The Codex Guideline states that ''[i]t is important to establish whether the source is known to cause allergic reactions. Genes derived from known allergenic sources should be assumed to encode an allergen unless scientific evidence demonstrates otherwise.'' (*Id.* at 21). The Codex Guideline notes ''[t]he transfer of genes from commonly allergenic foods . . . should be avoided unless it is documented that the transferred gene does not code for an allergen. . . .'' (*Id.* at 15). Because there is no single definitive test for predicting allergic human response, ''[k]nowledge of the source of the introduced protein allows the identification of tools and relevant data to be considered in the allergenicity assessment. These include: the availability of sera for screening purposes; documented type, severity and frequency of allergic reactions; structural characteristics and amino acid sequence; physicochemical and immunological properties (when available) of known allergenic proteins from that source.'' (*Id.* at 21).

The next piece of the allergenicity assessment is the amino acid sequence homology, the purpose of which is to determine whether a protein is similar in structure to a known allergen and thus has allergenic potential. (*Id.*) Assessing similarity to known allergens is done by comparing the new protein to databases of known allergens, looking for two types of similarity. First, the sequence homology looks for contiguous identical amino acid segments; the Codex Guideline noted that ''the size of the contiguous amino acid search should be based on scientifically justified rationale in order to minimize the potential for false negative or false positive results,'' whereas the 2001 FAO/WHO Report recommended moving from 8 to 6 identical amino acid segments. (*Id.*) Second, the sequence homology looks for whether there is a potential for human IgE cross-reactivity between the new protein and a known allergen. (*Id.*) The Codex Guideline incorporates the finding of the 2001 FAO/WHO Report, which concludes that a potential cross-reactivity is likely when there is more than 35% identity in a segment of 80 or more amino acids. (*Id.*) Where there is a negative sequence homology, it indicates that the protein is not a known allergen and is unlikely to be cross-reactive with known allergens. (*Id.* at 22). A positive sequence homology indicates that the protein is likely to be allergenic and, in order to be considered further, specific serum testing (*i.e.,* testing conducted using serum of individuals who are sensitized to the allergenic source) should be conducted. (*Id.*)

The Codex Guideline also recognizes that many food allergens exhibit resistance to pepsin digestion and thus resistance to pepsin digestion can be used to assess potential allergenicity. (*Id.*) If a protein is resistant to pepsin digestion, it suggests that further analysis should be conducted to evaluate potential allergenicity; however, the Codex Guideline notes that lack of resistance does not necessarily mean that the protein is not an allergen. (*Id.*)

The Codex Guideline states that for proteins that originate from a known allergenic source or that have sequence homology with a known allergen, testing in immunological assays should be performed where sera are available. (*Id.*) The sera should be obtained from individuals with a ''clinically validated allergy'' to the protein source, and sera must be obtained from sufficient numbers of individuals to achieve the necessary level of confidence in the test results regarding the protein's allergenicity. (*Id.*) The 2001 FAO/WHO Report notes that, in the case of a major allergen, a minimum of eight relevant sera is required in order to achieve a 99% certainty that the new protein is not an allergen, while in the case of a minor allergen, a minimum of 24 is required. (*Id.* at n.11). In addition, the ''quality of the sera and the assay procedure need to be standardized to produce a valid test result.'' (*Id.* at 23). ''[A] negative result in *in vitro*

immunoassays may not be considered sufficient, but should prompt additional testing, such as the possible use of skin test and *ex vivo* protocols. A positive result in such tests would indicate a potential allergen.'' (*Id.*)

IV. Regulatory Background

BLAD is a protein fragment with fungicidal properties. More specifically, BLAD is a 20 kilodalton (kDa) polypeptide fragment of β-conglutin, a main storage protein in the flowering plant sweet lupin (*Lupinus albus*). BLAD is produced by breakdown of β-conglutin during day 4 to 12 of the germination process of sweet lupins. BLAD degrades chitin by catalyzing and successfully removing the N-acetyl-D-glucosamine terminal monomers, resulting in the destruction of fungal cells. (Ref. 4).

In the **Federal Register** of March 22, 2013 (78 FR 17600) (FRL–9380–6), EPA established an exemption from the requirement of a tolerance for residues of BLAD in or on all food commodities when applied as a fungicide and used in accordance with label directions and good agricultural practices. EPA established this tolerance exemption following the receipt of a petition from Consumo Em Verde S.A., Biotecnologia De Plantas, Parque Technologico de Cantanhede (CEV) in 2012. The Agency's safety finding was based on an assessment of available data and an assumption that there was a long history of safe use in human and animal consumption without any adverse effects.

Although the preamble to the March 2013 final rule did not discuss the potential allergenicity of BLAD, EPA's supporting memorandum for the establishment of a tolerance exemption examined BLAD's potential allergenicity, based on the available information EPA had about BLAD at the time. (Ref. 4). Observing that (i) BLAD comprises an internal segment of β-conglutin, (ii) β-conglutin exhibits a relatively strong homology to the other members of the vicilin family, including well-known allergens contained in peanuts and soybeans, and (iii) there were a considerable number of studies concerning the allergenicity of lupin-derived products, EPA conducted an allergenicity assessment of BLAD. (*Id.*) EPA examined BLAD under the criteria in the 2001 FAO/WHO Report and the Codex Guideline for assessing proteins not known to be derived from an allergenic source, which it characterized as follows: (la) Amino acid residue homology >35%, or (1b) identity in one or more sets of >6 contiguous amino acid residues, or (1c) cross-reactivity to known allergens; (2) high resistance to proteolytic attack; and (3) ingestion of sufficient amounts. (*Id.*) Although EPA found that BLAD exhibited a high sequence homology with a well-established peanut allergen, Ara h 1, EPA concluded that a tolerance exemption would be safe because, when used according to the proposed label directions, BLAD's potential exposure and harmful effects to humans would be negligible, and no adverse effects such as allergenic reactions would be expected. (*Id.*)

Following EPA's establishment of this BLAD tolerance exemption, however, FDA expressed concerns about the potential allergenicity of BLAD for lupin-sensitive and/or peanut-sensitive individuals. (Ref. 1). FDA noted that the preamble to the March 2013 final rule did not discuss allergenicity and disagreed with EPA's statement in the tolerance exemption preamble about the long history of safe consumption of sweet lupins. (*Id.*) FDA noted that BLAD is derived from the lupin plant and provided information concerning the allergenicity of lupin. (*Id.*) Specifically, FDA provided scientific literature indicating that lupin causes allergic reactions and epidemiological evidence indicating that lupin is an increasingly significant allergenic hazard in Europe where it is consumed. (*Id.*) FDA also referred EPA to the 2005 European Food Safety Authority (EFSA) official opinion. The EFSA opinion examined the potential for allergenicity of lupin in response to a request from the European Commission, which was considering whether to place lupin on a list of known allergens and require lupin identification on food labels. (*Id.;* see also Ref. 5). The EFSA opinion noted allergic reactions to lupin have been documented in individuals allergic to peanuts and those with no known allergy to peanuts. (Ref. 5).

FDA also provided information on BLAD's bioinformatics. Using publicly available sequence information, FDA determined that β-conglutin, the specific protein from which BLAD is derived, is a major lupin allergen, Lup an 1. (Ref. 1). FDA further concluded that BLAD has a high amino acid sequence identity to two major allergens—Lup an 1 and Ara h 1, a major peanut allergen. (*Id.*) Based on information about the allergenicity of the source plant and the sequence homology to major allergens, FDA concluded that, under the Codex Guideline and the 2001 FAO/WHO Report, BLAD would be considered an allergen until proven otherwise. (*Id.*)

Taking this new information concerning BLAD's source into account along with BLAD's bioinformatics, EPA proceeded to analyze BLAD under the Codex Guideline approach for assessing proteins derived from known allergenic sources, which emphasizes the need for specific sera testing to overcome the presumption that the protein will be allergenic. (Ref. 6). This new approach differed from the approach EPA used in its initial assessment of BLAD; lacking information that the protein was derived from a known allergenic source, EPA had used the general assessment approach recommended for proteins that are not known to be derived from known allergenic sources. (*Id.*) In addition to using this new approach, EPA sought FDA's insight on evaluating food allergens as it evaluated BLAD's potential allergenicity.

Applying the 2001 FAO/WHO Report and Codex Guideline processes for assessing substances derived from known allergenic sources, EPA requested that CEV submit additional data to overcome the presumption that BLAD would pose a potential allergenicity concern. EPA also required residue chemistry field trials and a residue decline study to determine likely residue levels of BLAD on treated commodities listed on the pesticide label. (*Id.*) Upon receipt of this new information, EPA reexamined the safety of BLAD.

Based on that reexamination, on May 29, 2015, EPA proposed to revoke the established tolerance exemption, which, on its face, contains no numerical limit on permissible residues in or on all food commodities, and to establish tolerances for residues of BLAD in or on almonds, grapes, strawberries, and tomatoes at 0.005 ppm (the level of detection). 80 FR 30640 (May 29, 2015). In essence, the proposal noted that, since the available allergenicity data did not rule out the potential of BLAD's allergenicity, the Agency was unable to continue supporting the safety finding for the BLAD exemption, which set no numerical limits for exposures to BLAD on all food commodities, which facilitate the process for identifying residues that might be higher than expected in instances of pesticidal misuse. Nevertheless, the Agency determined that, because the available residue data indicate a lack of detectable residues on certain commodities (*i.e.,* almonds, grapes, strawberries, and tomatoes), numerical tolerances set at the level of detection for ensuring negligible residues of BLAD on almonds, grapes, strawberries, and tomatoes as expected under approved label use conditions were safe. *Id.* at 30643–44.

The Agency received five timely comments on the proposal, as well as a number of late-filed comments. Of those timely comments, many expressed confusion about the Agency's basis for its proposal and challenged whether the proposal was based on the available data. Some commenters also expressed concerns for the proposal's impact on farmers and trade. Upon further review of that proposal and following additional consultation with FDA regarding the commenters' scientific challenges to the proposal (Refs. 7, 8), the Agency recognized that the rationale for its May 29, 2015, proposal could have been presented more clearly. In addition, the registrant requested that additional commodities be added to this tolerance rulemaking action. Consequently, in response to the concerns raised in the comments and the request for additional commodities, the Agency has decided to repropose with additional explanation addressing the basis for revoking the tolerance exemption and establishing tolerances set at the LOQ for residues in or on the commodities identified in the May 29, 2015, proposal, as well as other commodities requested by the registrant in the interim. This reproposal supersedes and replaces the proposal issued on May 29, 2015.

V. Aggregate Risk Assessment and Determination of Safety

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

As noted in the preamble to the March 22, 2013, final rule, all of the toxicity data requirements have been fulfilled. The toxicological profile of BLAD has not changed since that rule; therefore, EPA is relying on the toxicity findings in that document and supporting documents to support its continuing conclusion that BLAD does not present any toxic concerns. 78 FR at 17601–02 and Ref. 4.

As noted in Unit IV., upon receiving new information about BLAD's source from FDA, EPA reexamined the potential allergenicity of BLAD for lupin-sensitive and peanut-sensitive individuals, using the approach recommended in the 2001 FAO/WHO Report and in the Codex Guideline: (1) Identify the source of the protein; (2) assess the extent to which a protein is similar in structure to a known allergen; and (3) for substances derived from a known allergenic source and that have sequence homology with a known allergen, test sera of a sufficient number of individuals who are sensitized to the allergenic source. (Refs. 2, 3).

BLAD is a fragment of the β-conglutin protein produced in the sweet lupin (*Lupinus albus*). There are several sources indicating that lupin is a major allergen. First, EFSA has issued a number of science opinions recognizing lupin as causing allergic reactions in peanut-sensitive individuals and IgE sensitization in individuals with no known allergy to peanuts. (Refs. 5, 9). Based on the EFSA reports, the European Commission added lupin to the list of major allergens that must be identified on food labels. (Ref. 10). FDA also considers lupin to be a food allergen and, based on reports of allergic reactions to lupin (some severe), has issued advisory statements to alert consumers to the potential for allergic reactions to foods containing lupin, especially those individuals with a peanut allergy. (Refs. 8, 11, 12). In addition, both EFSA and FDA cite to extensive scientific literature indicating that exposure to lupin causes allergic reactions in peanut-sensitive individuals (indicating cross-reactivity), as well as in the general population. (Refs. 1, 5, 8). After considering this information, EPA has concluded that lupin, from which BLAD is derived, is a known allergen.

EPA also assessed BLAD for any sequence homology to known allergens. EPA determined that BLAD exhibits a high sequence homology (58%) when compared to Ara h 1, a recognized allergen known for causing allergic reactions (sometimes severe) in peanut-sensitive individuals. (Ref. 4). In addition, FDA informed EPA that BLAD is also 86% identical and 91% similar in amino acid sequence (with no gaps) to Lup an 1.0101, the β-conglutin derived from *Lupinus angustifolius.* (Ref. 8). Lup an 1 has been recognized as a food allergen in the World Health Organization/International Union of Immunological Sciences database, (Ref. 13), and EFSA considers Lup an 1 to be the major lupin allergen. (Ref. 9 at 165). Given that BLAD is derived from a known allergen and has a high sequence homology to two known allergens, EPA required additional testing to further assess BLAD's potential allergenicity, consistent with the Codex Guideline recommendation to seek specific serum testing or immunological assays where sera are available.

In response, CEV agreed to conduct studies that test for allergenicity, including a skin prick (*in vivo*) test on individuals sensitive to Ara h 1 and *in vitro* immunological testing on serum from those individuals. (Ref. 14). After identifying several patients who reported having an allergy, a skin prick test (SPT) was conducted in order to establish a sampling population that was sensitive to lupins and/or peanuts. (Ref. 15). Sera from 30 individuals [2] who were found in the SPT to have a sensitivity to the lupin and/or peanut extract were used to evaluate the capacity of cross-reactivity to BLAD in these sensitive individuals. (Ref. 6). The IgE-specific *in vitro* immunoblot (ELISA) testing results did not indicate any IgE binding to BLAD, *i.e.,* the results indicated that BLAD did not react with the tested patients' sera. (*Id.;* Ref. 15).

While the lack of reactivity indicates that BLAD may not cause an allergic response in the tested patients, EPA has determined, as discussed below, that this study is not sufficient to overcome the presumption of allergenicity for BLAD among the general population of lupin-sensitive and/or peanut-sensitive individuals, given the protein's source and sequence homology. (Ref. 16). As noted in Unit III.B., according to the Codex Guideline, ''a negative result in *in vitro* immunoassays may not be considered sufficient, but should prompt additional testing, such as the possible use of skin test and *ex vivo* protocols.'' (Ref. 3 at 23). The critical issues are the availability of sera from a sufficient number of individuals, the quality of the sera, and the standardization of the assay procedure. (*Id.* at 22–23.)

Both EPA and FDA have reviewed the submitted data to determine whether it supports a conclusion that BLAD is not an allergen. Because of FDA's initial concerns about BLAD and in light of FDA's experience evaluating food allergens, EPA discussed the submitted data with FDA and considered FDA's analysis of the sera testing in EPA's own assessment of the data. FDA identified several concerns about the sufficiency of the quantity and quality of the sera used in the testing, which raise questions about the scientific reliability of the data for proving that BLAD is not an allergen. As an initial matter, FDA noted that the sera testing method ''is not the most robust for disproving allergenicity to a potential allergenic food ingredient.'' (Ref. 8 at 4–5). FDA explained that the

[2] The initial serum study selected 26 patients who reacted to the lupin and/or peanut in the SPT. After EPA expressed concern about some of the results of the study, sera from additional patients were included in the study. (Refs. 6, 15).

''most reliable or 'gold standard' method for assessing whether or not a food or food protein will be clinically reactive is clinical testing by oral food challenge in a well-characterized group of food allergic individuals.'' (*Id.* at 5). One of FDA's concerns about the serum test itself relates to the level of characterization of the recruited patients' clinical history. (*Id.*) FDA notes that it typically encourages submitters of *in vitro* sera testing to test a ''statistically significant number of sera from well-characterized food allergic individuals.'' (*Id.*) In reviewing the BLAD sera study, FDA found such characterization lacking, in that characterization consisted of recruited patients' own clinical history of reactions to lupin or peanut and a skin prick test. (*Id.*) FDA further explained why this level of clinical history characterization raises uncertainty about whether sera were obtained from an appropriately sensitive population of allergic individuals:

[W]ithout confirmation of allergy by observed positive food allergen challenge, there remain uncertainties about how truly reactive these patients are to the food allergen and how representative they are of the population of potential reactors to the allergen. For example, depending on when the last allergic reactions occurred, a patient may have outgrown their food allergy yet still be sensitized (having specific IgE) to the allergen. Also, some subjects may have associated non-specific reactions, *e.g.,* an outbreak of hives/urticaria, to a food they had eaten or were sensitized to, even though they are not truly reactive to the food. Skin prick tests are also prone to false positive results, especially with findings of small wheal and flare responses (<4 mm) (Bernstein et al., 2008), which were the findings seen in a number of patients in the applicant's study. Inclusion of patients who are not validated to be clinically reactive to the allergen in question impacts the robustness and statistical power of the data. In the applicant's study, FDA found poorly characterized information about the recruited patients' reaction histories. (*Id.* at 5–6).

In addition, FDA expressed a concern about the level of IgE response in the recruited patients:

In addition, IgE-specific level responses to lupin and/or peanut were not found to be robust in most patients, with levels reported to be low (less than 2 kU/L) in the majority of subjects. In clinical practice to determine if a patient with mild or unclear allergic-type symptoms to the food is allergic, most specialists would consider food challenge for a patient with peanut IgE levels less than 2 kU/L, as 50% of peanut-allergic individuals with a median measurement of 2 kU/L are reported to have negative challenges (Nowak-Wegrzyn et al., 2009; Perry et al., 2004). Although patients could still be clinically allergic at low levels of IgE, for peanut, universally accepted clinical cut-off IgE levels to predict likely clinical peanut allergy have been reported at much higher levels, *i.e.,* 14 to 15 kU/L. Patients with specific IgE at or above these predictive levels of 14 to 15 kU/L have a 90–95% likelihood of reacting to peanut during peanut challenge (Nowak-Wegrzyn et al., 2009; Sampson and Ho, 1997; Sampson, 2001). IgE cut-off levels for predicting lupin reactivity have not been established. FDA also found that only about one third of total patients in the applicant's sera study had evidence of IgE to Ara h 1 peanut protein, the relevant allergen in the diagnostic work-up for determining whether BLAD would pose a potential cross-reactive hazard for peanut-allergic individuals. Although BLAD was not shown to bind IgE in these subjects, the number of patients analyzed is too small to draw any meaningful statistical predictions of lack of allergenicity to BLAD for the general peanut-allergic population. (*Id.* at 6).

FDA again noted that ''[r]ecruiting patients who had gone through and were observed to be reactive to peanut and/or lupin by the 'gold standard' food challenge would have helped to eliminate these uncertainties about the robustness of the allergic sera characterization.'' (*Id.*)

Finally, FDA expressed concern about the quality of the testing data, including an inadequate description of the methodology used and poor quality of the sera blot analyses, which further limit the ability to draw conclusions about the results of the sera testing. (*Id.*)

EPA gives great weight to FDA's expertise on the issue of allergenicity, given FDA's role in assessing food safety and their experience in evaluating foods for potential allergenicity concerns. As such, EPA has considered many of the concerns raised by FDA in its own analysis of the submitted data. After its initial conclusion that the lack of evidence of sera reactivity to BLAD provides an indication that BLAD may not be an allergen, EPA, taking into consideration FDA's concerns and the Codex Guideline warning that negative serum testing results may not be sufficient to disprove allergenicity, reexamined the adequacy of the submitted sera testing. (Ref. 6).

According to the Codex Guideline, ''the availability of human sera from a sufficient number of individuals'' and the ''quality of the sera'' are important to ensure the validity of the test results. For the present situation, the quality of the sera is the more significant issue for the BLAD test results. In order to evaluate the quality of the sera, EPA looks to the 2001 FAO/WHO Report, which cautions that patients should be carefully selected to ensure an adequate level of sensitivity to the protein. (Ref. 2 at 7). If patients have a low level of sensitization, then the usefulness of the sera to predict reactivity will be compromised. (*Id.*) In other words, the sera must be from patients whose allergenicity has been verified and who are sufficiently sensitive so that the sera will react to the allergen. If sera used is taken from patients who have not had their allergy verified or who may have low levels of allergic reaction (*i.e.,* are insufficiently sensitive to the allergens), the sera may not react to the test substance, giving a negative result that cannot be extrapolated to the larger population of allergic or sensitized individuals. This result would undermine the reliability of the study results for disproving allergenicity, which can be especially problematic for substances derived from known allergens or that are similar or identical to known allergens.

Taking into consideration the need to ensure the quality of the sera and FDA's concerns about the quality of the sera used in the serum study, EPA has determined that the study characterization of recruited patients' clinical history of allergic reactions and lack of verification of allergenic reactivity raises uncertainties about the reliability of the study results to conclusively disprove BLAD's potential to pose an allergenic risk to lupin-sensitive and/or peanut-sensitive individuals. (Ref. 16). The quality of the sera being used as a test reagent is a critical issue in ensuring the reliability of the study results for predicting reactivity. (*Id.*) The selection of test subjects based on self-reported clinical symptoms without a food challenge-confirmed allergy, as well as the potential for false positives in skin prick tests, raise questions about the selection process, the adequacy of the IgE levels, and whether the study involved an adequate number of patients. (*Id.*) In other words, these facts introduce uncertainty about the quality of the sera and thus the reliability of the study results. Consequently, EPA does not consider this study to be scientifically reliable to overcome the presumption of

allergenicity for BLAD, given the source of the protein and the bioinformatics analysis. (*Id.*)

B. Toxicological Points of Departure/ Levels of Concern

The Agency did not identify any points of departure for BLAD. The toxicity database does not contain any indication of toxic effects as a basis for any toxicological points of departure or levels of concern. Moreover, there is no known threshold for allergenicity to BLAD. As a result, the Agency is not conducting a quantitative assessment of risk from potential BLAD exposure. Rather, the Agency's assessment of safety is based on the lack of exposure to BLAD because, as discussed in Unit V.C., the available residue data indicate that, when applied under current label rates and using good agricultural practices, there will be negligible to no detectable residues of BLAD on treated crops.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* BLAD has been approved for use on several commodities; therefore, EPA evaluated the potential for BLAD residues on those crops in order to assess exposure.

CEV initially submitted residue data for grape, tomato, and strawberry. Field trials were conducted applying PROBLAD PLUS (a fungicide product containing BLAD at 20%) at the maximum product-labeled application rate (0.75 pounds of active ingredient per acre, five broadcast foliar applications per season, at 7-day intervals). Those studies showed that there were no quantifiable residues (where the LOQ is 0.02 ppm) on any treated grape, tomato, or strawberry commodities, and the majority of samples showed no residues above the level of detection (0.005 ppm). (Ref. 15). CEV later submitted additional field residue studies on cherry, cucumber, and apple that similarly demonstrated that application consistent with labeled rates resulted in residues at or below the level of detection of 0.005 ppm. (Ref. 17).

The Agency also requested that CEV conduct field trials using exaggerated application rates of 5X and 10X to determine the rate of BLAD residue degradation. Since the 10X concentration would be phytotoxic, CEV conducted field trials on tomatoes and strawberries using only the 5X application rate (3.75 pounds of active ingredient per acre). The decline curve for the treated commodities indicated a half-life of 2 days. Based on the measured residue levels in the study and using a first order degradation model, EPA was able to calculate a theoretical rate of degradation of 0.4215, which was then used to predict BLAD residues following treatment. (Ref. 15). Applying this degradation rate to residue levels observed in field residue data and taking into consideration the required 1-day interval between application and harvest of treated crops, the Agency expects that there will be no residues of BLAD above the level of detection, if any remain at all, when commodities are treated in accordance with the label. (*Id.*) This rapid degradation rate is consistent with the expectation that BLAD, as a protein fragment, is susceptible to rapid degradation by environmental factors, such as microbial proteases. (Ref. 17).

Based on the available residue data, the Agency concludes that residues on grape, tomato, strawberry, apple, cherry, and cucumber will be below levels of detection and possibly non-existent when used in accordance with the label at the time of consumption. The Agency has also concluded that the available data is mutually supportive and is appropriate for supporting additional tolerances for certain crop groupings, hops, and almonds. (*Id.*)

Based on the available representative commodity data, the registrant requested use on and tolerances for the following crop groups: Vegetable, fruiting, group 8–10; vegetable, cucurbit, group 9; fruit, pome, group 11–10; and fruit, stone, group 12–12. Although residue trials on all the representative commodities for those crop groups were not completed, the Agency has determined that trials on the remaining representative commodities are not necessary. The available residue data are mutually supportive and support a conclusion that any additional residue data for the other representative commodities would yield the same results. Given the similarity and consistency of the residue levels in these studies—in particular the consistency of results showing residues levels near or below the level of detection—the similarity in plant morphology between the representative commodity and the other commodities in the corresponding crop group, and the additional factors supporting the anticipated lack of exposure to residues of BLAD (*i.e.,* rapid degradation rate and post-harvest interval), the Agency concludes that the available data are sufficient to support these crop groups. (*Id.*)

In addition, the Agency has concluded that no separate tolerances are needed for processed commodities of the raw agricultural commodities contained in these crop groups. (*Id.*) The rapid degradation of BLAD by microbes on treated crops combined with the methods for processing these commodities (*e.g.,* washing and pasteurizing) will reduce the already low levels of residues on the treated commodities. The tolerances being established are sufficient to cover residues in those processed commodities.

Moreover, although no residue field trials were submitted to support the hops, dried cones tolerance, the Agency has assessed the potential for exposure to BLAD residues on hops by examining the short environmental persistence of BLAD and the additional processing steps to which hops is subject prior to consumption. Following application of BLAD to hops, at rates that are the same as for other labeled crops, initial residues of BLAD are expected to rapidly degrade during the drying phase. The long drying time would also allow a longer time for microbial degradation of the protein. Furthermore, processing of hops, which is used as a flavoring and preservative in fermented beverages, is expected to further mitigate exposure prior to consumption. All of these factors suggest an elimination of potential residues on hops by the time of consumption. (*Id.*)

Because the application rates and methods are the same for grape and almond, the residue data can be translated to almond hulls, and the Agency has determined that the residues on almond hulls will be similar to residues found on strawberries, grapes, and tomatoes. (Ref. 18). The general practice for harvesting almonds, which typically involves 7–10 days of drying before processing, is likely to further reduce residues on the almond hulls. Also, because BLAD is not applied directly to the almonds, the Agency expects residues on the almond nutmeat itself to be even lower.

Because almond hulls are an animal feed item, section 180.6 of EPA's regulations requires that EPA consider whether residues of BLAD present on animal feed items will result in residues of BLAD in meat, milk, eggs, or poultry commodities consumed by humans. 40 CFR 180.6(a). If there is no reasonable expectation of residues in the livestock commodities, the Agency can establish a tolerance on the raw agricultural commodity (in this case, the almond). 40 CFR 180.6(b). Based on the available information, EPA has concluded that the likely residues on almond hulls will be at or below levels of detection. Even if there are any residues remaining on almond hulls that are ingested by animals, EPA has concluded that there

is not likely to be any residues in the livestock commodities. (Ref. 18). Due to its molecular size, BLAD is not expected to pass through biological membranes. Moreover, it is expected to be rapidly digested instead of accumulating in animal tissues. (*Id.*) As a result, there is no reasonable expectation of residues in livestock commodities and thus no need for associated livestock commodity tolerances.

2. *Dietary exposure from drinking water.* The Agency expects residues of BLAD in drinking water to be negligible. Because BLAD is applied foliarly, there is a chance that it may get into drinking water, but there is likely to be very little in the environment from applications. Moreover, what little residue may be present would likely be subject to potential photolysis and microbial degradation due to its nature as a protein.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). BLAD is not registered for any specific use patterns that would result in residential exposure.

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

EPA has not found BLAD to share a common mechanism of toxicity with any other substances, and BLAD does not appear to degrade into any toxic metabolite or other substance of concern. For the purposes of this tolerance action, therefore, EPA has assumed that BLAD does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides*.

D. Safety Factor for Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data are available to support the choice of a different safety factor.

Because the Agency has not identified any threshold effects for BLAD, this additional safety factor is not applicable for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

EPA has evaluated the available toxicity, allergenicity, and exposure data and considered its validity, completeness, and reliability, as well as the relationship of the results of the studies to human risk. Taking into consideration all available information on BLAD, EPA cannot conclude that unlimited exposures to BLAD on all food crops would not pose a risk of allergenicity to lupin-sensitive or peanut-sensitive individuals. The data submitted on the potential allergenicity does not overcome the burden for demonstrating that BLAD is not an allergen, given that BLAD is derived from a known allergenic source and the bioinformatics analysis demonstrates sequence similarity with other major allergens. Based on this information, the Agency can no longer support a safety determination for an unlimited exemption from the requirement of a tolerance for residues of BLAD on all food commodities. As a result, EPA is proposing to revoke the current tolerance exemption for BLAD found in 40 CFR 180.1319.

Although EPA can no longer support the existing tolerance exemption for BLAD, which, on its face, places no limits on the levels of BLAD residues on any food commodities, EPA has determined, based on residue data supporting a conclusion of negligible to no exposure to BLAD residues on certain crops, that certain limited tolerances would be safe. That is, there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of BLAD when it is applied as a fungicide in accordance with label directions and good agricultural practices on the following commodities: Almond; almond, hulls; fruit, pome, group 11–10; fruit, stone, group 12–12; grape; hops, dried cones; strawberry; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8–10. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information.

Upon consideration of information regarding the likely levels of exposure to BLAD from approved use patterns, EPA concludes that the approved uses of BLAD are unlikely to result in residues above the level of detection when shipped in interstate commerce. Further, based on expected degradation rates, the Agency expects residue levels at the time of consumption to be even lower, likely non-existent. The lack of exposure to detectable residues of BLAD, if there are any residues at all, is the basis for the Agency's safety finding for these tolerances.

While the Agency, as a general matter, expects users to follow label directions on pesticide products and that residue data indicate that application in accordance with the label results primarily in undetectable residues or levels at or below levels of detection, EPA is proposing to establish tolerances at the lowest level for measuring quantifiable residues of BLAD (0.02 ppm). Given the potential severity of allergic reactions, the Agency believes that setting numerical tolerances, rather than leaving in effect an unlimited exemption, is the appropriate regulatory mechanism for monitoring residues and facilitates the removal of adulterated commodities from the food supply if residues are found above tolerance levels on any of these commodities. The expectation of negligible to no residues under proper use conditions, subject to the mechanisms of enforcement under the FFDCA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), provide assurance that consumers will not be exposed to residues of BLAD that may cause harm. Therefore, EPA is proposing to revoke the current exemption and establish tolerances for residues of BLAD in or on the following commodities at 0.02 ppm: Almond; almond, hulls; fruit, pome, group 11–10; fruit, stone, group 12–12; grape; hops, dried cones; strawberry; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8–10.

VI. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Enzyme-Linked Immunosorbent Assay (ELISA: EASI Method No: RA029 and

RA031)) is available to enforce the tolerance expression.

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 FAO/WHO 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 an MRL for BLAD.

C. Trade and Economic Considerations

The Agency received comments on its May 29, 2015, proposal about the potential impact of the proposal on trade and farmers. The commenters alleged that the proposal failed to address possible impacts on international trade, including the potential to cause other countries to require or amend MRLs, to develop enforcement procedures consistent with international regulatory data requirements, and to impose new and more onerous data requirements. The commenters also expressed concern about the lack of harmonization with Canada, which has decided not to regulate residues of BLAD, and pointed to the potential for disruption in trade between the United States and Canada, or at least confusion at the border for enforcing the different standards, as a result. In addition, many commenters expressed concern that the proposal revoking the exemption would have an adverse impact on farmers who relied on BLAD as an effective fungicide.

Under the FFDCA, tolerances and exemptions from the requirement of a tolerance may be established when EPA determines that they are safe. 21 U.S.C. 346a(b)(2)(A)(i), *(c)(2)(A)(i).* The FFDCA also requires that EPA revoke tolerances or exemptions when it determines they are not safe. *Id.* This safety assessment is a risk-only assessment, not a risk-benefit standard. In essence, the statute directs that whether EPA can leave in effect or establish a tolerance or exemption is based solely on the Agency's assessment of the risk to human health and not a balancing of other non-safety factors (*e.g.,* impact on trade or impact on farmers) with the risk. The FFDCA directs EPA to consider several factors relevant to the safety of the pesticide residue in food (aggregated with other sources of exposure to the pesticide residue), placing particular emphasis on human dietary risk. *See, e.g., 21 U.S.C. 346a(b)(2)(B)* (addressing an exception to the safety standard for pesticide residues as to which EPA ''is not able to identify a level of exposure to the residue at which the residue will not cause or contribute to a known or anticipated harm to human health''); *21 U.S.C. 346a(b)(2)(C)* (requiring special safety findings as to ''infants and children'' regarding their ''disproportionately high consumption of foods'' and their ''special susceptibility * * * to pesticide chemical residues''); *21 U.S.C. 346a(b)(2)(D)(iii)* (requiring consideration of the relationship between toxic effects found in pesticide studies and human risk); *21 U.S.C. 346a(b)(2)(D)(iv), (vi), and (vii)* (requiring consideration of available information on ''dietary consumption patterns of consumers,'' ''aggregate exposure levels of consumers,'' and the ''variability of the sensitivities of major identifiable subgroups of consumers''); *21 U.S.C. 346a(b)(2)(D)(vi)* (requiring consideration of ''non-occupational'' sources of exposure); *21 U.S.C. 346a(b)(2)(D)(viii)* (requiring consideration of information bearing on whether a pesticide ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects''); *21 U.S.C. 346a(l)(2) and (3)* (requiring revocation or suspension of tolerances where associated FIFRA registration is canceled or suspended ''due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on that food'').

The only mention of a factor relevant to trade is found in FFDCA section 408(b)(4), which, as noted in Unit VI.B., requires EPA to determine whether an MRL has been established by Codex when establishing a tolerance and to explain its reasons for departing from that level, if applicable. 21 U.S.C. 346a(b)(4). Here, as noted above, Codex has not established any MRLs for BLAD; therefore, there is nothing to harmonize and no discrepancies to explain. As a matter of policy and where the Agency can support the safety finding, EPA seeks to harmonize U.S. tolerances whenever possible with Codex MRLs and the MRLs of other trading partners, including Canada, consistent with U.S. food safety standards and agricultural practices. For BLAD, based on the available information, EPA can no longer maintain the safety finding to support the unlimited tolerance exemption for BLAD residues on all commodities. Harmonization with Canada's regulatory approach is not a legal basis for retaining the exemption under the FFDCA when EPA concludes that the exemption is not safe.

Notwithstanding the substantive restrictions of the FFDCA, EPA recognizes the obligations of the United States to comply with the procedural obligations under the World Trade Organization's Sanitary and Phytosanitary Measures Agreement (SPS Agreement). Because the proposal is a regulation subject to the requirements of the SPS Agreement, EPA intends to comply with the provisions of that Agreement, including those related to notification and implementation, including allowing for a 6-month delay in the exemption revocation to provide exporting countries a period of time to adjust to the U.S. new tolerances. In any event, the revocation in this proposal is not discriminatory and is designed to ensure that both domestically produced and imported foods meet the food safety standard established by the FFDCA.

VII. Conclusion

EPA proposes to revoke the existing tolerance exemption for residues of BLAD in or on all food commodities as established in the **Federal Register** of March 22, 2013 (78 FR 17600) (FRL–9380–6) under section 408 of the FFDCA. Based on the available information, EPA can no longer support the safety finding necessary to maintain the exemption. Notwithstanding the Agency's conclusions concerning the unlimited exemption, the Agency has determined that the available information supports a safety finding for the tolerances for residues of BLAD in or on almond; almond, hulls; fruit, pome, group 11–10; fruit, stone, group 12–12; grape; hops, dried cones; strawberry; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8–10 at 0.02 ppm. Therefore, EPA is proposing to establish tolerances for residues of BLAD on those commodities.

VIII. References

The following is a listing of the documents that are specifically

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

1. U.S. Food and Drug Administration (FDA). Letter from Michael A. Adams, Ph.D., Deputy Director of Office of Food Additive Safety (FAS), Center for Food Safety and Applied Nutrition (CFSAN) to Menyon Adams, Biopesticides and Pollution Prevention Division (BPPD), Office of Pesticide Programs (OPP), re: Docket Number EPA–HQ–OPP–2011–1026. May 21, 2013.
2. Food and Agriculture Organization of the United Nations (FAO)/World Health Organization (WHO). Evaluation of Allergenicity of Genetically Modified Foods: Report of a Joint FAO/WHO Expert Consultation on Allergenicity of Foods Derived from Biotechnology. January 2001.
3. WHO/FAO. Codex Alimentarius: Foods Derived from Modern Biotechnology. 2009.
4. U.S. Environmental Protection Agency (EPA). Memorandum from Miachel Rexrode, Ph.D., Senior Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD). Request for New Product Registration for β-Conglutin Section 3 with Tolerance. May 24, 2012.
5. European Food Safety Authority (EFSA). Opinion of the Scientific Panel on Dietetic Products, Nutrition and Allergies on a Request from the Commission Related to the Evaluation of Lupin for Labelling Purposes. (Request No. EFSA–Q–2005–086). The EFSA Journal (2005) 302, 1–11. December 6, 2005.
6. U.S. EPA. Memorandum from John L. Kough, Ph.D., Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD). Review of Allergenicity Decisions on BLAD. December 9, 2015.
7. U.S. EPA. Memorandum from Robert McNally, Director, BPPD, OPP to Dennis M. Keefe, Ph.D., Director, CFSAN, FAS. Request for Specific Input from FDA to Assist EPA in Addressing Comments Received in Response to EPA's Proposal Regarding Banda de *Lupinus alba* doce (BLAD). December 7, 2015.
8. U.S. Department of Health and Human Services (HHS). Memorandum from Stefano Luccioli, MD, Medical Officer, FAS, CFSAN to Dennis Keefe, Ph.D., Director, FAS, CFSAN. Response to EPA Questions in Memorandum Dated December 7, 2015, Regarding BLAD Biopesticide. December 17, 2015.
9. EFSA NDA Panel (EFSA Panel on Dietetic Products, Nutrition and Allergies), 2014. Scientific Opinion on the Evaluation of Allergenic Foods and Food Ingredients for Labelling Purposes. EFSA Journal 2014;12(11):3894, 286 pp. doi:10.2903/j.efsa.2014.3894. November 26, 2014.
10. Commission Directive 2006/142/EC (December 22, 2006), amending Annex IIIa of European Directive 2000/13/EC (March 20, 2000).
11. U.S. FDA. Allergies to a Legume Called Lupin: What You Need to Know. *https://www.fda.gov/consumers/consumer-updates/allergies-legume-called-lupin-what-you-need-know* (last checked May 31, 2019).
12. U.S. FDA. Frequently Asked Questions on Lupin and Allergenicity. *https://www.fda.gov/food/food-additives-petitions/lupin-and-allergenicity-frequently-asked-questions* (last checked May 30, 2019).
13. World Health Organization/International Union of Immunological Sciences. Allergen Nomenclature. Allergen details for Lup an 1. *http://www.allergen.org/viewallergen.php?aid=421* (last checked May 31, 2019).
14. U.S. EPA. Memorandum from Miachel Rexrode, Ph.D., Senior Biologist (BPPD) to Linda Hollis, Chief, Biochemical Pesticides Branch (BPB), BPPD. BLAD Data Requirements. May 15, 2013.
15. U.S. EPA. Memorandum from Miachel Rexrode, Ph.D., Senior Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD). Evaluation of New Serum Testing and Field Residue Decline Study for BLAD. June 6, 2014. As corrected by the following document: U.S. EPA. Memorandum from Miachel Rexrode, Ph.D., Senior Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD). December 28, 2016.
16. U.S. EPA. Memorandum from John L. Kough, Ph.D., Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD) and Linda Hollis, Branch Chief, BPB, BPPD. Review of FDA Interactions on the Allergenicity Assessment of Banda de *Lupinus alba* (BLAD) from CEV. August 23, 2016.
17. U.S. EPA. Memorandum from John L. Kough, Ph.D., Biologist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD). Review of Crop Groupings for PROBLAD PLUS. June 26, 2019.
18. U.S. EPA. Memorandum from Judy Facey, Ph.D., Associate Branch Chief (Acting), BPB, BPPD and John L. Kough, Ph.D., Senior Scientist (BPPD) to Menyon Adams, Regulatory Action Leader (BPPD) and Linda Hollis, Branch Chief, BPB, BPPD. ChemSAC Conclusion on: Potential BLAD Residues in Meat or Milk from Almond Hull Feed Consumption Resulting from Almond Treatment. January 24, 2017.
19. U.S. EPA. Memorandum from Denise Keehner, Division Director, Biological and Economic Analysis Division, OPP to Public Docket concerning Tolerance Revocation Rulemaking, Proposed or Final. RFA/SBREFA Certification for Import Tolerance Revocation. May 25, 2001.

IX. Statutory and Executive Order Reviews

Although this proposed action would revoke an existing exemption from the requirement of a tolerance, it also would establish new tolerances that would cover pesticide chemical residues resulting from existing registered uses under FFDCA section 408(e). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), and 13563, entitled *Improving Regulation and Regulatory Review* (76 FR 3821, January 21, 2011). As a result, 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). Nor does it require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). Nor is this action considered a regulatory action subject to review 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 (44 U.S.C. 3501 *et seq.*); does not 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); and 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 (15 U.S.C. 272 note).

This action directly regulates growers, food processors, food handlers, and food retailers, but it does not regulate State or tribal governments. Nor does this action alter the relationships or distribution of power and responsibilities established in the preemption provisions of FFDCA section 408(n)(4). Therefore, the Agency has determined that Executive Orders 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), and 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, contain any unfunded mandate, or

otherwise significantly or uniquely affect small governments as described in the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications and for tolerance revocations were published in the **Federal Register** of May 4, 1981 (46 FR 24950) (FRL–1809–5) and December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (Ref. 19). Furthermore, for BLAD, the Agency knows of no extraordinary circumstances that exist as to the present proposed rule that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposed rule and will be addressed prior to issuing a final rule.

List of Subjects in 40 CFR Part 180

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

Dated: January 21, 2020.

Richard Keigwin,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be 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. Add § 180.707 to subpart C to read as follows:

§ 180.707 Banda de Lupinus albus doce (BLAD); tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide banda de *Lupinus albus* doce (BLAD), including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only BLAD in or on the following commodities.

Commodity	Parts per million
Almond	0.02
Almond, hulls	0.02
Fruit, pome, group 11–10	0.02
Fruit, stone, group 12–12	0.02
Grape	0.02
Hops, dried cones	0.02
Strawberry	0.02
Vegetable, cucurbit, group 9	0.02
Vegetable, fruiting, group 8–10	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 3. Revise § 180.1319 in subpart D to read as follows:

§ 180.1319 Banda de Lupinus albus doce (BLAD); exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the residues of Banda de *Lupinus albus* doce (BLAD), a naturally occurring polypeptide from the catabolism of a seed storage protein (β-conglutin) of sweet lupines (*Lupinus albus*), in or on all food commodities when applied as a fungicide and used in accordance with label directions and good agricultural practices. This exemption expires on [*date 6 months after date of publication of final rule in the* **Federal Register**].

[FR Doc. 2020–02665 Filed 2–10–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0041; FRL–10005–02]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (October 2019)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov;* or Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 and/or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Amended Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–11306.* (EPA–HQ–OPP–2019–0593). Spring Trading Company (203 Dogwood Trail, Magnolia, TX 77354) on behalf of Stepan Company, requests to amend an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of N,N-dimethyl 9-decenamide (CAS Reg. No. 1356964–77–6) and N,N-dimethyldodecanamide (CAS Reg. No. 3007–53–2) by increasing the current limitation from 20% to unlimited when used as a pesticide inert ingredient (solvent/co-solvent) in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11307.* (EPA–HQ–OPP–2019–0601). Ecolab Inc., 1 Ecolab Place, St. Paul, MN 55102, requests to amend an exemption from the requirement of a tolerance for residues of 2,6-pyridinedicarboxylic acid (CAS Reg. No. 499–83–2) by expanding the current exemption to 180.940(a) and increasing the limit to 2 parts per million (ppm) when used as a pesticide inert ingredient in pesticide formulations applied to hard, non-porous food-contact surfaces in public eating places, dairy processing equipment, and food-processing equipment and utensils and establishing an exemption from the requirement of a tolerance in 180.910, limited 2 ppm when used in pesticide formulations applied to growing crops. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

B. Amended Tolerances for Inerts

PP IN–11306. (EPA–HQ–OPP–2019–0593). Spring Trading Company, 203 Dogwood Trail, Magnolia, TX 77354, on behalf of Stepan Company, requests to amend an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of N,N-dimethyl 9-decenamide (CAS Reg. No. 1356964–77–6) and N,N-dimethyldodecanamide (CAS Reg. No. 3007–53–2) by increasing the current limitation from 20% to unlimited when used as a pesticide inert ingredient (solvent/co-solvent) in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. Amended Tolerances for Non-Inerts

1. *PP 9E8766.* (EPA–HQ–OPP–2019–0162). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to amend 40 CFR 180.566 by removing the established tolerances for residues of fenpyroximate plus its *Z*-isomer, determined by measuring the sum of fenpyroximate, (*E*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl)methylene]amino]oxy]methyl] benzoate and its *Z*-isomer, (*Z*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl) methylene]amino]oxy]methyl]benzoate, calculated as the stoichiometric equivalent of fenpyroximate, in or on the raw agricultural commodities of: Avocado at 0.15 ppm; canistel at 0.15 ppm; mango at 0.15 ppm; papaya at 0.15 ppm; sapote, black at 0.15 ppm; and star apple at 0.15 ppm. *Contact:* RD.

2. *PP 9E8771.* (EPA–HQ–OPP–2019–0460). IR–4, Rutgers, The State University of New Jersey, 500 College

Road East, Suite 201 W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP# 9E8771, to remove existing tolerances in 40 CFR 180.679 for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5H)-furanone, including its metabolites and degradates in or on *Brassica,* head and stem subgroup 5A at 6.0 ppm, *Brassica,* leafy greens subgroup 5B at 40 ppm; cactus, fruit at 0.30 ppm; cilantro, fresh leaves at 30 ppm; coffee, green bean (import tolerance) at 1.5 ppm; leaf petioles, subgroup 4B at 9.0 ppm; leafy greens, subgroup 4A at 30 ppm; pitaya at 0.30 ppm; and turnip greens at 40 ppm. *Contact:* RD.

3. *PP 9E8778.* (EPA–HQ–OPP–2019–0526). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to amend 40 CFR 180.635 by removing the following spinetoram tolerances: Brassica, head and stem, subgroup 5A at 2.0 ppm; brassica, leafy greens, subgroup 5B at 10 ppm; vegetable, leafy, except brassica, group 4 at 8 ppm; and cranberry at 0.04 ppm. *Contact:* RD.

4. *PP 9E8779.* (EPA–HQ–OPP–2019–0525). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to amend 40 CFR 180.495 by removing the following spinosad tolerances: Brassica, head and stem, subgroup 5A at 2.0 ppm; brassica, leafy greens, subgroup 5B at 10 ppm; vegetable, leafy, except brassica, group 4 at 8 ppm; and cranberry at 0.01 ppm. *Contact:* RD.

D. New Tolerance Exemptions for Inerts (Except PIPs)

1. *PP IN–11284.* (EPA–HQ–OPP–2019–0591). Spring Trading Company (203 Dogwood Trail, Magnolia, TX 77354) on behalf of Sasol Chemicals (USA) LLC (Sasol) (12120 Wickchester Lane, Houston, TX 77224) requests to establish an exemption from the requirement of a tolerance for residues of 1-undecanol (CAS No. 112–42–5), 1-tetradecanol (CAS No. 112–72–1), 1-octadecanol (CAS No. 112–92–5), 1-eicosanol (CAS No. 629–96–0), 1-docosanol (CAS No. 661–19–8), Alcohols, C16–18, distn. Residues (CAS No. 68603–17–8 & CAS No. 1190630–03–5), Alkenes, C18–22, mixed with polyethylene, oxidized, hydrolyzed, distn. Residues from C16–18 alcs. Manuf. (CAS No. 1430895–61–6), Alkenes, C18–22, mixed with polyethylene, oxidized, hydrolyzed, distn. Residues from C20–22 alcs. Manuf. (CAS No. 1430895–62–7) when used as inert ingredients (carriers/adjuvants and as coating agents/binders) in pesticide formulations applied to growing crops pre- and post-harvest under 40 CFR 180.910, growing crops pre-harvest under 40 CFR 180.920, in/on animals under 180.930, and in antimicrobial formulations under 40 CFR 180.940(a). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11316.* (EPA–HQ–OPP–2019–0594). Verto Solutions, ''VS'', 1101 17th Street, NW Suite 700, Washington, DC 20036, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.940(a) for residues of various fragrances (CAS Nos. multiple) when used as a pesticide inert ingredient in antimicrobial pesticide formulations for use on food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils at end-use concentrations not to exceed 100 ppm. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

3. *PP IN–11339.* (EPA–HQ–OPP–2019–0610). Lamberti USA, Incorporated, P.O. Box 1000, Hungerford TX 77448, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.960 for residues of 2-Propenoic acid, homopolymer, ester with α-methyl-ω-hydroxypoly(oxy-1,2-ethanediyl) and α-[2,4,6-tris(1-phenylethyl)phenyl]-ω-hydroxypoly(oxy-1,2-ethanediyl), graft, sodium salt (CAS Reg. No. 2221936–17–8) when used as a pesticide inert ingredient in pesticide formulations as dispersants, emulsifiers, surfactants and related adjuvants of surfactants. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

4. *PP IN–11344.* (EPA–HQ–OPP–2019–0602). Solvay USA Inc., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.960 for residues of Poly(oxy-1,2-ethanediyl), α-sulfo-ω-hydroxy-, C10- 16-alkyl ethers, sodium salts (where average number of moles of oxyethylene = 30) (CAS Reg. No. 68585–34–2) when used as a pesticide inert ingredient in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

5. *PP IN–11359.* (EPA–HQ–OPP–2019–0607). Milliken Chemical, 920 Milliken Road, Spartanburg, SC 29303, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.920 for residues of Poly(oxy-1,2-ethanediyl), *alpha, alpha*′-{[[4-[(3-sulfophenyl)azo]phenyl]imino]di-2,1-ethanediyl}bis[omega-hydroxy-, monosodium salt (CAS Reg. No. not available) when used as a pesticide inert ingredient in pesticide formulations applied pre-harvest and not to exceed 20% wt/wt (weight/weight). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

E. New Tolerances for Non-Inerts

1. *PP 8F8704.* (EPA–HQ–OPP–2019–0560). FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide bifenthrin, in or on sunflower (crop subgroup 20B) at 0.01 ppm. The Gas Chromatography with Electron Capture Detection (GC/ECD) method is used to measure and evaluate the chemical bifenthrin residues. *Contact:* RD.

2. *PP 8F8710.* (EPA–HQ–OPP–2019–0074). SePRO Corporation, 11550 North Meridian Street, Suite 600, Carmel, IN 46032, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide fluridone in or on avocados, mandarins, pomegranates, pistachios, and the stone fruit group (crop group 12) at 0.1 ppm. The enzyme-linked immunosorbant assay (ELISA), high performance liquid chromatography with ultraviolet detection (HLPC/UV), and liquid chromatography with tandem mass spectroscopy (LC–MSMS) and QuEChERS are used to measure and evaluate the chemical fluridone. *Contact:* RD.

3. *PP 9E8757.* (EPA–HQ–OPP–2019–0492). Nissan Chemical Corporation; 5–1, Nihonbashi 2-Chome Chuo-Ku; Tokyo 101–6119 Japan c/o Lewis and Harrison; 2461 South Clark Street, Suite 710, Arlington, VA 22202 requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, fluxametamide, in or on tea at 5 ppm. An independent laboratory validation (ILV) was performed for the methods used to determine residues in crude green tea leaves using a quantification ion transition methodology. *Contact:* RD.

4. *PP 9E8762.* (EPA–HQ–OPP–2019–0389). IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ

08540, requests to establish a tolerance in 40 CFR part 180.614 for residues of kasugamycin, (3-O-[2-amino-4-[(carboxyimino-methyl)amino]-2,3,4,6-tetradeoxy-α-D-arabino-hexopyranosyl]-D-chiro-inositol), in or on almond at 0.04 ppm, almond, hulls at 0.4 ppm, apricot at 0.6 ppm, and peach subgroup 12–12B at 0.4 ppm. The analytical method # Meth-146, Revision #4 is used to measure and evaluate the chemical. *Contact:* RD.

5. *PP 9E8766.* (EPA–HQ–OPP–2019–0386). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of fenpyroximate plus its *Z*-isomer, determined by measuring the sum of fenpyroximate, (*E*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl)methylene]amino]oxy]methyl] benzoate and its *Z*-isomer, (*Z*)-1,1-dimethylethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1*H*-pyrazol-4-yl) methylene]amino]oxy]methyl]benzoate, calculated as the stoichiometric equivalent of fenpyroximate in or on the raw agricultural commodities of peanut at 0.04 ppm; peanut, hay at 30 ppm; and tropical and subtropical, medium to large fruit, smooth, inedible peel, subgroup 24B, except banana at 0.6 ppm. An enforcement method has been developed which involves extraction of fenpyroximate and the M-1 Metabolite from crops with ethyl acetate in the presence of anhydrous sodium sulfate, dilution with methanol, and then analysis by high performance liquid chromatography using tandem mass spectrometric detection (LC/MS/MS). The method has undergone independent laboratory validation as required by PR Notice 88–5 and 96–1. *Contact:* RD.

6. *PP 9E8771.* (EPA–HQ–OPP–2019–0460). IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180.679 for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5H)-furanone, including its metabolites and degradates in or on brassica, leafy greens, subgroup 4–16B at 40 ppm, celtuce at 9 ppm, coffee, green bean at 1.5 ppm, fennel, florence, fresh leaves and stalk at 9 ppm, kohlrabi at 6 ppm, leaf petiole vegetable subgroup 22B at 9 ppm, leafy greens subgroup 4–16A at 30 ppm, pineapple at 0.3 ppm, tropical and subtropical, inedible peel, cactus, subgroup 24D at 0.3 ppm, tropical and subtropical, palm fruit, edible peel, subgroup 23C at 8 ppm, sesame, seed at 3 ppm, stalk and stem vegetable subgroup 22A, except prickly pear, pads, and prickly pear, Texas, pads at 0.01 ppm, sunflower subgroup 20B at 0.7 ppm, and vegetable, *brassica,* head and stem, group 5–16 at 6 ppm. Additionally, (c) a tolerance with a regional restriction is being proposed for residues of the insecticide flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5H)-furanone, including its metabolites and degradates in or on the raw agricultural commodity: Grass, forage, fodder and hay, group 17 at 15 ppm. The high-performance liquid chromatography-electrospray ionization/tandem mass spectrometry (HPLC/MS/MS) is used to measure and evaluate the chemical. *Contact:* RD.

7. *PP 9E8778.* (EPA–HQ–OPP–2019–0526). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of the insecticide spinetoram, including its metabolites and degradates in or on the raw agricultural commodities dragon fruit at 1.5 ppm; vegetable, brassica, head and stem, group 5–16 at 2.0 ppm; kohlrabi at 2.0 ppm; brassica, leafy greens, subgroup 4–16B at 10 ppm; leafy greens subgroup 4–16A at 8.0 ppm; leaf petiole vegetable subgroup 22B at 8.0 ppm; celtuce at 8.0 ppm; fennel, Florence, fresh leaves and stalk at 8.0 ppm; and berry, low growing, except strawberry, subgroup 13–07H at 0.04 ppm. Adequate analytical methods are available for enforcement purposes for spinetoram in plant and animal matrices. *Contact:* RD.

8. *PP 9E8779.* (EPA–HQ–OPP–2019–0525). IR–4, IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of the insecticide spinosad, including its metabolites and degradates in or on the raw agricultural commodities dragon fruit at 1.5 ppm; vegetable, brassica, head and stem, group 5–16 at 2.0 ppm; kohlrabi at 2.0 ppm; vegetable, leafy, group 4–16 at 10.0 ppm; celtuce at 10.0 ppm; fennel, Florence, fresh leaves and stalk at 10.0 ppm; leaf petiole vegetable Subgroup 22B at 10.0 ppm; and berry, low growing, except strawberry, subgroup 13–07H at 0.01 ppm. Adequate analytical methods are available for enforcement purposes for spinosad in plant, ruminant, poultry, fish, and shellfish. *Contact:* RD.

9. *PP 9F8734.* (EPA–HQ–OPP–2016–0416). BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528, requests to establish a tolerance for residues of the insecticide afidopyropen in or on the following raw agricultural commodities: Alfalfa seed at 0.30 ppm; animal feed, nongrass, group 18, forage at 4.0 ppm; animal feed, nongrass, group 18, hay at 9.0 ppm; animal feed, nongrass, group 18, straw at 5.0 ppm; egg at 0.02 ppm; grain, aspirated fractions at 20 ppm; grass, forage, fodder and hay, group 17 at 10.0 ppm; poultry, meat byproducts at 0.02 ppm; sorghum, grain, grain at 0.20 ppm; sorghum, grain, forage at 0.30 ppm; sorghum, grain, stover at 0.30 ppm; sorghum, sweet, grain at 0.20 ppm; sorghum, sweet, forage at 0.30 ppm; sorghum, sweet, stalk at 0.30 ppm; sorghum, sweet, stover at 0.30 ppm; soybean, forage at 0.15 ppm; and soybean, hay at 0.40 ppm, and on the following animal commodities: Cattle, meat at 0.25 ppm; cattle, meat byproducts at 0.15 ppm; goat, meat at 0.25 ppm; goat, meat byproducts at 0.15 ppm; hog, meat at 0.02 ppm; hog, meat byproducts at 0.06 ppm; horse, meat at 0.25 ppm; horse, meat byproducts at 0.15 ppm; milk at 0.04 ppm; sheep, meat at 0.25 ppm; and sheep, meat byproducts at 0.15 ppm. BASF Corporation is also proposing to raise the existing tolerance for almond, hulls to 0.30 ppm. Suitable tolerance enforcement methods for plants and livestock using LC–MS/MS analyses were submitted for the analysis of afidopyropen. The reported limit of quantitation (LOQ) of each method is 0.01 ppm for afidopyropen. *Contact:* RD.

10. *PP 9F8737.* (EPA–HQ–OPP–2017–0155). Gowan Company, LLC, P.O. Box 556 Yuma, AZ 85366, requests to establish a tolerance for residues of the insecticide hexythiazox and its metabolites in or on the following raw agricultural commodities: Date, dried fruit at 3 ppm and caneberry crop subgroup 13–07A at 3 ppm. The basic analytical method was previously reviewed by the Agency in association with the establishment of the current tolerances with registrations of multiple commodities. The analytical methods used in a new date raw agricultural commodities study and a new raspberry raw agricultural commodities study are described fully in the study report, which is submitted concurrently with this petition. *Contact:* RD.

11. *PP 9F8774.* (EPA–HQ–OPP–20119–0384). FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish a tolerance for residues of the insecticide indoxacarb in or on the following raw agricultural commodities: Nut, tree, group 14–12 at 0.07 ppm and nut, almond, hulls at 9 ppm. The plant residue enforcement

method detects and quantitates indoxacarb in various matrices including tree nuts, field corn, sweet corn, lettuce, tomato, broccoli, apple, grape, cottonseed, peanut and soybean commodity samples by LC–MS/MS. The limit of quantification in the method (0.010 ppm) allows monitoring of crops with KN128/KN127 residues at or above the levels proposed in these tolerances. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: February 6, 2020.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2020–02700 Filed 2–10–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 85, No. 28
Tuesday, February 11, 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

Submission for OMB Review; Comment Request

February 6, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 11, 2020 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Quality Control Review Schedule (FNS 380)

OMB Control Number: 0584–0074

Summary of Collection: Section 16 of the Food and Nutrition Act of 2008 provides the legislative basis for the operation of the Quality Control (QC) system. Part 275, Subpart C, of SNAP regulations implements the legislative mandates found in Section 16. Regulations at 7 CFR 275.1, 275.14(d) and 275.21(a) and (b)(1) provide the regulatory basis for the QC reporting requirements. Section 11(a) of the Food and Nutrition Act of 2008 provides the legislative basis for the recordkeeping requirements. SNAP regulations, at 7 CFR 272.1(f), specify that program records must be retained for three years from the month of origin. Regulations at 7 CFR 275.4 specifically address record retention requirements for form FNS–380.

State agencies are required to perform Quality Control (QC) reviews for the Supplemental Nutrition Assistance Program (SNAP). In order to determine the accuracy of SNAP benefits authorized by State agencies, a statistical sample of SNAP cases is selected for review from each State agency. Relevant information from the case record, investigative work and documentation about individual cases is recorded on the form FNS–380, Worksheet for SNAP Quality Control Reviews.

The purpose is for State agencies to analyze each household case record including planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review of data and forwarding selected cases to the Food and Nutrition Service for Federal validation, for the entire caseload.

Need and Use of the Information: Form FNS–380, is a SNAP worksheet used to determine eligibility and benefits for households selected for review in the quality control sample of active cases and to ensure program integrity. FNS will produce a report of our findings.

Description of Respondents: 53 State, Local, or Tribal Government; 45,497 Individuals/Households

Number of Respondents: 45,550

Frequency of Responses: Reporting; Recordkeeping: Annually

Total Burden Hours: 405,995

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–02659 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2020–0003]

Notice of Request for Revision of an Approved Information Collection (Advanced Meat Recovery)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request renewal of an approved information collection regarding the regulatory requirements associated with the production of meat from advanced meat recovery (AMR) systems. There are no changes to the existing information collection. The approval for this information collection will expire on May 31, 2020.

DATES: Submit comments on or before April 13, 2020.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400

Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2020–0003. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Advanced Meat Recovery.

OMB Number: 0583–0130.

Expiration Date of Approval: 5/31/2020.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*). This statute mandates that FSIS protect the public by verifying that meat products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is announcing its intention to request renewal of the approved information collection regarding the regulatory requirements associated with the production of meat from advanced meat recovery systems. There are no changes to the existing information collection. The approval for this information collection will expire on May 31, 2020.

The regulations at 9 CFR 318.24 state that meat, as defined in 9 CFR 301.2, may be derived by mechanically separating skeletal muscle tissue from the bones of livestock, other than skulls or vertebral column bones of cattle 30 months of age and older as provided in 9 CFR 310.22, using advances in mechanical meat/bone separation machinery (*i.e.,* AMR systems) that, recover meat (1) without significant incorporation of bone solids or bone marrow as measured by the presence of calcium and iron in excess of the requirements in this section, and (2) without the presence of any brain, trigeminal ganglia, spinal cord, or dorsal root ganglia. As a prerequisite to labeling or using AMR product, establishments are to develop, implement, and maintain written procedures that ensure that the establishment's production process is in control, which includes testing for calcium, iron, spinal cord, and dorsal root ganglia, documenting testing protocols, handling product in a manner that does not cause product to be misbranded or adulterated, and maintaining records on a daily basis sufficient to document the implementation and verification of its production process.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of a half hour per response.

Respondents: Official establishments that produce meat from AMR systems.

Estimated No. of Respondents: 47.

Estimated No. of Annual Responses per Respondent: 900.

Estimated Total Annual Burden on Respondents: 21,159 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.),

should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2020–02697 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2020–0001]

Notice of Request for Renewal of an Approved Information Collection (Nutrition Labeling of Major Cuts of Single-Ingredient Raw Meat or Poultry Products and Ground or Chopped Meat and Poultry Products)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request renewal of the approved information collection regarding nutrition labeling of the major cuts of single-ingredient raw meat or poultry products and ground or chopped meat and poultry products. There are no changes to the existing information collection. The approval for this information collection will expire on May 31, 2020.

DATES: Submit comments on or before April 13, 2020.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2020–0001. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Nutrition Labeling of Major Cuts of Single-Ingredient Raw Meat or Poultry Products and Ground or Chopped Meat and Poultry Products.

OMB Number: 0583–0148.

Expiration Date of Approval: 5/31/2020.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is announcing its intention to request renewal of the approved information collection regarding nutrition labeling of the major cuts of single-ingredient raw meat or poultry products and ground or chopped meat and poultry products. There are no changes to the existing information collection. The approval for this information collection will expire on May 31, 2020.

FSIS requires nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products, unless an exemption applies. Major cuts are defined in the regulations and include such products as Beef Chuck Blade Roast, Beef Brisket, Chicken Breast, Turkey Thigh as found in 9 CFR 317.344 and 9 CFR 381.444 For these products, the nutrition labeling may be on the package or at point of purchase. FSIS also requires nutrition labels on all ground or chopped meat and poultry products, with or without added seasonings, unless an exemption applies. Further, the nutrition labeling requirements for all ground or chopped meat and poultry products are consistent with the nutrition labeling requirements for multi-ingredient and heat processed products (9 CFR 381.400(a), 9 CFR 317.300(a), 9 CFR 317.301(a), 9 CFR 381.401(a)).

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of a half hour per response.

Respondents: Official establishments, grocery stores and warehouses.

Estimated No. of Respondents: 76,439.

Estimated No. of Annual Responses per Respondent: 1.77.

Estimated Total Annual Burden on Respondents: 67,861 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS

Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Carmen M. Rottenberg,

Administrator.

[FR Doc. 2020–02690 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection associated with SNAP benefit storage and expungement provisions of the 2008 and 2018 Farm Bills. This collection involves both a new collection and an existing collection in use without an OMB control number which is in violation of the Paperwork Reduction Act. The new collection is for providing SNAP households advance or concurrent notice prior to the State agency expunging unused SNAP benefits from the household's Electronic Benefit Transfer (EBT) account due to nine months of account inactivity. The existing collection is for providing SNAP households advance or concurrent notice of State agency action to store unused SNAP benefits offline due to three or more months of account inactivity and for those households to seek reinstatement of benefits prior to permanent expungement.

DATES: Written comments must be received on or before April 13, 2020.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this information collection. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Comments should be addressed to Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, 1320 Braddock Place, Alexandria, Virginia 22314.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Vicky Robinson at 703–305–2476.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: SNAP Benefit Storage and Expungement.

Form Number: Not Applicable.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: New information collection.

Abstract: The Department published a proposed rule, titled ''RIN–0584–AD02 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes,'' published on September 29, 2016, (81 FR 66866), to implement the mandatory Supplemental Nutrition Assistance Program (SNAP) benefit storage and expungement provisions of the Food, Conservation and Energy Act of 2008, Public Law 110–234 (2008 Farm Bill). However, the Department published the proposed rule without taking into consideration the paperwork reduction act burden activities and publishing a 60-day notice to allow the public to provide comments. While the off-line notice and reinstatement provisions had already been codified in SNAP regulations and, therefore, are not new requirements, the 2008 Farm Bill makes the State option to take inactive SNAP benefits off-line and the associated requirements statutory. In the final rule, the Department also intends to adopt as final the provisions in the Agriculture Improvement Act of 2018, Public Law 115–334 (2018 Farm Bill), which makes additional mandatory changes to the provisions governing the storage and expungement of unused benefits.

These Farm Bill provisions require State agencies to provide a 30-day advance notice to Individuals/Households (SNAP recipients) in order to permanently expunging unused SNAP benefits after nine months of

inactivity. State agencies that opt to take unused benefits off-line after three months of SNAP Electronic Benefit Transfer (EBT) account inactivity must also provide up to 10 days advance or concurrent notice to the SNAP recipient before taking such action and to reinstate benefits stored off-line within 48 hours of an Individual/Household's request if the benefits have not reached the expungement timeframe. Currently, only six State agencies are exercising the option to store unused benefits off-line prior to expungement, which is depicted in the burden estimates.

The Department has identified and outlined these activities and the estimated burden hours associated with (1) Expungement Notice (2) Off-line Storage Notice and (3) Off-line Benefit Reinstatement for Individuals/Households and State Agencies.

1. Expungement Notice

Affected Public: (a) Individuals/Households and (b) State agencies: Respondent groups identified include: (1) 2,961,834 Households (Approximately 16 percent of all SNAP households nationwide) who do not access their benefits within nine months and (2) 53 State SNAP agencies.

a. Individuals/Households Annual Burden

Estimated Annual Number of Respondents: 2,961,834.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 2,961,834.

Estimated Annual Time per Response: 2 minutes or 0.0334 hours.

Estimated Total Annual Burden on Respondents: 98,925 hours.

b. State Agency Annual Burden

Estimated Annual Number of Respondents: 53.

Estimated Annual Number of Responses per Respondent: 55,884.

Estimated Total Annual Responses: 2,961,852.

Estimated Annual Time per Response: 30 seconds or 0.0083 hours.

Estimated Total Annual Burden on Respondents: 24,583 hours.

2. Off-Line Storage Notice

Affected Public: (a) Households and (b) State agencies: Respondent groups identified include: (1) 540,818 SNAP households (Approximately 14 percent of all SNAP households in the six States that currently take benefits off-line) who do not access their benefits within three months and (2) Six State SNAP agencies that have opted to store unused benefits off-line.

a. Indvidual/Household Annual Burden

Estimated Number of Respondents: 540,818.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 540,818.

Estimated Time per Response: 3.5 minutes or .0583 hours.

Estimated Total Annual Burden on Respondents: 31,530 hours.

b. State Agency Annual Burden

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 90,136.

Estimated Total Annual Responses: 540,818.

Estimated Time per Response: 30 seconds or 0.0083 hours.

Estimated Total Annual Burden on Respondents: 4,489 hours.

3. Off-line Benefit Reinstatement

Affected Public: (a) Households and (b) State agencies: Respondent groups identified include: (1) 33,260 SNAP households (Approximately 6 percent of the estimated number of households whose benefits are taken off-line) who get their off-line benefits reinstated and (2) Six State SNAP agencies that have opted to store unused benefits off-line.

a. Individual/Household Annual Burden

Estimated Number of Respondents: 33,260.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 33,260.

Estimated Time per Response: 5 minutes or 0.0835 hours.

Estimated Total Annual Burden on Respondents: 2,777 hours.

b. State Agency Annual Burden

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 5,543.

Estimated Total Annual Responses: 33,260.

Estimated Time per Response: 3 minutes or .0501 hours.

Estimated Total Annual Burden on Respondents: 1,666 hours.

The grand total annual burden hours is 163,970.49 (133,232.16 for individuals/households + 30,738.34 for State agencies) and 5,923,688 total annual responses (2,961,834 for individuals/household + 2,961,834 for State agencies).

Respondent	CFR citation	Activity	Estimated annual number respondent	Responses annually per respondent	Total annual responses	Estimated average number of hours per response annually	Estimated annual total hours
Individuals or Households SNAP Recipients.	TBD	Expungement Notice	2,961,834	1	2,961,834	0.0334	98,925
	TBD	Off-line Storage Notice	540,818	1	540,818	0.0583	31,530
	TBD	Off-line Benefit Reinstatement	33,260	1	33,260	0.0835	2,777
Sub-total of Individual/Households SNAP Recipients.			2,961,834	1	2,961,834	0.1752	133,232
State Agencies	TBD	Expungement Notice	53	55,884	2,961,834	0.0083	24,583
	TBD	Off-line Storage Notice	6	90,136	540,818	0.0083	4,489
	TBD	Off-line Benefit Reinstatement	6	5,543	33,260	0.0501	1,666
Sub-total of State Agencies			53	55,884	2,961,834	0.0677	30,738
Grand Total Reporting Burden with both Affect Public.			2,961,887	2	5,923,668	0.0277	163,970

Dated: February 5, 2020.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–02687 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Umatilla National Forest, Columbia County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Umatilla National Forest, Columbia County Resource Advisory Committee will meet in Dayton, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to conduct general business and review proposed projects.

DATES: The meeting will be held on March 16, 2020, and will begin at 6:00 p.m.

All RAC 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 at the Best Western Hotel, 507 E Main St., Dayton, WA.

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 Walla Walla Ranger District, 1415 West Rose Street, Walla Walla, WA 99362. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Mike Rassbach, RAC Designated Federal Official, USDA Umatilla National Forest, Walla Walla Ranger District, 1415 West Rose Street, Walla Walla, WA 99362; (509) 522–6293; Email *mike.rassbach@usda.gov*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Idaho, Washington Relay Service at 1–800–377–3529, 24 hours a day, 365 days a year. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. The following business will be conducted: (1) Review of past projects and progress of continuing projects. (2) Discussion and selection of proposed projects and if there are participants, (3) Public Comment.

Individuals wishing to make an oral statement should request in writing by March 9, 2020, to be scheduled on the agenda. Persons who wish 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 Mike Rassbach, RAC Designated Federal Official, USDA Umatilla National Forest, Walla Walla Ranger District, 1415 West Rose Street, Walla Walla, WA 99362; by email to *mike.rassbach@usda.gov,* or via facsimile to 509–522–6000.

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: February 5, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–02610 Filed 2–10–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tri-County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tri-County Resource Advisory Committee (RAC) will meet in Deer Lodge, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/bdnf/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, March 25, 2020 at 9 a.m.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Powell County Community Center, 416 Cottonwood Avenue, Deer Lodge, MT 59722.

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 the Beaverhead-Deerlodge National Forest Supervisor's Office. Contact 406–683–3987 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jeanne Dawson, RAC Coordinator, by phone at 406–683–3987 or by email at *jeanne.dawson@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. Introduce the new RAC members;
2. Elect a Tri-County RAC Chairperson;
3. Discuss and determine if the RAC would recommend fee change proposals for developed recreation sites on National Forest lands;
4. Discuss and determine whether RAC funds will be used to fund committee members' travel costs to the public meetings;
5. Discuss and recommend new Title II projects.

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 Wednesday, March 11, 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 for oral comments must be sent to Jeanne Dawson, RAC Coordinator, 420 Barrett Street, Dillon, MT 59725; by email to *jeanne.dawson@usda.gov,* or via facsimile to 406–683–3855.

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: February 5, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–02611 Filed 2–10–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket ID NRCS–2020–0003]

Record of Decision on the Little Otter Creek Watershed Plan, Caldwell County, Missouri

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

ACTION: Record of decision.

SUMMARY: This notice of availability presents the Record of Decision (ROD) for the Final Supplemental Environmental Impact Statement (FSEIS) for the Little Otter Creek Watershed Plan (LOCWP) in Caldwell County, Missouri. This task has been to help plan and implement watershed projects. This notice announces the plan to proceed with the installation of the preferred alternative identified in the FSEIS. The preferred alternative, which includes the construction of a 344-acre multiple purpose reservoir, will avoid environmental impacts to the extent possible while minimizing and mitigating for impacts that are unavoidable.

FOR FURTHER INFORMATION CONTACT: Chris Hamilton, Assistant State Conservationist for Water Resources and Easements, at *chris.hamilton@usda.gov* or (573) 876–0912. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Decision

NRCS has decided to implement the LOCWP preferred alternative, which includes construction of a 344-acre multiple purpose reservoir while avoiding impacts to the extent possible and minimizing and mitigating for impacts that are unavoidable.

Background

The proposed Federal action includes providing technical assistance and financial assistance related to construction costs for one approximately 344-acre multiple purpose reservoir on Little Otter Creek, a water intake structure, a raw water line, fish and wildlife habitat enhancement, and recreational facilities. The purpose of the proposed Federal action is to:

- Provide approximately 1.24 million gallons per day (mgd) of locally-controlled raw water supply to meet the projected 50-year usage demand for Caldwell County;
- Provide approximately 60,000 annual recreational user-days; and
- Provide an approximately 96 percent reduction in annual flood damages in the 3.8 miles of Little Otter Creek between the reservoir and the confluence with Otter Creek.

The 6,323-acre Little Otter Creek Watershed is located two miles east of Hamilton in Caldwell County in northwest Missouri. It is a tributary to Otter Creek that drains to Shoal Creek; the Grand River, and the Missouri River.

Engineering reports dating back nearly 50 years document water supply problems in Caldwell County. Underlying geologic formations severely limit groundwater quality and availability. The Missouri Drought Plan places Caldwell County in a region classified as having ''severe surface and groundwater supply drought vulnerability.'' Digital models estimate that existing water sources could supply only 37 percent of the county's demand during the drought of record. In addition, the LOCWP documented annual flood damages to crop and pasture land, fences, roads and bridges. LOCWP also identified the need for additional recreational opportunities in the surrounding area.

At the request of the Caldwell County Commission and the Caldwell County Soil and Water Conservation District, NRCS began watershed planning activities in July 2000 under the authority of the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83–566, as amended, 16 U.S.C. 1001–1008). NRCS issued a notice of intent to prepare an Environmental Impact Statement (EIS) as published in the **Federal Register** on July 22, 2002 (67 FR 47766). On August 6, 2002, the voters of Caldwell County approved a one-half percent sales tax to assist in funding the local match for project installation. NRCS completed the LOCWP and EIS in March 2003 and announced a ROD to proceed with installation as published in the **Federal Register** on May 5, 2003 (68 FR 23692–23693). The project has not been installed because sufficient funding was not available. Installation of the proposed action will result in temporary and permanent impacts to jurisdictional waters of the United States requiring a Clean Water Act (CWA) section 404 permit. The U.S. Army Corps of Engineers (USACE) has not issued a section 404 permit for this project. Comments received during the EIS process suggested that a larger number of reasonable and practicable alternatives be considered. Potential impacts of all reasonable and practicable alternatives have been updated and analyzed in the Supplemental Environmental Impact Statement (SEIS) in compliance with section 404(b)(1) of the CWA. The USACE and the U.S. Environmental Protection Agency (EPA) completed an Approved Jurisdictional Determination in March 2010.

Alternatives

LOCWP established three project purposes: water supply, flood damage reduction, and recreation. The SEIS included a range of alternatives to address the three plan purposes. Reasonable alternatives were evaluated independently for each project purpose. Alternatives that met a project purpose were evaluated to estimate their environmental impacts. Alternatives that met one or two but not all three purposes were combined with other alternatives to develop multipurpose alternatives that met all three project purposes.

Water Supply

The planned water supply purpose is to provide a dependable long-term water supply to meet a projected 50-year demand of 1.24 mgd for Caldwell County residents. Nineteen water supply alternatives plus the No Action alternative were considered. The alternatives included various combinations of groundwater sources, streams and rivers, connecting to existing systems, existing lakes and five potential new reservoir locations.

Each alternative was screened for its ability to meet the water supply purpose and need by four selected criteria (below). Alternatives that met these criteria either alone or in combination with other alternatives were then evaluated to estimate the environmental impacts of each. The results of these evaluations were used to carry alternatives forward for further analysis.

- Alternatives must reliably provide 1.24 mgd of water during a drought equivalent to the drought of record in the 1950s to a centrally located site in Caldwell County near Hamilton, Missouri.
- Alternatives must comply with existing state and federal codes and regulations issued by the Missouri Department of Natural Resources, USEPA, and other agencies that may have jurisdiction over all or portions of the water supply infrastructure.
- Alternatives must provide raw or finished water of a quality that can be brought to current and future drinking water standards using treatment methods that are reasonable and typical for the region.
- Alternatives must provide a water supply through willing participation of potential suppliers.

Five alternatives met the water supply purpose and need criteria and were carried forward to be considered in the multipurpose analysis.

Flood Damage Reduction

A planned goal of 60 percent reduction in annual flood damages was selected. This value was high enough to provide significant benefits but low enough to allow analysis of a reasonable range of alternatives. Twelve flood damage reduction alternatives plus the No Action alternative were considered. The alternatives included various combinations of zoning, floodplain acquisition, conservation measures, wetlands storage, conveyance, constructing levees and raising bridges, valley encroachment berms, and dry and wet detention structures.

Each alternative was screened for its ability to meet the flood damage reduction purpose and need by three selected criteria (below). Alternatives that met these criteria either alone or in combination with other alternatives were then evaluated to estimate the environmental impacts of each. The results of these evaluations were used to carry alternatives forward for further analysis.

- Sixty percent or greater annual flood damage reduction.
- Compliance with existing codes and regulations.
- No increase in peak flow.

Three alternatives met the flood damage reduction purpose and need criteria independently and were carried forward to be considered in the multipurpose analysis. Two additional alternatives, when combined, met the flood damage reduction purpose and need criteria and were carried forward as a combination to be considered in the multipurpose analysis.

Recreation

The planned recreation purpose is to provide water-based recreation to help meet the unmet demand for Caldwell County and the 25-mile radius Recreation Market Area. Nine recreation alternatives plus the No Action alternative were considered. These alternatives considered combinations of creating recreational stream access, expanding existing private lake access, developing ponds, and several alternative reservoir locations.

Each alternative was screened for its ability to meet the recreation purpose and need by three selected criteria (below). Alternatives that met these criteria either alone or in combination with other alternatives were then evaluated to estimate the environmental impacts of each. The results of these evaluations were used to carry alternatives forward for further analysis.

- Alternatives must meet or exceed 45 percent of the unmet demand for water-based recreation user-days.
- Alternatives must comply with existing codes and regulations.
- Alternatives must be available for public use and have public access.

Three alternatives met the recreation purpose and need criteria independently and were carried forward to be considered in the multipurpose analysis. Two additional alternatives, when combined, met the recreation purpose and need criteria and were carried forward as a combination to be considered in the multipurpose analysis.

Multipurpose Analysis

The multipurpose analysis considered the alternatives carried forward that alone or in combination with other alternatives would meet planned purposes and needs. These alternatives were evaluated for their relative impacts to the environment including aquatic resources and threatened and endangered species. Relative impacts of alternatives were quantified according to their estimated impacts to streams, wetlands, and forests. Alternatives were also evaluated for their ''practicability.'' An alternative is practicable if it is ''available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.''

The multipurpose analysis found the LOCWP preferred alternative, which includes construction of a 344-acre multiple purpose reservoir, had the lowest permanent impact on both aquatic resources and potential threatened and endangered species habitat among all practicable alternatives and is the Proposed Action. This alternative will promote the national environmental policy as expressed in NEPA section 101. Intentional discharge from the reservoir at water surface elevations below the principal spillway crest is planned to minimize the impacts of the reservoir on downstream aquatic resources.

Compensatory Mitigation

Following all practicable means to avoid or minimize environmental harm from the preferred alternative, compensatory mitigation will be applied to the remaining unavoidable impacts. The LOCWP preferred alternative will result in approximately 36,243 linear feet of stream lost due to inundation and fill. This total includes 20,220 linear feet of perennial; 14,569 linear feet of intermittent, and 1,454 linear feet of ephemeral stream channel. The Missouri Stream Mitigation Method (MSMM) is a debit-credit system that guides stream mitigation activities in Missouri. Unavoidable impacts resulting from the dam and permanent pool total 183,376 debits under the MSMM. To compensate for these impacts, an equal or greater number of stream mitigation credits must be provided. In addition, approximately 4.1 acres of jurisdictional wetlands will be impacted by preferred alternative. All required wetlands credits plus 51,000 stream credits will be purchased from Swallow Tail LLC's North Grand River Wetland and Stream Mitigation Bank. Permittee responsible mitigation projects are planned to generate the following estimated in-stream mitigation credits:

(1) Four aquatic organism passage (AOP) barrier removal projects in Caldwell and Daviess counties (94,749 credits).

(2) Riparian plantings on property owned by the Caldwell County Commission (54,779 credits).

The final compensatory mitigation plan fully compensates for jurisdictional wetlands impacts and offers 200,528 stream mitigation credits, exceeding the preferred alternative credit requirements (183,376) by 17,152 credits.

Factors Considered in Making the Decision

The following conclusions were reached after carefully reviewing the proposed Little Otter Creek Watershed project in light of all national goals and policies, particularly those expressed in NEPA, and after evaluating the overall merit of possible alternatives to the project:

a. The LOCWP preferred alternative will employ reasonable and practical means that are consistent with NEPA while permitting the application of other national policies and interests. These means include a project planned and designed to minimize adverse effects on the natural environment while accomplishing authorized project purposes. Project features designed to preserve existing environmental values for future generations include:

(1) Provisions to recover significant archaeological and historic resources discovered during project construction;

(2) Establishing vegetation on construction areas with plant species beneficial to wildlife;

(3) Compensatory mitigation for impacts to stream and wetlands habitat;

(4) Supplemental flows to minimize impacts to downstream aquatic resources;

(5) Reduction in total watershed erosion and the amount of sediment delivered to downstream areas.

b. The Little Otter Creek Watershed project was planned using a systematic interdisciplinary approach involving integrated uses of the natural and social sciences and environmental design arts. All conclusions concerning the environmental impact of the project and overall merit of existing plans were based on a review of data and information that would be reasonably expected to reveal significant environmental consequences of the proposed project. These data included studies prepared specifically for the project and comments and views of all interested Federal, State, and local agencies and individuals. The results of this review constitute the basis for the conclusions and recommendations. The project will not affect any cultural resources eligible for inclusion in the National Register of Historic Places. Nor will the project affect any species of fish, wildlife, or plant or their habitats that have been designated as endangered or threatened.

c. In studying and evaluating the environmental impact of the Little Otter Creek Watershed project, every effort was made to express all significant environmental values quantitatively and to identify and give appropriate weight and consideration of nonquantifiable environmental values.

d. Every possible effort has been made to identify those adverse environmental effects that cannot be avoided if the project is constructed.

e. The long and short-term resource uses, long-term productivity, and the irreversible and irretrievable commitment of resources are described in the FEIS and FSEIS.

f. All reasonable and viable alternatives to project features and to the project itself were studied and analyzed with reference to national policies and goals, especially those expressed in NEPA and the Federal water resource development legislation under which the project was planned. Each possible course of action was evaluated as to its possible economic, technical, social, and overall environmental consequences to determine the tradeoffs necessary to accommodate all national policies and interests. No alternative or combination of alternatives will afford greater protection of the environmental values while accomplishing the other project goals and objectives.

g. The proposed project will be the most effective means of meeting national goals and is consistent in serving the public interest by including provisions to protect and enhance the environment. The recommended plan is the environmentally preferable plan.

Public Comment

One comment was submitted during the FSEIS public comment period specifying a preference for the No Action alternative, but the commenter provided no rationale, additional alternatives, or other impacts to consider. As such, no further action is being taken to address the comment.

Conclusion

The LOCWP uses all practical means, consistent with considerations of national policy, to meet the goals established in NEPA. The project will serve the overall public interest and meet the needs of the project sponsors. The EIS and FSEIS have been prepared, reviewed, and accepted in accordance with the provisions of NEPA as implemented by Departmental regulations for the preparation of EIS. After considering a broad range of alternatives, the EIS and FSEIS have found the LOCWP preferred alternative to be the environmentally preferable plan to serve the Sponsor's purpose and need.

NRCS has decided to implement the LOCWP preferred alternative, which includes construction of a 344-acre multiple purpose reservoir while avoiding impacts to the extent possible and minimizing and mitigating for impacts that are unavoidable.

Kevin Norton,

Associate Chief, Natural Resources Conservation Service.

[FR Doc. 2020–02602 Filed 2–10–20; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee

AGENCY: 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 (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (EST) on Tuesday, February 18, 2020. The purpose of the project planning meeting is to discuss the draft Committee report titled, School Discipline and the School-to-Prison Pipeline in PA.

Public Call-In Information: Conference call-in number: 800–353–6461 and conference call ID number: 6813288.

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288.

Members of the public are invited to make brief statements during the Public

Comment section of the meeting or submit written comments. The written comments must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue Suite 1150, Washington, DC 20425, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may phone the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjZAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Tuesday, February 18, 2020

I. Rollcall
II. Welcome
III. Project Planning
—Discuss draft Committee report on its civil rights project
IV. Other Business
V. Next Meetings
VI. Public Comments
VII. Adjourn

Dated: February 6, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02689 Filed 2–10–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Virginia Advisory Committee to the U.S. Commission on Civil Rights

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 (Commission) and the Federal Advisory Committee Act that the Virginia Advisory Committee (Committee) will hold a meeting on Thursday February 20, 2020 at 3 p.m. Eastern time. The Committee will discuss civil rights concerns in the state.

DATES: The meeting will take place on Thursday February 20, 2020 at 3:30 p.m. Eastern time.

Public Call Information: Dial: 888–204–4368, Conference ID: 7654597.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. These meetings are available to the public through the above call in number. 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 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 mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit 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, Virginia 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 Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Virginia
Future Plans and Actions
Public Comment
Adjournment

Dated: February 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02595 Filed 2–10–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

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 (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Wednesday February 12, 2020 at 12:00 p.m. Central time. The Committee will discuss next steps in their study of civil rights and mass incarceration in the state.

DATES: The meeting will take place on Wednesday February 12, 2020 at 12:00 p.m. Central time.

ADDRESSES: Public Call Information: Dial: 800–367–2403, Conference ID: 6600777.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. These meetings are available to the public through the above call in number. 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 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 mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit 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, Arkansas 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 Regional Programs Unit at the above email or street address.

Agenda:

Welcome and Roll Call
Civil Rights in Arkansas: Mass Incarceration
Future Plans and Actions
Public Comment
Adjournment

Dated: February 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02650 Filed 2–10–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the North Dakota Advisory Committee to the Commission will by teleconference at 12 p.m. (CST) on Wednesday, February 19, 2020. The purpose of the meeting is for planning of its next civil rights project.

Date and Time: Wednesday, February 19, 2020, at 12 p.m. CST

Public Call-in Information: Conference call-in number: 1–800–367–2403 and conference call 91223280.

TDD: Dial Federal Relay Service 1–800–877–8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ebohor@usccr.gov* or by phone at (202) 376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–367–2403 and conference call 91223280. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 1–800–367–2403 and conference call 91223280.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012, faxed to (213) 894–3435, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Western Regional Office at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://gsageo.force.com/FACA/apex/FACAPublicCommittee?id=a10t0000001gzl9AAA;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Western Regional Office at the above phone numbers, email or street address.

Agenda: Wednesday, February 19, 2020, 12 p.m. (CST)

- Roll call
- Planning Next Civil Rights Project
- Other Business
- Open Comment
- Adjourn

Dated: February 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02648 Filed 2–10–20; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida 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 (Commission) and the Federal Advisory Committee Act that the Florida Advisory Committee (Committee) will hold a meeting on Friday February 7, 2020, at 2 p.m. (Eastern) for the purpose of discussing next steps in hearing testimony regarding voting rights in Florida.

DATES: The meeting will be held on Friday February 7, 2020, from 2:00–3:00 p.m. Eastern.

Public Call Information: Dial: 800–367–2403, Conference ID: 9337963.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement 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.

Written comments may be mailed to the Regional Program Unit Office, U.S. Commission on Civil Rights, 230 S Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or may be emailed to Carolyn Allen at *callen@usccr.gov.* Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Florida 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 Regional Program Unit at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Voting Rights in Florida
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of committee availability and preparations for upcoming hearing.

Dated: February 5, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02596 Filed 2–10–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–868, C–560–834, C–552–826]

Utility Scale Wind Towers From Canada, Indonesia, and the Socialist Republic of Vietnam; Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that in the countervailing duty investigations on utility scale wind towers (wind towers), critical circumstances exist with respect to imports of wind towers from Indonesia and do not exist with respect to imports of wind towers from Canada or the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold at (202) 482–1121 (Canada), Alex Wood at (202) 482–1955 (Indonesia), or Julie Geiger at (202) 482–2057 (Vietnam); AD/CVD Operations, Offices II and VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In response to petitions filed on July 9, 2019, the Commerce initiated countervailing duty (CVD) investigations concerning wind towers from Canada, Indonesia, and Vietnam.[1] On December 13, 2019, Commerce announced its preliminary CVD determinations [2] and, on the same day, received timely allegations, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of wind towers from Canada, Indonesia, and Vietnam.[3] In accordance with section 703(e)(1) of the Act and 19 CFR 351.206(c)(1), because the Wind Tower Trade Coalition (the petitioner) submitted its critical circumstances allegations more than 30 days before the scheduled date of the final determinations, Commerce will make preliminary findings as to whether there is a reasonable basis to believe or suspect that critical circumstances exist and will issue preliminary critical circumstances determinations.[4]

Critical Circumstances Analysis

Section 703(e)(1) of the Act provides that Commerce will determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the Agreement on Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization; and (B) there have been massive imports of the subject merchandise over a relatively short period.[5] Pursuant to 19 CFR 351.206(h)(2), imports must increase by at least 15 percent during the ''relatively short period'' to be considered ''massive,'' and 19 CFR 351.206(i) defines a ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later.[6] The regulations also provide, however, that if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.[7]

Alleged Countervailable Subsidies Are Inconsistent With the SCM Agreement

To determine whether an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, Commerce considered the evidence currently on the record of the Canada, Indonesia, and Vietnam CVD investigations. In each of the three preliminary determinations, we examined a single mandatory respondent and assigned the all-others

[1] *See Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations,* 84 FR 38216 (August 6, 2019).

[2] *See Utility Scale Wind Towers from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 68126 (December 13, 2019) (*Canada CVD Preliminary Determination*); *see also Utility Scale Wind Towers from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 68109 (December 13, 2019) (*Indonesia CVD Preliminary Determination*); *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 68104 (December 13, 2019) (*Vietnam CVD Preliminary Determination*).

[3] *See* Petitioner's Letter, ''Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Critical Circumstances Allegations,'' dated December 13, 2019 (Critical Circumstances Allegations).

[4] Pursuant to section 703(e) of the Act and 19 CFR 351.206, the petitioner requested that we make our determinations at the earliest practicable time, but not later than the preliminary determinations in the antidumping duty investigations. We acknowledge that we have not made our preliminary critical circumstances determinations within the timeframe specified in 19 CFR 351.206(c)(2)(ii), but we have made it by the date requested by the petitioner. *See* Critical Circumstances Allegations at 4.

[5] Commerce limits its critical circumstances findings to those subsidies contingent upon export performance or use of domestic over imported goods (*i.e.,* those prohibited under Article 3 of the SCM Agreement). *See, e.g., Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire from Germany,* 67 FR 55808, 55809–10 (August 30, 2002).

[6] *See* 19 CFR 351.102 and 19 CFR 351.206.

[7] *See* 19 CFR 351.206(i).

rate based upon the rate assigned to the mandatory respondent. Specifically, as determined in our preliminary determinations, we found the following subsidy programs to be export contingent, which would render them inconsistent with the SCM Agreement: Indonesia's exemption from import tax withholding for companies in bonded zones, and Vietnam's income tax preferences, import duty exemptions on imports of spare parts and accessories in industrial zones, and import duty exemptions on imports of raw materials for exporting goods.[8] With respect to Canada, we preliminarily did not find any subsidies that are inconsistent with the SCM Agreement.[9]

Therefore, Commerce preliminarily determines, for purposes of these critical circumstances determinations, that there are no subsidies in the Canada investigation that are inconsistent with the SCM Agreement, and that there are subsidies in the Indonesia and Vietnam investigations that are inconsistent with the SCM Agreement.

Massive Imports

In determining whether there have been ''massive imports'' over a ''relatively short period,'' pursuant to section 703(e)(1)(B) of the Act, Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.,* the ''comparison period''). In this case, Commerce compared the import volumes of subject merchandise, as provided by each of the mandatory respondents,[10] for five months immediately preceding and following the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.[11]

Because the petitions were filed on July 9, 2019, in order to determine whether there was a massive surge in imports for each cooperating mandatory respondent, Commerce compared the total volume of shipments during the period July 2019 through November 2019 with the volume of shipments during the preceding five-month period of February 2019 through June 2019. With respect to Canada and Vietnam, we preliminarily determine that there were no massive surges in imports for the respective mandatory respondents. With respect to Indonesia, we preliminarily determine there was a massive surge in imports for Kenertec.[12]

For ''all others,'' in each of the three countries, we also attempted to analyze monthly shipment data for the same time periods, using import data from Global Trade Atlas (GTA),[13] adjusted to remove the mandatory respondents' shipment data. However, this analysis was not possible in this case, because the quantity of shipments reported by the mandatory respondents was greater than the quantity of imports recorded in the GTA statistics for the U.S. Harmonized Tariff Schedule categories included in the Petition. Therefore, we find that necessary information is not available on the records for each of the three investigations, pursuant to section 776(a)(1) of the Act, as to whether imports were massive for ''all other'' producers. Thus, as facts available, we based our analysis for ''all other'' producers and exporters on the results of the massive determination for the mandatory respondents in the respective countries. Consequently, as facts available, we find that there were no massive imports for ''all other'' producers from Canada and Vietnam, but that there were massive imports for ''all other'' producers from Indonesia.

Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of wind towers by certain producers/exporters. Our findings are summarized as follows.

Country	Case No.	Affirmative preliminary critical circumstances determinations	Negative preliminary critical circumstances determinations
Canada	C–122–868		Marmen Inc., Marmen Énergie Inc., Gestion Marmen Inc.; all other producers/exporters.
Indonesia	C–560–834	PT Kenertec Power System; all other producers/exporters..	
Vietnam	C–552–826		CS Wind Tower Co., Ltd.; all other producers/exporters.

Final Critical Circumstances Determinations

We will issue critical circumstances determinations when we issue our final countervailing duty determinations.

Public Comment

Case briefs or other written comments may be submitted no later than seven days after the date on which the last verification report is issued in each respective investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[14] 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.[15]

Electronically filed documents must be received successfully in their entirety

[8] *See Indonesia CVD Preliminary Determination* and accompanying Preliminary Decision Memorandum (PDM) at 21–23; *see also Vietnam CVD Preliminary Determination* and accompanying PDM at 6–8.

[9] *See Canada CVD Preliminary Determination* and accompanying PDM.

[10] In December 2019, the mandatory respondents to each of the three investigations timely provided quantity and value shipment data, pursuant to requests by Commerce.

[11] *See* 19 CFR 351.206(h)(2). On December 31, 2019, the mandatory respondent from Indonesia, PT Kenertec Power System, filed comments objecting to the petitioner's critical circumstances allegation. We considered these comments and find them to be unavailing, as they do not pertain to the criteria listed in the statute, or regulations, with respect to determining the existence of critical circumstances. This is consistent with our findings in other cases where parties have made similar arguments with respect to criteria not explicitly listed in the statute or regulations with respect to the determination of massive imports. *See, e.g., Certain Quartz Surface Products from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances,* 84 FR 23767 (May 23, 2019), and accompanying Issues and Decision Memorandum at Comment 2.

[12] *See* respective preliminary critical circumstances memoranda for each proceeding for a description of the methodology and results of Commerce's critical circumstances analysis, dated concurrently with this notice.

[13] Commerce gathered GTA data under the following harmonized tariff schedule numbers: 7308.20.0020 and 8502.31.0000.

[14] *See* 19 CFR 351.309(d)(1).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

by 5:00 p.m. Eastern Time on the due dates established above.[16]

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations.

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, for PT Kenertec Power System and all other exporters/producers in Indonesia, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of any unliquidated entries of subject merchandise from Indonesia entered, or withdrawn from warehouse for consumption, on or after September 14, 2019, which is 90 days prior to the date of publication of the *Indonesia CVD Preliminary Determination* in the **Federal Register**. For such entries, CBP shall require a cash deposit equal to the estimated preliminary countervailable subsidy rates established in the *Indonesia CVD Preliminary Determination.* This suspension of liquidation will remain in effect until further notice.

This determination is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.206.

Dated: February 4, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–02696 Filed 2–10–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of a Roundtable on Capturing the Value of Digital Services in Industrial Machinery

AGENCY: Industry and Analysis, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of a roundtable discussion on capturing the value of digital services in industrial machinery.

SUMMARY: The Industry and Analysis (I&A) unit of the International Trade Administration (ITA) of the Department of Commerce is leading an effort to develop a methodology to calculate the value of machinery-based digital services in international trade. Better understanding of the true value of digital services in the machinery sector will allow the United States Government to more effectively advocate for U.S. industry in trade negotiations and international dialogues. Through this notice, I&A announces a roundtable to facilitate a discussion with industry stakeholders and experts as an important step in improving the Department's understanding of the value of digital services in industrial machinery.

DATES:

Event: The roundtable will be held on March 11, 2020, from 9:30 a.m. to 11:30 a.m., Eastern Standard Time.

Event Registration: I&A will evaluate registrations based on the submitted information and selection criteria (see below). Selection decisions will be made on a rolling basis until 10 participants have been selected for the roundtable, or until February 28, 2020, whichever occurs first.

ADDRESSES: *Event:* The roundtable will be held at the Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: *DigitalServicesRoundtable@trade.gov;* Jaron Bass, International Trade Specialist, ITA, at (202) 482–2625; or Jessica Huang, Economist, ITA, at (202) 482–6387.

SUPPLEMENTARY INFORMATION: I&A recognizes that data and knowledge gaps exist in assessing the value of digital services as it relates to industrial machinery, a $430 billion segment of the economy, and international trade in this sector. As emerging technologies increasingly become integrated into industrial machinery and manufacturing, the machinery itself becomes a platform for a host of digital services. In many cases, a U.S. machinery manufacturer's competitive advantage lies in its ability to deliver these services, which has begun to alter global supply chains. Currently, there are no reliable sources of data to track the value and trade of digital services associated with industrial machinery. Therefore, I&A is working to develop a methodology to both categorize and value trade of these services.

As an important step in developing a data-collection methodology, I&A is hosting an exploratory roundtable designed for industry stakeholder input. The goal of this roundtable is to receive guidance from stakeholders on what categories compose the most impactful digital services for automation equipment, as well as effective survey methodology that can be used to collect information from U.S. companies regarding digital services in the future.

The roundtable is intended for individuals involved in their companies' digital services business development and/or production and performance metrics, including technical experts, services product managers, or individuals serving in a similar capacity. Representatives from U.S. companies or companies with a substantial manufacturing presence in the United States are encouraged to apply to participate. As a result, we are not encouraging attendance by trade associations, consulting organizations, or academic institutions. The roundtable is designed to gather information to improve data collection and will not be utilized to seek consensus on any policy items. The sharing of confidential business information will not be permitted during the roundtable.

I&A is seeking applications from companies that meet the selection criteria outlined below to participate in the March 11 roundtable, which will be led by I&A.

Event: The March 11, 2020 roundtable, which will be hosted by I&A in Washington, DC will consist of three discussions: (1) Identifying the most important digital services related to specific sub-sectors of industrial machinery industry, (2) categorizing the types of digital services associated with industrial machinery to winnow duplicative terminology, and (3) discussing how the U.S. government can collect data on these services. Agenda topics and format are subject to change. Due to limited space, the event is not open to the public. Industry participation is limited to 10 qualifying industry representatives.

Selection Process

Participation

Persons seeking to participate in the roundtable will be evaluated based on their ability to meet certain conditions and best satisfy the selection criteria outlined below. A maximum of 10 participants will be selected. Interested parties must submit their applications for participation in the roundtable by email to *DigitalServicesMachinery@trade.gov.* Interested parties will be reviewed on a rolling basis in the order that they are received. Views of any interested person and other information regarding this topic are welcome, and can be submitted by email to *DigitalServicesMachinery@trade.gov.*

Timeline for Recruitment

Applications for the March 11 roundtable must be received by February 28, 2020. I&A will evaluate registrations based on the submitted information and selection criteria (see

[16] *See* 19 CFR 351.303(b)(1).

below) and inform applicants of selection decisions.

Conditions for Participation

Interested parties must send an email to *DigitalServicesRoundtable@trade.gov* addressing how they satisfy the selection criteria listed below.

Applicants should be capable of identifying and discussing digital services' impact on U.S. firms, industry and/or the manufacturing sector. Company representatives attending the roundtable should be technical experts, services product managers, or individuals serving in a similar capacity.

Diversity of company size, location, and industry will also be considered during the selection process. Selection will be made without regard to political affiliation.

Applicants should include the following information in their application email:

- Name of applicant and a short biography, including the applicant's ability to speak to the impact of digital services on the U.S. industrial machinery sector or a specific U.S. firm.
- Name of company and brief description of company size, location, and industry.
- A statement describing whether the applicant represents a U.S. company that fits one or both of the following profiles: (1) U.S. manufacturers utilizing digital services in their daily operations or bundling digital services in their finished goods sales, (2) digital service providers with clients in industrial machinery industries.

Selection will be based on the following criteria:

- Importance of the company's existing manufacturing process, products, and/or services to the industrial machinery sector.
- The degree to which the company represents the broader diversity of the industrial machinery sector, with respect to company size, location, and industry.
- Suitability of the representative's position, biography, and ability to meaningfully contribute to the conversation.

Dated: February 5, 2020.

Scott Kennedy,

Office Director, Office of Transportation and Machinery.

[FR Doc. 2020–02601 Filed 2–10–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this administrative review received countervailable subsidies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 2019, Commerce initiated an administrative review of the countervailing duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (China).[1] The period of review (POR) is January 1, 2017 through December 31, 2017. On October 1, 2019, Commerce extended the deadline for these preliminary results until no later than January 31, 2020.[2] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The products covered by the countervailing duty order are crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels, and building integrated materials. For a complete description of the scope of this order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily finds that there is a subsidy, (*i.e.,* a financial contribution from an authority that gives rise to a benefit to the recipient) and that the subsidy is specific.[4] In making this preliminary determination, Commerce relied, in part, on facts otherwise available, with the application of adverse inferences.[5] For further information, see ''Use of Facts Otherwise Available and Application of Adverse Inferences'' in the accompanying Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 9297 (March 14, 2019).

[2] *See* Memorandum, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated October 1, 2019.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China; 2017,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *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.

[5] *See* section 776(a) of the Act.

review. This review was initiated on March 14, 2019. On April 30, 2019, SunPower Manufacturing, Oregon LLC (SunPower) timely withdrew its request for reviews on Chint Solar Zhejiang Co., Ltd. (Chint Solar); Shenzhen Topray Solar Co., Ltd. (Shenzhen Topray); and Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company (Zhejiang Sunflower).[6] On May 24, 2019, Chint Solar timely withdrew its request for a review of its own POR entries, and requested that Commerce rescind the review of Chint Solar because all other parties requesting a review of Chint Solar had also withdrawn their requests for a review of Chint Solar.[7] Because all parties that requested a review of these companies timely withdrew their requests for these companies, Commerce is rescinding this review with respect to Chint Solar, Shenzhen Topray, and Zhejiang Sunflower, in accordance with 19 CFR 351.213(d)(1).

Further, Commerce received a timely filed certification of no shipments from Shenzhen Glory Industries Co., Ltd. (Shenzhen Glory).[8] To confirm Shenzhen Glory's statement, Commerce issued a no-shipments inquiry to U.S. Customs and Border Protection (CBP) with regard to imports of subject merchandise with respect to imports of subject merchandise from Shenzhen Glory during the POR.[9] On January 14, 2020, CBP responded to Commerce's no-shipments inquiry regarding Shenzhen Glory stating that it found no shipments of subject merchandise from China that were produced and/or exported by Shenzhen Glory during the POR.[10] As there is no evidence on the record that Shenzhen Glory made entries of subject merchandise into the United States during the POR, Commerce is rescinding this review with respect to Shenzhen Glory, in accordance with 19 CFR 351.213(d)(3).

Preliminary Results of Review

Commerce preliminarily determines the net countervailable subsidy rates for the period January 1, 2017 through December 31, 2017, are as follows:

Company	Subsidy rate (percent)
JA Solar Technology Yangzhou Co., Ltd. and Cross-Owned Affiliates[11] ..	19.15
Risen Energy Co., Ltd. and Cross-Owned Affiliates[12] ..	16.40
Non-Selected Companies Under Review[13]	17.25

Preliminary Rate for Non-Selected Companies Under Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(i) of the Act instructs Commerce, as a general rule, to calculate an all-others rate using the weighted average of the subsidy rates established for the producers/exporters individually examined, excluding any zero, *de minimis,* or rates based entirely on facts available. For the companies for which a review was requested that were not selected as mandatory company respondents, and for which Commerce did not receive a timely request for withdrawal of review, and for which Commerce is not finding to be cross-owned with the mandatory company respondents, Commerce based the subsidy rate on a weighted-average of the subsidy rates calculated for the two mandatory respondents, JA Solar Technology Yangzhou Co., Ltd. and Risen Energy Co., Ltd., using their publicly-ranged sales data for exports of subject merchandise to the United States during the POR. A list of these non-selected companies can be found in Appendix II of this notice.

Disclosure and Public Comment

Commerce intends to disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[14] Interested parties may submit written comments (case briefs) at a date to be determined by Commerce and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[15] Rebuttal briefs must be limited to issues raised in the case briefs.[16] Commerce will notify interested parties when it has determined a deadline for case briefs. Parties who submit case or rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[17]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of

[6] *See* SunPower's Letter, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Withdrawal of Request for Administrative Review,'' April 30, 2019; *see also* SunPower's Letter, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Request for Administrative Review,'' dated December 31, 2018.

[7] *See* Chint Solar's Letter, ''Chint Solar Withdrawal of Review Request: Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules (C–570–980) (POR: 01/01/17–12/31/17),'' dated May 24, 2019.

[8] *See* Shenzhen Glory's Letter, ''Crystalline Silicon Photovoltaic Cells from the People's Republic of China—No Sales Certification,'' dated April 12, 2019.

[9] *See* CBP message no. 0014406, dated January 14, 2020.

[10] *See* Memorandum, ''Crystalline Silicon photovoltaic cells from the People's Republic of China (C–570–980),'' dated January 21, 2020.

[11] Cross-owned entity is: Shanghai JA Solar Technology Co., Ltd.; JA (Hefei) Renewable Energy Co., Ltd.; Hefei JA Solar Technology Co., Ltd.; JA Solar Investment China Co., Ltd.; JA Solar Technology Yangzhou Co., Ltd.; Jing Hai Yang Semiconductor Material (Donghai) Co., Ltd.; Donghai JingAo The Solar Energy Science and Technology Co., Ltd.; Solar Silicon Valley Electronic Science and Technology Co., Ltd.; Jingwei Electronic Materials Co., Ltd.; Hebei Yujing Electronic Science and Technology Co., Ltd.; Solar Silicon Peak Electronic Science and Technology Co., Ltd.; Beijing Jinfeng Investment Co., Ltd.; Jinglong Technology Holdings Co., Ltd.; JingAo Solar Co., Ltd.; Ningjin Songgong Electronic Materials Co., Ltd.; Jinglong Industry and Commerce Group Co., Ltd.; Ningjin Guiguang Electronic Investment Co., Ltd.; Ningjin County Jingyuan New Energy Investment Co., Ltd.; Hebei Jinglong Fine Chemicals Co., Ltd.; Ningjin Sunshine New Energy Co., Ltd.; Hebei Jinglong Sunshine Equipment Co., Ltd.; Hebei Jingle Optoelectronic Technology Co., Ltd.; Hebei Ningjin Songgong Semiconductor Co., Ltd.; Ningjin Jingxing Electronic Material Co., Ltd.; Ningjin Jingfeng Electronic Materials Co., Ltd.; Ningjin Saimei Ganglong Electronic Materials Co., Ltd.; Hebei Ningtong Electronic Materials Co., Ltd.; Ningjin Changlong Electronic Materials Manufacturing Co. Ltd.; JA Solar (Xingtai) Co., Ltd.; Xingtai Jinglong Electronic Material Co., Ltd.; Xingtai Jinglong PV Materials Co., Ltd.; Taicang Juren PV Material Co., Ltd.; JA PV Technology Co., Ltd.; Ningjin Longxin Investment Co., Ltd.; and Ningjin Jinglong PV Industry Investment Co., Ltd. *See* Preliminary Decision Memorandum.

[12] The cross-owned entity is: Risen Energy Co., Ltd.; Changzhou Sveck Photovoltaic New Material Co., Ltd.; Changzhou Sveck New Material Technology Co., Ltd.; JiuJiang Shengchao Xinye Technology Co., Ltd.; Jiangsu Sveck New Material Co., Ltd.; Ninghai Risen Energy Power Development Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Risen (Ningbo) Electric Power Development Co., Ltd.; Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Boxin Investment Co., Ltd.; and Zhejiang Twinsel Electronic Technology Co., Ltd. *See* Preliminary Decision Memorandum.

[13] *See* Appendix II of this notice for a list of all companies that remain under review but were not selected for individual examination, and to whom Commerce has preliminarily assigned the non-selected company rate.

[14] *See* 19 CFR 351.224(b).

[15] *See* 19 CFR 351.309(c)(l)(ii) and 351.309(d)(l). Interested parties will be notified through ACCESS regarding the deadline for submitting case briefs.

[16] *See* 19 CFR 351.309(d)(2).

[17] *See* 19 CFR 351.309(c)(2) and (d)(2).

Commerce, using Enforcement and Compliance's ACCESS system.[18] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing, which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.[19] Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.[20] All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time by their respective deadlines.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), Commerce assigned a subsidy rate for each producer/exporter subject to this administrative review. Upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue instructions to CBP 15 days after publication of the final results of review. For companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2017 through December 31, 2017, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

Commerce is issuing and publishing these preliminary results in accordance with sections 751(a)(l) and 777(i)(l) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: January 31, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

Appendix II

Non-Selected Companies Under Review

1. Anji DaSol Solar Energy Science & Technology Co., Ltd.
2. Baoding Jiasheng Photovoltaic Technology Co., Ltd.
3. Baoding Tianwei Yingli New Energy Resources Co., Ltd.
4. Beijing Tianneng Yingli New Energy Resources Co., Ltd.
5. BYD (Shangluo) Industrial Co., Ltd.
6. Canadian Solar (USA) Inc.
7. Canadian Solar Inc.
8. Canadian Solar International Ltd.
9. Canadian Solar Manufacturing (Changshu) Inc.
10. Canadian Solar Manufacturing (Luoyang) Inc.
11. Changzhou Trina Solar Yabang Energy Co., Ltd.
12. CSI Cells Co., Ltd.
13. CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd.
14. De-Tech Trading Limited HK
15. Dongguan Sunworth Solar Energy Co., Ltd.
16. Eoplly New Energy Technology Co., Ltd.
17. ERA Solar Co., Ltd.
18. ET Solar Energy Limited
19. Hainan Yingli New Energy Resources Co., Ltd.
20. Hangzhou Sunny Energy Science and Technology Co., Ltd.
21. Hengdian Group DMEGC Magnetics Co., Ltd.
22. Hengshui Yingli New Energy Resources Co., Ltd.
23. Hubei Trina Solar Energy Co., Ltd.
24. JA Technology Yangzhou Co., Ltd.
25. Jiangsu High Hope Int'l Group
26. Jiawei Solarchina (Shenzhen) Co., Ltd.
27. Jiawei Solarchina Co., Ltd.
28. Jinko Solar (U.S.) Inc.
29. Jinko Solar Co., Ltd.
30. Jinko Solar Import and Export Co., Ltd.
31. Jinko Solar International Limited
32. LERRI Solar Technology Co., Ltd.
33. Lightway Green New Energy Co., Ltd.
34. Lixian Yingli New Energy Resources Co., Ltd.
35. Luoyang Suntech Power Co., Ltd.
36. Nice Sun PV Co., Ltd.
37. Ningbo ETDZ Holdings, Ltd.
38. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
39. Shanghai BYD Co., Ltd.
40. Shenzhen Sungold Solar Co., Ltd.
41. Shenzhen Yingli New Energy Resources Co., Ltd.
42. Sumec Hardware & Tools Co., Ltd.
43. Sunpreme Solar Technology (Jiaxing) Co., Ltd.
44. Systemes Versilis, Inc.
45. Taizhou BD Trade Co., Ltd.
46. TenKsolar (Shanghai) Co., Ltd.
47. Tianjin Yingli New Energy Resources Co., Ltd.
48. Tianneng Yingli New Energy Resources Co., Ltd.
49. Toenergy Technology Hangzhou Co., Ltd.
50. Trina Solar (Changzhou) Science & Technology Co., Ltd.
51. Trina Solar Energy Co., Ltd. (formerly known as Changzhou Trina Solar Energy Co., Ltd.)
52. Turpan Trina Solar Energy Co., Ltd.
53. Wuxi Suntech Power Co., Ltd.
54. Wuxi Tianran Photovoltaic Co., Ltd.
55. Yancheng Trina Solar Energy Technology Co., Ltd.
56. Yingli Energy (China) Co., Ltd.
57. Yingli Green Energy Holding Company Limited
58. Yingli Green Energy International Trading Company Limited
59. Zhejiang ERA Solar Technology Co., Ltd.
60. Zhejiang Jinko Solar Co., Ltd.

[FR Doc. 2020–02676 Filed 2–10–20; 8:45 am]

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[18] *See* 19 CFR 351.310(c).

[19] *See* 19 CFR 351.310.

[20] *See* 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–839]

Carbazole Violet Pigment 23 From the Republic of India: Preliminary Results of Countervailing Duty Administrative Review; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Pidilite Industries Limited (Pidilite), a producer/exporter of carbazole violet pigment 23 (CVP 23) from the Republic of India (India) received countervailable subsidies during the period of review (POR) January 1, 2017 through December 31, 2017. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 2019, Commerce published a notice of initiation of an administrative review of the countervailing duty order on CVP 23 from India with respect to Pidilite.[1] On October 1, 2019, we extended the deadline for these preliminary results to January 16, 2020.[2] On January 15, 2020, we further extended this deadline until January 31, 2020.[3] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is CVP 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2-b:3′,2′-m] triphenodioxazine, 8,18-dichloro-5,15-diethy-5,15-dihydro-,* and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$.[5] For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each subsidy program found to be countervailable, Commerce preliminarily finds that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, Commerce preliminarily finds that the net countervailable subsidy rate for the POR regarding Pidilite is as follows:

Company	Subsidy rate (*Ad valorem*)
Pidilite Industries Limited	3.13

Assessment Rates

Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

Pursuant to section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce will disclose to the parties in this proceeding the calculations performed in reaching these preliminary results within five days of the date this notice is published in the **Federal Register**.[7] Interested parties may submit written arguments (case briefs) on these preliminary results within 30 days of publication of the preliminary results, and rebuttal arguments (rebuttal briefs) within five days after the time limit for filing case briefs.[8] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with their argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9]

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days after the date of publication of this notice.[10] Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. If Commerce receives a request for a hearing, Commerce will inform parties of the schedule date for the hearing, which will be held at the main Commerce building at a time and location to be

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 9297 (March 14, 2019).

[2] *See* Memorandum, ''Carbazole Violet Pigment 23 from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated October 1, 2019.

[3] *See* Memorandum, ''Carbazole Violet Pigment 23 from India: Second Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated January 15, 2020.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Carbazole Violet Pigment 23 from the Republic of India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] The bracketed section of the product description, *[3,2-b:3′,2′-m],* is not business proprietary information; the brackets are part of the chemical nomenclature.

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit, and section 771(5A) of the Act regarding specificity.

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.309(d); and 351.303 (for general filing requirements).

[9] *See* 19 CFR 351.309(c)(2); *see also* 19 CFR 351.309(d)(2).

[10] *See* 19 CFR 351.310(c).

determined.[11] Parties should confirm by telephone, the date, time, and location of the hearing.

Parties are reminded that briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of Commerce's analysis of the issues raised by parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: January 31, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–02675 Filed 2–10–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the four companies under review had no reviewable transactions during the January 1, 2018 through December 31, 2018, period of review (POR).

DATES: Applicable February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0835.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 2019, Commerce published its *Preliminary Results* of the review of the antidumping duty order on wooden bedroom furniture (WBF) from the People's Republic of China (China) covering the period January 1, 2018 through December 31, 2018.[1] No parties commented on the *Preliminary Results.*

Scope of the Order

The product covered by the *Order* is wooden bedroom furniture, subject to certain exceptions.[2] Imports of subject merchandise are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 9403.50.9042, 9403.50.9045, 9403.50.9080, 9403.90.7005, 9403.90.7080, 9403.50.9041, 9403.60.8081, 9403.20.0018, 9403.90.8041, 7009.92.1000 or 7009.92.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description in the order remains dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[3]

Analysis

In the *Preliminary Results,* Commerce determined that the following four companies had no shipments of subject merchandise to the United States during the POR: (1) Sunforce Furniture (Hui-Yang) Co., Ltd., Sun Fung Wooden Factory, Sun Fung Co., Shin Feng Furniture Co., Ltd., Stupendous International Co., Ltd.; (2) Eurosa (Kunshan) Co., Ltd. and Eurosa Furniture Co., (PTE) Ltd.; (3) Shenyang Shining Dongxing Furniture Co., Ltd.; and (4) Yeh Brothers World Trade Inc.[4] No parties commented on the *Preliminary Results.* In these final results of review, we are adopting the decisions in the Preliminary Decision Memorandum, and continue to find that the four companies listed above had no shipments of subject merchandise to the United States during the POR.

Because no party requested a review of the China-wide entity, we are not conducting a review of that entity[5] and have not changed the antidumping duty cash deposit rate for the China-wide entity. The existing antidumping duty cash deposit rate for the China-wide entity is 216.01 percent.

For additional details, *see* the Preliminary Decision Memorandum, which is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Pursuant to Commerce's practice in non-market economy cases, if there are any suspended entries of subject merchandise during the POR under the case numbers of the four companies that claimed no shipments of subject merchandise during the POR, they will be liquidated at the China-wide rate.[6]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of

[11] *See* 19 CFR 351.310.

[1] *See Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Preliminary Determination of No Shipments; 2018,* 84 FR 54589 (October 10, 2019) (*Preliminary Results*).

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005) (*Order*).

[3] For a complete description of the scope of the *Order,* please *see* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China,'' dated October 2, 2019 (Preliminary Decision Memorandum).

[4] *See Preliminary Results.*

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[6] For a full discussion of this practice, *see* Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date in the **Federal Register** of the final results of this review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the four companies listed above, which had no shipments of subject merchandise to the United States during the POR, will continue to be the existing cash deposit rates for those companies; (2) for previously investigated or reviewed China and non-China exporters which are not under review in this segment of the proceeding but which received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity, which is 216.01 percent; and (4) for all non-China exporters of subject merchandise which have not received their own cash deposit rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This notice of the final results of this antidumping duty administrative review is issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: February 4, 2020.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–02686 Filed 2–10–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–057]

Certain Tool Chests and Cabinets From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has completed its administrative review of the countervailing duty (CVD) order on certain tool chests and cabinets (tool chests) from the People's Republic of China (China). The period of review (POR) is September 15, 2017 through December 31, 2018. We have determined that Zhongshan Geelong Manufacturing Co. Ltd. (Geelong), the sole producer subject to this administrative review, received countervailable subsidies during the POR.

DATES: Applicable February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, 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) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 2019, Commerce published the *Preliminary Results* of this CVD administrative review in the **Federal Register**.[1] For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order

A full description of the scope of the order is contained in the Issues and Decision Memorandum.[3]

Analysis of Comments Received

Only the Government of China (GOC) submitted a case brief in this proceeding, while Geelong submitted a letter in lieu of a case brief expressing agreement with the *Preliminary Results*.[4] The issues raised by the GOC, and Commerce's analysis thereof, are identified in the Appendix to this notice and addressed in the Issues and Decision Memorandum.[5] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*; the Issues and Decision Memorandum is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Methodology

We conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable during the POR, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying our

[1] *See Certain Tool Chests and Cabinets from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2017–2018,* 84 FR 54115 (October 9, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Countervailing Duty Administrative Review of Certain Tool Chests and Cabinets from the People's Republic of China; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *Id.*

[4] *See* GOC's Letter, ''Certain Tool Chests and Cabinets from the People's Republic of China, Case No. C–570–057: Case Brief,'' dated November 8, 2019, *see also* Geelong's Letter, ''Administrative Review of the Countervailing Duty Order on Certain Tool Chests and Cabinets from the People's Republic of China: Letter in Lieu of Case Brief,'' dated November 8, 2019.

[5] *See* GOC's Letter, ''Certain Tool Chests and Cabinets from the People's Republic of China, Case No. C–570–057: Case Brief,'' dated November 8, 2019, *see also* Geelong's Letter, ''Administrative Review of the Countervailing Duty Order on Certain Tool Chests and Cabinets from the People's Republic of China: Letter in Lieu of Case Brief,'' dated November 8, 2019.

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

conclusions, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on the comments received from the GOC, we made no changes to our subsidy rate calculations. For a discussion of these issues, see the Issues and Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5), we determine the following net countervailable subsidy rates for the sole respondent, Geelong, for the period September 15, 2017 through December 31, 2018:

Company	Subsidy rate—2017 (percent *ad valorem*)	Subsidy rate—2018 (percent *ad valorem*)
Zhongshan Geelong Manufacturing Co. Ltd.	1.27	1.15

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after publication of these final results of review, to liquidate shipments of subject merchandise produced by and/or exported by Geelong, entered, or withdrawn from warehouse, for consumption on or after September 15, 2017 through December 31, 2018, at the *ad valorem* rates listed above.

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, we intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for Geelong for 2018 (*i.e.,* 1.15 percent *ad valorem*), on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results of review in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 5, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2020–02677 Filed 2–10–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID–0648–XV176]

Efficient Permitting of Ocean Research, Mapping, and Characterizing Activities

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice; Request for information.

SUMMARY: On behalf of the Ocean Policy Committee, Ocean Resource Management Subcommittee and the Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ) as Co-Chairs of the Ocean Policy Committee, the National Oceanic and Atmospheric Administration (NOAA) requests input from all interested parties on the permitting process for ocean research, mapping, and characterization activities. The public input provided in response to this Request for Information (RFI) will inform the Ocean Policy Committee as it works with Federal agencies and other stakeholders to increase the efficiency of the permitting and authorization processes for ocean research, mapping, and characterization activities across agencies.

DATES: Interested persons are invited to submit comments on or before March 12, 2020.

ADDRESSES: Responses should be submitted via email to *oceanresearch@ostp.eop.gov.* Include ''RFI Response: Efficient Permitting of Mapping, Exploring, and Characterizing Activities'' in the subject line of the message.

Instructions: Response to this RFI is voluntary. Respondents need not reply to all questions listed. For all submissions, clearly indicate which questions are being answered. Email attachments will be accepted in plain text, Microsoft Word, or Adobe PDF formats only. Each individual or institution is requested to submit only one response. OSTP may post responses to this RFI, without change, on a Federal website. NOAA, therefore, requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Brock Eckel, OSTP, 202 456–4336.

SUPPLEMENTARY INFORMATION: The U.S. Government, in coordination with non-U.S. Government entities, conducts hundreds of ocean exploration, mapping, and research activities every year across the United States Exclusive Economic Zone (U.S. EEZ). These activities improve our understanding of our oceans, including by identifying potential new sources of critical minerals, biopharmaceuticals, energy,

and other resources. These activities frequently require multiple environmental reviews, consultations, permits, and other authorizations under Federal laws and regulations that protect resources such as maritime heritage sites and sensitive or protected marine natural resources.

Presidential Memorandum, Ocean Mapping of the United States Exclusive Economic Zone and the Shoreline and Nearshore of Alaska, 84 FR 64699 (Nov. 11, 2019), directs the Ocean Policy Committee, through its Ocean Resource Management Subcommittee, to identify opportunities and recommend actions to the Director of the OSTP and the Chairman of the CEQ that will increase the efficiency of the permitting and authorization processes for ocean research, mapping, and characterization activities across agencies. The Ocean Policy Committee is soliciting public input through this RFI to obtain information from a wide range of stakeholders, including academia, private industry, and other relevant organizations and institutions, in order to inform the Ocean Policy Committee as it prepares to identify these opportunities and develop recommended actions.

Questions To Inform Development of the Recommendations

Through this RFI, the Ocean Policy Committee seeks responses to the following questions to identify opportunities and inform development of recommendations that will increase the efficiency of the permitting and authorization processes for ocean research, mapping, and characterization activities that take place in the U.S. EEZ.

1. Please describe any challenges related to identifying and obtaining the necessary information, permits, and authorizations required to conduct ocean research, mapping, and characterization activities in the U.S. EEZ, particularly with respect to applicable regulations and agency policies.

2. Please describe opportunities to increase the efficiency of permitting and authorization processes for ocean research, mapping, and characterization activities in the U.S. EEZ.

3. What innovative tools, platforms, and technologies could increase the efficiency of permitting, reporting, and authorization processes for ocean research, mapping, and characterization activities in the U.S. EEZ? To the extent innovative capabilities already exist, but are not being effectively used, what are the barriers to adopting them?

4. After authorization is obtained, are there any reporting or paperwork requirements that are unduly burdensome or lack utility? If yes, please describe such requirements and provide suggestions for addressing them.

5. Is there any additional information related to permitting and authorization processes for ocean research, mapping, and characterization activities in the U.S. EEZ, not requested above, that you believe the Ocean Policy Committee should consider?

Dated: February 3, 2020.

Timothy C. Gallaudet,

Assistant Secretary of Commerce for Oceans and Atmosphere, Deputy NOAA Administrator, Department of Commerce.

[FR Doc. 2020–02627 Filed 2–10–20; 8:45 am]

BILLING CODE 3270–F8–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID–0648–XV175]

Strategy for Mapping, Exploring, and Characterizing the U.S. Exclusive Economic Zone

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice; request for information.

SUMMARY: On behalf of the Ocean Policy Committee, Ocean Science and Technology Subcommittee and the Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ) as Co-Chairs of the Ocean Policy Committee, the National Oceanic and Atmospheric Administration (NOAA) requests input from all interested parties on the development of a National Strategy for Mapping, Exploring, and Characterizing the United States Exclusive Economic Zone (U.S. EEZ). Through this Request for Information (RFI), the Ocean Policy Committee seeks input from the public on ways to map, explore, and characterize the U.S. EEZ; that is, to reveal the terrain of the ocean floor and identify areas of particular interest, and to identify and evaluate natural and cultural resources within these areas. The public input provided in response to this RFI will inform the Ocean Policy Committee as it works with Federal agencies and other stakeholders to develop the strategy.

DATES: Interested persons are invited to submit comments on or before March 12, 2020.

ADDRESSES: Responses should be submitted via email to *oceanmapping@ostp.eop.gov.* Include ''RFI Response: National Strategy for Mapping, Exploring, and Characterizing the U.S. EEZ'' in the subject line of the message.

Instructions: Response to this RFI is voluntary. Respondents need not reply to all questions listed. For all submissions, clearly indicate which questions are being answered. Email attachments will be accepted in plain text, Microsoft Word, or Adobe PDF formats only. Each individual or institution is requested to submit only one response. OSTP may post responses to this RFI, without change, on a Federal website. NOAA, therefore, requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Kris Dellapina, OSTP, 202 456–6038.

SUPPLEMENTARY INFORMATION: Presidential Memorandum, Ocean Mapping of the United States Exclusive Economic Zone and the Shoreline and Nearshore of Alaska, 84 FR 64699 (Nov. 19, 2019), directs the Director of the OSTP and the Chairman of the CEQ, in their capacity as Co-Chairs of the Ocean Policy Committee, to coordinate the development of a national strategy for mapping, exploring, and characterizing the U.S. EEZ. Pursuant to this requirement, the Ocean Policy Committee, through its Ocean Science and Technology Subcommittee and in coordination with the Administrator of NOAA, seeks to develop a proposed strategy (''Strategy'') to map the U.S. EEZ, identify priority areas within the U.S. EEZ, and explore and characterize the priority areas. The Ocean Policy Committee has commenced development of the Strategy and is soliciting public input through this RFI to obtain information from a wide range of stakeholders, including academia, private industry, and other relevant organizations and institutions. The public input provided in response to this RFI will inform the Ocean Policy Committee as it continues to develop the Strategy.

Questions To Inform Development of the Strategy

Through this RFI, the Ocean Policy Committee seeks responses to the following questions to inform development of a national strategy for ocean mapping, exploration, and characterization.

1. Given the tools, platforms, and technologies of which you are aware, what is the most effective approach for mapping the remaining unmapped portions of the U.S. EEZ? How should areas be prioritized for mapping?

2. What innovative tools, platforms, and technologies could advance our capability to map, explore, and characterize the U.S. EEZ more efficiently and effectively? To the extent innovative capabilities already exist, but are not being effectively used, what are the barriers to adopting them? How can these barriers be overcome?

3. Given the tools, platforms, and technologies of which you are aware, what is the most effective approach for exploring and characterizing priority areas of the U.S. EEZ?

4. What selection criteria should inform the determination of priority areas of the U.S. EEZ for exploration and characterization?

5. How can public-private partnerships be utilized to effectively implement the Strategy?

6. Which Federal programs are best positioned to support public-private partnerships to advance ocean exploration, mapping, and characterization? What changes are needed, if any, to these programs to improve their effectiveness?

7. How should the data generated by the Strategy be managed so that it is most useful to public and private sectors?

8. Is there any additional information related to mapping, exploring, and characterizing the U.S. EEZ, not requested above, that you believe the Ocean Policy Committee should consider?

Dated: February 3, 2020.

Timothy C. Gallaudet,

Assistant Secretary of Commerce for Oceans and Atmosphere, Deputy NOAA Administrator, Department of Commerce.

[FR Doc. 2020–02626 Filed 2–10–20; 8:45 am]

BILLING CODE 3270–F8–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on February 26, 2020, from 10 a.m. to 4 p.m., the Technology Advisory Committee (TAC) will hold a public meeting in the Conference Center at the Commodity Futures Trading Commission's headquarters in Washington, DC. At this meeting, the TAC will hear presentations on stablecoins, audit trails, compliance solutions, and cryptocurrency self-regulatory organizations, insurance, and custody. The TAC will also discuss and vote on a recommendation from its Cybersecurity Subcommittee regarding the Financial Services Sector Coordinating Council Cybersecurity Profile.

DATES: The meeting will be held on February 26, 2020, from 10 a.m. to 4 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by March 4, 2020.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. You may submit public comments, identified by ''Technology Advisory Committee,'' by any of the following methods:

- *CFTC Website: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Meghan Tente, TAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5785.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

- *Domestic Toll Free:* 877–951–7311.
- *International Toll and Toll Free:* Will be posted on the CFTC's website, *http://www.cftc.gov,* on the page for the meeting, under Related Links.
- *Pass Code/Pin Code:* 3637010.

The meeting agenda may change to accommodate other TAC priorities. For agenda updates, please visit the TAC committee website at: *https://www.cftc.gov/About/CFTCCommittees/TechnologyAdvisory/tac_meetings.html.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website at: *http://www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's website. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

(Authority: 5 U.S.C. app. 2 section 10(a)(2)).

Dated: February 5, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–02623 Filed 2–10–20; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS–2020–0008]

Defense Federal Acquisition Regulation Supplement: Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Announcement of public meeting.

SUMMARY: DoD is hosting a public meeting to facilitate implementation planning by obtaining the views of DoD industry partners, associations, and interested parties regarding implementation of the prohibition in section 889(a)(1)(B) of the National Defense Authorization Act for Fiscal Year 2019 on contracting with an entity that uses certain telecommunications and video surveillance services and equipment.

DATES:

Public Meeting Date: The public meeting will be held on March 2, 2020, from 1:00 to 5:00 Eastern time. The public meeting will end at the stated time, or when the discussion ends, whichever comes first.

Registration Date: Registration to attend the public meeting must be received no later than close of business on February 25, 2020. Information on how to register for the public meeting

may be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The public meeting will be held in the Pentagon Library and Conference Center (PLCC), Conference Room B6, 1155 Defense Pentagon, Washington, DC 20301. Conference Room B6 is located on the lower level of the PLCC.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Kitchens, telephone 571–372–6104.

SUPPLEMENTARY INFORMATION:

I. Background

A. Section 889(a)(1)(B)

DoD is hosting a public meeting to facilitate the Department's planning for the pending implementation of section 889(a)(1)(B) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). The Department is focused on achieving an efficient implementation of the prohibition in section 889(a)(1)(B). To achieve this goal, DoD is seeking the views of DoD industry partners and associations regarding how industry will implement this prohibition, including what, if any, impacts there will be to DoD business.

Section 889(a)(1)(B) prohibits Executive agencies, including DoD, from entering into a contract (or extending or renewing a contract) with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment means any of the following:

- Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- Telecommunications or video surveillance services provided by such entities or using such equipment.
- Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of the People's Republic of China.

On July 19, 2019, DoD, the General Services Administration, and the National Space and Aeronautics Administration hosted a public meeting to obtain views of experts and interested parties regarding implementation in the Federal Acquisition Regulation (FAR) of section 889 of the NDAA for FY 2019, with specific focus on the implementation of paragraph (a)(1)(B). Unlike the July public meeting, the intent of this public meeting is to facilitate DoD's implementation by focusing on DoD industry partner plans for implementation. DoD is seeking information on the following:

- What key barriers do you see to industry implementation of this prohibition, and how might they be overcome?
- How long will it take companies to cease use of covered equipment or services?
- What impact will implementation of this requirement have on your supply chains and your ability to contract with DoD?
- What distinct impacts will implementation of this requirement have on small business?

B. Section 889(a)(1)(A)

This public meeting is not related to the implementation of the prohibition in section 889(a)(1)(A) of the NDAA for FY 2019. Section 889(a)(1)(A) prohibits executive agencies, including DoD, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

DoD participated with the FAR Council in implementing in the FAR the prohibition in section 889(a)(1)(A) via the interim rule published in the **Federal Register** at 84 FR 40216 on August 13, 2019 (reference FAR Case 2018–017).

DoD issued DoD procedures for implementing the FAR rule that implemented section 889(a)(1)(A) (see *https://www.acq.osd.mil/dpap/policy/policyvault/USA001866-19-DPC.pdf).*

The FAR Council published a second interim rule in the **Federal Register** at 84 FR 68314 on December 13, 2019 (reference FAR Case 2018–017), to alleviate some of the reporting burden associated with the first interim rule.

II. Public Meeting

Registration: To ensure adequate room accommodations and to facilitate security screening and entry to the PLCC, individuals wishing to attend the public meeting must register by close of business on the date listed in the **DATES** section of this notice, by sending the following information via email to *osd.dfars@mail.mil:*

(1) Full name.
(2) Valid email address.
(3) Valid telephone number.
(4) Company or organization name.
(5) Whether the individual is a U.S. citizen.
(6) The date(s) of the public meeting(s) the individual wishes to attend.
(7) Whether the individual intends to make a presentation, and, if so, the individual's title.

Building Entry: Upon receipt of an email requesting registration, the Defense Acquisition Regulations System will provide notification to the Pentagon Force Protection Agency (PFPA) that the individual is requesting approval for entry to the PLCC on the date(s) provided. PFPA will send additional instructions to the email address provided in the request for registration. The registrant must follow the instructions in the PFPA email in order to be approved for entry to the PLCC.

One valid government-issued photo identification card (*i.e.,* driver's license or passport) will be required in order to enter the building.

Attendees are encouraged to arrive at least 30 minutes prior to the start of the meeting to accommodate security procedures.

Public parking is not available at the PLCC.

Presentations: If you wish to make a presentation, please submit an electronic copy of your presentation to *osd.dfars@mail.mil* no later than the registration date listed in the **DATES** section of this notice. Each presentation should be in PowerPoint to facilitate projection during the public meeting and should include the presenter's name, organization affiliation, telephone number, and email address on the cover page. Please submit presentations only and cite ''Public Meeting, Section 889(a)(1)(B)'' in all correspondence related to the public meeting. There will be no transcription at the meeting. The submitted presentations will be the only record of the public meeting and will be posted to the following website at the conclusion of the public meeting: *https://www.acq.osd.mil/dpap/dars/Section889.html.*

Special accommodations: The public meeting is physically accessible to

persons with disabilities. Requests for reasonable accommodations, sign language interpretation, or other auxiliary aids should be directed to Valencia Johnson, telephone 571–372–6099, by no later than the registration date listed in the **DATES** section of this notice.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let him or her know the agency is the Department of Defense and the point of contact is Valencia Johnson at 571–372–6099.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2020–02727 Filed 2–10–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0013]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), Department of Defense (DoD).

ACTION: Notice of availability of proposed amendments to the Manual for Courts-Martial, United States (2019 ed.) and notice of public meeting.

SUMMARY: The DoD requests comments on proposed changes to the Manual for Courts-Martial, United States (2019 ed.) (MCM). The proposed changes implement certain provisions of the National Defense Authorization Acts for Fiscal Years 2018, 2019, and 2020 and concern (1) the rules of procedure and evidence applicable in trials by courts-martial; and (2) the punitive articles of the Uniform Code of Military Justice. The approval authority for these changes is the President. These proposed changes have not been coordinated within the DoD under DoD Directive 5500.01, ''Preparing, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters, and Testimony,'' June 15, 2007, and do not constitute the official position of the DoD, the Military Departments, or any other Government agency.

DATES: Comments on the proposed changes must be received no later than April 13, 2020. A public meeting for comments will be held on February 19, 2020 at 10:00 a.m. in the United States Court of Appeals for the Armed Forces building, 450 E Street NW, Washington DC 20442–0001.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Adam S. Kazin, U.S. Army, Executive Secretary, JSC, (571) 256–8132, *adam.s.kazin.mil@mail.mil*. The JSC website is located at *http://jsc.defense.gov.*

SUPPLEMENTARY INFORMATION:

The full text of the 2019 MCM is available electronically at *https://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/.*

This notice is provided in accordance with DoD Instruction 5500.17, ''Role and Responsibilities of the Joint Service Committee on Military Justice (JSC),'' February 21, 2018 (available at *https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550017_5C.PDF?ver=2018-02-21-074422-370*).

The JSC invites members of the public to comment on the proposed changes; such comments should address specific recommended changes and provide supporting rationale.

This notice also sets forth the date, time, and location for a public meeting of the JSC to discuss the proposed changes.

This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

Dated: February 6, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

ANNEX

Section 1. Part II of the Manual for Courts-Martial, United States is amended as follows:

(a) R.C.M. 405(h)(3)(B)(iii) is amended as follows:

"(iii) If the Government objects to production of the evidence, defense counsel may request that the preliminary hearing officer determine whether the evidence should be produced. If the preliminary hearing officer determines that the evidence is relevant, not cumulative, and necessary to a determination of the issues under subsection (a) and that the issuance of a pre-referral investigative subpoena would not cause undue delay to the preliminary hearing, the preliminary hearing officer shall direct counsel for the Government to ~~issue~~ seek a pre-referral investigative subpoena for the defense-requested evidence from a military judge in accordance with R.C.M. 309 or authorization from the general court-martial convening authority to issue an investigative subpoena. If counsel for the Government refuses or is unable to obtain an investigative subpoena, the counsel shall set forth the reasons ~~for such refusal~~ why the investigative subpoena was not obtained in a written statement that shall be included in the preliminary hearing report under subsection (l)."

(b) R.C.M. 703(g)(3)(G) is amended as follows:

"*Relief.* If either a person subpoenaed, or a victim named in a specification whose personal and confidential information has been subpoenaed under subparagraph (g)(3)(C)(ii), requests relief on grounds that compliance is unreasonable, oppressive, or prohibited by law, the military judge or, if before referral, a military judge detailed under Article 30a shall review the request and shall—."

(c) R.C.M. 703(g)(3)(H)(iii) is amended as follows:

"(iii) Form. A warrant of attachment shall be written. All documents in support of the warrant of attachment shall be attached to the warrant, together with ~~the~~ any charge sheets and convening orders, if applicable."

(d) R.C.M. 703A is amended as follows:

"Rule 703A. Warrant or order for wire or electronic communications

(a) *In general.* A military judge detailed in accordance with Article 26 or Article 30a may, upon written application by a federal law enforcement officer, trial counsel, or other authorized counsel for the Government in connection with an ongoing investigation of an offense or offenses under the UCMJ, issue one or more of the following:

(1) A warrant for the disclosure by a provider of electronic communication service of the contents of any wire or electronic communication ~~that is in electronic storage in an electronic communications system for 180 days or less~~.

~~(2) A warrant or order for the disclosure by a provider of electronic communication service of the contents of any wire or electronic communication that is in electronic storage in an electronic communications system for more than 180 days.~~

(2~~3~~) A warrant ~~or order~~ for the disclosure by a provider of remote computing service of the contents of any wire or electronic communication that is held or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such

communications for purposes of providing any services other than storage or computer processing.

(3~~4~~) A warrant or order for the disclosure by a provider of electronic communication service or remote computing service of a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications~~), to include the subscriber or customer's —~~

~~(A) name;~~

~~(B) address;~~

~~(C) local and long distance telephone connection records, or records of session times and durations;~~

~~(D) length of service (including start date) and types of service utilized;~~

~~(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and~~

~~(F) means and source of payment for such service (including any credit card or bank account number)~~.

(b) *Warrant procedures*.

(1) Probable cause required. A military judge shall issue a warrant authorizing the search for and seizure of information specified in subsection (a) if—

(A) The federal law enforcement officer, trial counsel, or other authorized counsel for the Government applying for the warrant presents an affidavit or sworn testimony, subject to examination by the military judge, in support of the application; and

(B) Based on the affidavit or sworn testimony, the military judge determines that there is probable cause to believe that the information sought contains evidence of a crime.

(2) Issuing the warrant. The military judge shall issue the warrant to the federal law enforcement officer, trial counsel, or other authorized Government counsel who applied for the warrant.

(3) Contents of the warrant. The warrant shall identify the property to be searched, identify any property or other information to be seized, and designate the military judge to whom the warrant must be returned.

(4) Executing the warrant. The presence of the federal law enforcement officer, trial counsel, or other authorized Government counsel identified in the warrant shall not be required for service or execution of a search warrant issued in accordance with this rule requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.

(c) *Order procedures.*

~~(1) A military judge shall issue an order authorizing the disclosure of information specified in paragraph (a)(2), (3), or (3)4) if the federal law enforcement officer, trial counsel, or other authorized counsel for the Government applying for the order—~~

~~(A) Offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation; and~~

~~(B) Except in the case of information specified in paragraph (a)(4), has provided prior notice to the subscriber or customer of the application for the order, unless the military judge approves a request for delayed notice under subsection (d).~~

(1) A military judge shall issue an order authorizing the disclosure of information specified in paragraph (a)(3) if the federal law enforcement officer, trial counsel, or other authorized counsel for the Government applying for the order offers specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

(2) Quashing or modifying order. A military judge issuing an order under paragraph (c)(1), on a motion made promptly by the service provider, may quash or modify such order, if the order is determined to be unreasonable, oppressive, or prohibited by law.

(d) ~~*Delayed notice of order.*~~ *Non-disclosure orders*.

~~(1) A federal law enforcement officer, trial counsel, or other authorized counsel for the Government applying for an order to obtain information specified in paragraph (a)(2) or (3) may include in the application a request for an order delaying the notification required under subparagraph (c)(1)(B) for a period not to exceed 90 days. The military judge reviewing the application and the request shall grant the request and issue the order for delayed notification if the military judge determines that there is reason to believe that notification of the existence of the order may have an adverse result described in paragraph (4). Extensions of the delay of notification required under subparagraph (c)(1)(B) of up to 90 days each may be granted by the military judge upon application, but only in accordance with paragraph (2).~~

(1~~2~~) A federal law enforcement officer, trial counsel, or other authorized counsel for the Government acting under this rule~~, when not required to notify the subscriber or customer under subparagraph (c)(1)(B), or to the extent that delayed notification has been ordered under paragraph (1)~~, may apply to a military judge for an order commanding a provider of electronic communications service or remote computing service to whom a warrant or order under this rule is directed, for such period as the military judge deems appropriate, not to notify any other person of the existence of the warrant or order. The military judge shall issue the order ~~for delayed notification~~ if the military judge determines that there is reason to believe that notification of the existence of the warrant or order will result in an adverse result described in paragraph (2~~4~~).

~~(3) Upon expiration of the applicable period of delay of notification under paragraph (2), the federal law enforcement officer, trial counsel, or other authorized Government counsel shall serve upon, or deliver by registered first-class mail to, the customer or subscriber a copy of the process or request together with notice that—~~

~~(A) states with reasonable specificity the nature of the law enforcement inquiry; and~~

~~(B) informs such customer or subscriber—~~

~~(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;~~

~~(ii) that notification of such customer or subscriber was delayed;~~

~~(iii) which military judge made the determination pursuant to which that delay was made; and (iv) which provision of this rule allowed such delay.~~

(2~~4~~) An adverse result for the purposes of paragraph ~~s~~(1)~~ and (2)~~ is—

(A) endangering the life or physical safety of an individual;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(e) *No cause of action against a provider disclosing information under this rule*. As provided under 18 U.S.C. § 2703(e), no cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a warrant or order under this rule.

(f) *Requirement to preserve evidence*. To the same extent as provided in 18 U.S.C. § 2703(f)—

(1) A provider of wire or electronic communication services or a remote computing service, upon the request of a federal law enforcement officer, trial counsel, or other authorized Government counsel, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of an order or other process; and

(2) Shall retain such records and other evidence for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

(g) *Definition*. As used in this rule, the term "federal law enforcement officer" includes an employee of the Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, or the Coast Guard Investigative Service, who has authority to request a search warrant."

(e) R.C.M. 706(c)(3)(A) is amended as follows:

"(A) That upon completion of the board's investigation, a statement consisting only of the board's ultimate conclusions as to all questions specified in the order shall be submitted to the officer ordering the examination, the accused's commanding officer, the preliminary hearing officer, if any, appointed pursuant to Article 32 and to all trial and defense counsel in the case, the convening authority, and, after referral, to the military judge."

(f) R.C.M. 707(e) is amended as follows:

"(e) ~~*Forfeiture*~~. *Waiver*. Except as provide in R.C.M. 910(a)(2), a plea of guilty which results in a finding of guilty ~~forfeits~~ waives any speedy trial issue under this rule, as to that offense. ~~, unless affirmatively waived~~.

(g) R.C.M. 910(j) is amended as follows:

"(j) *Waiver*. Except as provided in paragraph (a)(2) of this rule, a plea of guilty which results in a finding of guilty waives any objection, whether or not previously raised, ~~insofar as the objection relates to the factual issue of guilt of the offense(s) to which the plea was made~~ and any non-jurisdictional defect that occurred prior to the plea."

(h) R.C.M. 914(e) is amended as follows:

"(e) *Remedy for failure to produce statement.*

(1) *Party refusal to comply.* If the other party elects not to comply with an order to deliver a statement to the moving party, the military judge shall order that the testimony of the witness be disregarded by the trier of fact and that the trial proceed, or, if it is the trial counsel who elects not to comply, shall declare a mistrial if required in the interest of justice.

(2) *Failure to comply in good faith.* In the event that the other party cannot comply with this rule because the statement is lost, and can prove, by a preponderance of evidence, that the

loss of the witness statement under subsections (a), (b), and (c) of this rule was not attributable to bad faith or gross negligence, the military judge may exercise the sanctions set forth in subsection(e)(1) of this rule if—

(A) evidence is of such central importance to an issue that it is essential to a fair trial, and

(B) there is no adequate substitute for such evidence.

(i) R.C.M. 1003(b)(2) is amended as follows:

"(2) ~~In the case of an accused who is not confined, forfeitures of pay may not exceed two-thirds of pay per month.~~ Forfeitures of greater than two-thirds' pay per month may only be imposed during periods of confinement."

(j) R.C.M. 1003(c)(2) is amended as follows:

(2) *Based on rank of accused.*

(A) *Commissioned or warrant officers, cadets, and midshipmen.*

(i) A commissioned or warrant officer or a cadet~~,~~ or midshipman may not be reduced in grade by any court-martial. However, in time of war or national emergency the Secretary concerned, or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned, may commute a sentence of dismissal to reduction to any enlisted grade.

~~(ii) Only a general court-martial may sentence a commissioned or warrant officer or a cadet, or midshipman to confinement.~~

(ii~~i~~) A commissioned or warrant officer or a cadet or midshipman may not be sentenced to hard labor without confinement.

(~~iv~~iii) Only a general court-martial, upon conviction of any offense in violation of the UCMJ, may sentence a commissioned or warrant officer or a cadet or midshipman to be

separated from the service with a punitive separation. In the case of commissioned officers, cadets, midshipmen, and commissioned warrant officers, the separation shall be by dismissal. In the case of all other warrant officers, the separation shall by dishonorable discharge."

(k) R.C.M. 1101(e) is new and reads as follows:

"(e) *Modification.* The Statement of Trial Results may be modified as follows:

(1) The military judge may modify the Statement of Trial Results to correct any errors, prior to certification of the record of trial under R.C.M. 1112.

(2) The Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the Judge Advocate General or his or her designee may modify the Statement of Trial Results in the performance of their duties and responsibilities.

(3) If a case is remanded to a military judge, the military judge may modify the Statement of Trial Results consistent with the purposes of the remand.

(4) Any modification to the Statement of Trial Results must be included in the record of trial."

(l) R.C.M. 1111(c) is amended as follows:

(c) *Modification of judgment.* The judgment may be modified as follows—

(1) The military judge who entered a judgment may ~~modify the judgment~~ issue a modified judgment to correct ~~computational~~ any errors~~, within 14 days after judgment was initially entered~~ prior to certification of the record of trial under R.C.M. 1112.

(2) The ~~Judge Advocate General~~ Court of Criminal Appeals, ~~and~~ the Court of Appeals for the Armed Forces, and the Judge Advocate General or his or her designee may modify a judgment in the performance of ~~their~~ official duties and responsibilities.

(3) If a case is remanded to a military judge, the military judge may modify the judgment consistent with the purposes of the remand.

(4) Any modification to the judgment of a court-martial must be included in the record of trial."

Section 2. Part III of the Manual for Courts-Martial, United States is amended as follows:

(a) Mil. R. Evid. 311(c)(3) is amended as follows:

"(3) *Good Faith Exception of a Warrant or Search Authorization:* Evidence that was obtained as a result of an unlawful search or seizure may be used if:

(A) the search or seizure resulted from an authorization to search, seize, or apprehend issued by an individual competent to issue the authorization under Mil. R. Evid. 315(d) or from a search warrant or arrest warrant issued by competent civilian authority, or the officials seeking and executing the authorization or warrant reasonably and with good faith believed the individual was competent to issue the authorization or warrant;

(B) the officials seeking and executing the authorization or warrant reasonably and with good faith believed that the individual issuing the authorization or warrant had a substantial basis for determining the existence of probable cause; and

(C) the officials seeking and executing the authorization or warrant reasonably and with good faith relied on the issuance of the authorization or warrant. Good faith is to be determined using an objective standard.

(b) Mil. R. Evid. 902 is amended as follows:

"(12) Reserved.

(13) *Certified Records Generated by an Electronic Process or System.* A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Mil. R. Evid. 902(11). The proponent also must meet the notice requirements of Mil. R. Evid. Rule 902(11).

(14) *Certified Data Copied from an Electronic Device, Storage Medium, or File.* Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Mil. R. Evid. 902(11). The proponent also must meet the notice requirements of Mil. R. Evid. 902(11)."

Section 3. Part IV of the Manual for Courts-Martial, United States as amended by EO 13825 is further amended as follows:

(a) Para. 19(c)(2) is amended as follows:

(2) *Nature of act.* The cruelty, oppression, or maltreatment, although not necessarily physical, must be measured by an objective standard. Assault, improper punishment, and sexual harassment may constitute this offense, if the conduct meets the elements of this offense. Sexual harassment under this paragraph includes influencing, offering to influence, or threatening the career, pay, or job of another person in exchange for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature. The imposition of necessary or proper duties and the exaction of their performance does not constitute this offense even though the duties are arduous or hazardous or both.

(b) Paragraph 63 is amended as follows:

"b. *Elements.*

(1) *Indecent viewing.*

(a) That the accused, without legal justification or lawful authorization, knowingly and wrongfully viewed the private area of another person;

(b) That said viewing was without the other person's consent; and

(c) That said viewing took place under circumstances in which the other person had a reasonable expectation of privacy.

(2) *Indecent recording.*

(a) That the accused, without legal justification or lawful authorization, knowingly recorded (photographed, videotaped, filmed, or recorded by any means) the private area of another person;

(b) That said recording was without the other person's consent; and

(c) That said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(3) *Broadcasting of an indecent recording*

(a) That the accused, without legal justification or lawful authorization, knowingly broadcast a certain recording of another person's private area;

(b) That said recording was made without the other person's consent;

(c) that the accused knew or reasonably should have known that the recording was made without the other person's consent;

(d) that said recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonable should have known that said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(4) *Distribution of an indecent recording*

(a) That the accused, without legal justification or lawful authorization, knowingly distributed a certain recording of another person's private area;

(b) That said recording was made without the other person's consent;

(c) That the accused knew or reasonably should have known that said recording was made without the other person's consent;

(d) That said recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonably should have known that said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

e. *Sample specifications.*

(1) *Indecent viewing, recording, or broadcasting.*

(a) *Indecent viewing.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction, if required), on or about _____ 20__, without legal justification or lawful authorization, knowingly and wrongfully view the private area of _____, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(b) *Indecent recording.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction, if required), on or about _____ 20__, without legal justification or lawful authorization, knowingly (photograph) (videotape) (film) (make a recording of) the private area of _____, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(c) *Broadcasting or distributing an indecent recording.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction, if required), on or about _____ 20__, without legal justification or lawful authorization, knowingly (broadcast) (distribute) a recording of the private area of _____, when the said accused knew or reasonably should have known that the said recording was made without the consent of _____ and under circumstances in which (he) (she) had a reasonable expectation of privacy."

(c) Paragraph 108 is new and reads as follows:

"108. Article 134 – Sexual Harassment

a. *Text of statute*. See paragraph 91.

b. *Elements*.

(1) That the accused knowingly made sexual advances, demands or requests for sexual favors, or engaged in other conduct of a sexual nature;

(2) That such conduct was unwelcome;

(3) That under the circumstances, such conduct:

(a) Would cause a reasonable person to believe, and a certain person does believe, that submission to such conduct would be made, either explicitly or implicitly, a term or condition of a person's job, pay, career, benefits or entitlements;

(b) Would cause a reasonable person to believe, and a certain person does believe, that submission to, or rejection of, such conduct would be used as a basis for career or employment decisions affecting that person; or

(c) Was so severe, repetitive, or pervasive that a reasonable person would perceive, and a certain person does perceive, an intimidating, hostile, or offensive working environment.

and

(4) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) Whether "other conduct" is "of a sexual nature" is dependent upon the circumstances of the act or acts alleged and may include conduct that, without context, would not appear to be sexual in nature.

(2) *Nature of victim.* "A certain person" extends to any person, regardless of gender, seniority, or whether subject to the UCMJ, who by some duty or military-related reason may work or associate with the accused.

(3) *Timing and location of act.* The act constituting sexual harassment can occur at any location, regardless of whether the victim or accused are on or off duty at the time of the alleged act or acts. Physical proximity is not required, and the acts may be committed through online or other electronic means.

(4) *Mens Rea.* The accused must have actual knowledge that the accused is making sexual advances, demands or requests for sexual favors, or engaging in other conduct of a sexual nature. Actual knowledge is not required for the other elements of the offense.

d. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

e. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board – location) (subject-matter jurisdiction data, if required), on or about _____ 20__, knowingly (make sexual advances) (demand or request sexual favors) (engage in conduct of a sexual nature) , to wit (by saying to (him)(her), "_____," or words to that effect) (by _____); that such conduct was unwelcome; and under the circumstances (would cause a reasonable person to believe, and _____ did believe, that submission to such conduct would be made, either explicitly or implicitly, a term or condition of a person's job, pay, career, benefits or entitlements) (would cause a reasonable person to believe, and _____ did believe, that submission to, or rejection of, such conduct would be used as a basis for career or employment decisions affecting _____) (was so severe, repetitive, or pervasive that a reasonable person would perceive, and _____ did perceive, an intimidating, hostile, or offensive working environment); and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces)."

[FR Doc. 2020–02685 Filed 2–10–20; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF EDUCATION

Applications for New Awards; American Overseas Research Centers Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the American Overseas Research Centers (AORC) program, Catalog of Federal Domestic Assistance (CFDA) number 84.274A. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: February 11, 2020.

Deadline for Transmittal of Applications: March 27, 2020.

Deadline for Intergovernmental Review: May 26, 2020.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar for prospective applicants. Detailed information regarding the webinar will be provided on the website for the AORC program at *www2.ed.gov/programs/iegpsaorc/index.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg.FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Cheryl E. Gibbs, U.S. Department of Education, 400 Maryland Avenue SW, Room 257–09, Washington, DC 20202. Telephone: (202) 453–5690. Email: *cheryl.gibbs@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:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The AORC program provides grants to consortia of United States institutions of higher education (IHEs) to establish or operate overseas centers to promote postgraduate research, exchanges, and area studies. AORC grants may be used to pay all or a portion of the costs for the operation and maintenance of overseas facilities; organizing and managing conferences; teaching and research materials; the acquisition, maintenance, and preservation of library collections; bringing visiting scholars and faculty to the center to teach or to conduct research; faculty and staff stipends and salaries; faculty, staff, and student travel; and publication and dissemination of materials for the scholarly and general public.

Priorities: Under this competition we are particularly interested in applications that address the following priorities.

Invitational Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Professional Development Opportunities for Community Colleges and Minority Serving Institutions.

Provide professional development opportunities to participants from community colleges and minority-serving institutions. The opportunities must include: Foreign language instruction at the beginning level to introduce participants to the languages of the center, or at the intermediate and advanced levels to strengthen participants' foreign language proficiency; curriculum development workshops for incorporating global content into courses; and conferences related to the scholarly focus of the center. The professional development opportunities may be provided in the United States or overseas where the center is located.

For the purpose of this priority:

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Note: The list of institutions currently designated as eligible under title III and title V is available at: *www2.ed.gov/about/offices/list/ope/idues/eligibility.html#el-inst.*

Invitational Priority 2—Open Access to Center-related Research, Instructional, and Scholarly Resources.

Projects that promote international scholarship by providing open access to center-related research studies, conference proceedings, online libraries, digital archives, foreign language instructional materials, scholarly publications, and other resources related to the thematic focus of the center.

Program Authority: 20 U.S.C. 1128a.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Available Funds: $1,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Estimated Range of Awards: $46,000-$70,000 for each 12-month budget period.

Estimated Average Size of Awards: $58,000.

Estimated Number of Awards: 17.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Consortia of United States IHEs that receive more than 50 percent of their funding from public or private United States sources, have a permanent presence in the country in which the center is located, and are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986, which are exempt from taxation under section 501(a) of such Code.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.go v/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf*, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the AORC grant competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to post on our website a selection of FY 2020 AORC funded abstracts and applications' narrative sections, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information.

For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate the application. We recommend that you (1) limit the application narrative to no more than 30 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, Application for Federal Assistance cover sheet (SF 424); the Supplemental Information Form SF 424B; Part II, ED 524 (Summary Budget A) and the detailed budget justification (Summary Budget C); or Part IV, assurances and certifications. The recommended page limit also does not apply to the project abstract, curriculum vitae, or letters of support. However, the recommended page limit does apply to the entire application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from section 609 of the HEA and 34 CFR 75.210. The maximum score for all selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Program purpose (up to 20 points).*

The Secretary reviews each application to determine the extent to which the proposed project promotes postgraduate research, exchanges, and area studies.

(b) *Need for project (up to 10 points).*

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(c) *Quality of the project design (up to 10 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(d) *Quality of project services (up to 20 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(e) *Quality of project personnel (up to 15 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The extent to which time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(f) *Adequacy of resources (up to 10 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The extent to which the budget is adequate to support the proposed project.

(ii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(g) *Quality of the project evaluation (up to 15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are appropriate to the context within which the project operates.

(ii) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(iii) The extent to which the methods of evaluation will provide timely guidance for quality assurance.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

All applications submitted to the FY 2020 AORC competition will be evaluated and scored by peer reviewers who are subject matter experts in area studies, international studies, and world languages. The Department will develop a rank order slate of all applicants in the competition, from the highest score to the lowest score. Applications selected

for funding will be determined by the applicant's rank order in the competition.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify the U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of the GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates the approved application as part of the binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c).

AORC program grantees are required to submit their performance reports into the web-based International Resource Information System (IRIS) data reporting system. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The purpose of the AORC program is to promote area studies, exchanges, and postgraduate research. In compliance with the Government Performance and Results Act of 1993, the Department will use the following measures to assess the impact of the AORC program on project participants and researchers:

AORC Performance Measure 1: The number of individuals conducting postgraduate research utilizing the services of title VI AORCs.

AORC Performance Measure 2: The percentage of AORC program participants who advanced in their professional field within two years after their participation.

The grantee performance reports collected in IRIS will be the data source for these measures. The AORC program reporting screens may be viewed at: *http://iris.ed.gov/iris/pdfs/AORC.pdf.*

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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 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.

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–02651 Filed 2–10–20; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Information Collection—2020 Election Administration and Voting Survey; Comment Request

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act* of 1995, the EAC announces an information collection and seeks public comment on the provisions thereof. The EAC intends to submit this proposed information collection (2020 Election Administration and Voting Survey, or EAVS) to the Director of the Office of Management and Budget for approval. The 2020 EAVS asks election officials questions concerning voting and election administration, including the following topics: Voter registration; overseas and military voting; voting by mail; early in-person voting; polling operations; provisional voting; voter participation; election technology; election policy; and other related issues.

DATES: Written comments must be submitted on or before March 12, 2020.

ADDRESSES: Comments on the proposed information collection should be submitted electronically via *https://www.regulations.gov* (docket ID: EAC–2019–0001). Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* EAVS.

Obtaining a Copy of the Survey: To obtain a free copy of the draft survey instrument: (1) Download a copy at *https://www.regulations.gov* (docket ID: EAC–2019–0001); or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* EAVS.

FOR FURTHER INFORMATION CONTACT: Dr. Nichelle Williams at 301–563–3919, or email *clearinghouse@eac.gov;* U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION:

Comments: Public comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Title and OMB Number: 2020 Election Administration and Voting Survey; OMB Number Pending.

Needs and Uses

The EAC issues the EAVS to meet its obligations under the Help America Vote Act of 2002 (HAVA) to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC and the Department of Defense Federal Voting Assistance Program's (FVAP) data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal elections. In addition, under the NVRA, the EAC is responsible for collecting information and reporting, biennially, to Congress on the impact of that statute. The information the states are required to submit to the EAC for purposes of the NVRA report are found under Title 11 of the Code of Federal Regulations. States that respond to questions in this survey concerning voter registration-related matters will meet their NVRA reporting requirements under 52 U.S.C. 20508 and EAC regulations. Finally, UOCAVA mandates that FVAP work with the EAC and chief state election officials to develop standards for reporting UOCAVA voting information (52 U.S.C. 20302) and that FVAP will store the reported data and present the findings within the congressionally-mandated report to the President and Congress. Additionally, UOCAVA requires that ''not later than 90 days after the date of each regularly scheduled general election for Federal office, each state and unit of local government which administered the election shall (through the state, in the case of a unit of local government) submit a report to the EAC on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.'' States that complete and timely submit the UOCAVA section of the survey to the EAC will fulfill their UOCAVA reporting requirement under 52 U.S.C. 20302. In order to fulfill the above requirements, the EAC is seeking information relating to the period from the Federal general election day 2018 +1 through the November 2020 Federal general election. The EAC will provide the data regarding UOCAVA voting to FVAP after data collection is completed. This data sharing reduces burden on local election offices because FVAP does not have to conduct its own data collection to meet its reporting requirements.

Affected Public (Respondents): State or local governments, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Number of Respondents: 56.

Responses per Respondent: 1.

Estimated Burden per Response: 101 hours per collection, 50.5 hours annualized.

Estimated Total Annual Burden Hours: 5,656 hours per collection, 2,828 hours annualized.

Frequency: Biennially.

* * * * *

Nichelle Williams,

Director of Research, U.S. Election Assistance Commission.

[FR Doc. 2020–02688 Filed 2–10–20; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Extension of a Currently Approved Information Collection for the State Energy Program

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years a currently approved collection of information with the Office of Management and Budget (OMB). The information collection request, State Energy Program, was previously approved on June 30, 2017

under OMB Control No. 1910–5126 and its current expiration date is June 30, 2020.

DATES: Comments regarding this collection must be received on or before March 12, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650. comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503

and to

Gregory Davoren, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, Email: *Gregory.Davoren@ee.doe.gov*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Amy Royden-Bloom, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585 or by email at *Amy.Royden-Bloom@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. This information collection request contains: (1) *OMB No.:* 1910–5126; (2) *Information Collection Request Title:* ''State Energy Program (SEP)''; (3) *Type of Review:* Extension of a Currently Approved Collection; (4) *Purpose:* To collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously; (5) *Annual Estimated Number of Respondents:* 56; (6) *Annual Estimated Number of Total Responses:* 224; (7) *Annual Estimated Number of Burden Hours:* 7,456; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $315,232.

Statutory Authority: Title 42, Chapter 81, Subchapter III, Part A of the United States Code (U.S.C.), (42 U.S.C. 6867(a)).

Issued in Washington, DC, February 3, 2020.

AnnaMaria Garcia,

Director, Weatherization and Intergovernmental Program Office of Energy Efficiency and Renewable Energy U.S. Department of Energy.

[FR Doc. 2020–02672 Filed 2–10–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 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; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

DATES: Comments regarding this proposed information collection must be received on or before April 10, 2020. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to *STEM_Data_Collection@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Emily Stanton at (202) 287–5641.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* ''New''; (2) *Information Collection Request Title:* STEM Data Collection (SDC); (3) *Type of Request:* New; (4) *Purpose:* This new module will be installed on existing platforms—the Funding Opportunity Exchange platform (Exchange) and *NEUP.gov*. These systems allow principal investigators and other external users to submit applications for competitive Funding Opportunity Announcements (FOAs) for research projects in the fields of science, technology, engineering and math (STEM). Exchange is used by the following DOE program offices: The Office of Energy Efficiency and Renewable Energy (EERE) and the Advanced Research Projects Agency-Energy (ARPA–E); *NEUP.gov* is used by the Office of Nuclear Energy (NE). NE may also use manual data collections on other selected FOAs. All competitive FOAs get announced to the *Grants.gov* website, the U.S. Government's single access point for most financial assistance programs offered by DOE. Under the proposed information collection request, an interface will be implemented in these systems to allow external users to voluntarily provide a minimal amount of demographic information to comply with a recommendation from the Government Accountability Office (GAO) report ''WOMEN IN STEM RESEARCH; Better Data and Information Sharing Could Improve Oversight of Federal Grant-making and Title IX Compliance'' (GAO–16–14, December 2015). In this report, GAO made the recommendation that DOE collect additional demographic data to ensure that it is in compliance with Title IX. The information collected will be used for this purpose; (5) *Annual Estimated Number of Respondents:* According to the most recent data available, in fiscal year 2015, EERE reviewed a total of 5,168 new funding actions or applications (898 lab funding actions; 4,270 financial assistance concept papers or applications); ARPA–E reviewed a total of 3,435 new funding actions or applications (51 lab funding actions; 3834 financial assistance concept papers or applications); and NE reviewed a total of 438 new funding actions or applications (266 lab funding actions; 172 financial assistance concept papers or applications). While many applications are submitted by existing users, assuming one submitter per application, the maximum number of unique new users expected per year is

9,041 (5,168 + 3,435 + 438); (6) *Annual Estimated Number of Total Responses:* 9,041 (maximum of one response expected per user); (7) *Annual Estimated Number of Burden Hours:* It is estimated that it will take no more than 10 minutes (0.167 hours) per new user to register on the Exchange or *NEUP.gov* systems and fill out the requested demographic data. The total estimated annual number of burden hours is 1,513 hours (9,041 users * 0.167 hours); (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $100,000 for changes to systems and approximately $10,000 per year thereafter for maintenance, reporting and record-keeping.

Statutory Authority: Section 641 of the Department of Energy Organization Act, codified at 42 U.S.C. 7251.

Signed in Washington, DC on January 8, 2020.

Emily Stanton,

Director of the Office of Strategic Programs, Office of Energy Efficiency and Renewable Energy (EERE).

[FR Doc. 2020–02674 Filed 2–10–20; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OAR–2019–0702; FRL–10004–50–Region 10]

Completeness Determination; AK: Fairbanks North Star Borough 2006 24-Hour Fine Particulate Matter Serious Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) has made a determination that the State of Alaska has made a complete Serious Area State Implementation Plan (SIP) submission for the Fairbanks North Star Borough 2006 24-hour fine particulate matter nonattainment area.

ADDRESSES: The EPA has established a docket for this notice under Docket ID No. EPA–R10–OAR–2019–0702. All documents in the docket are listed and publicly available at *https://www.regulations.gov.* 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 at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen at (206) 553–0340, or *jentgen.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 13, 2019, EPA received the State of Alaska State Implementation Plan to meet the serious area nonattainment plan requirements for purposes of the 2006 24-hour $PM_{2.5}$ NAAQS in the Fairbanks North Star Borough nonattainment area (''Fairbanks Serious Area Plan''). The EPA has determined that the submittal of the Fairbanks Serious Area Plan is administratively and technically complete. The EPA made this finding in accordance with section 110(k)(1)(B) and part D of Title I of the Clean Air Act (CAA). The Fairbanks Serious Area Plan submission and a detailed account of Alaska's SIP submission compared to the completeness criteria in 40 CFR part 51, appendix V, is included in the docket.

A completeness determination indicates that the SIP submission meets the minimum criteria that a plan must satisfy for the EPA to review the submittal to determine whether the SIP submission meets the applicable substantive requirements of the CAA and implementing regulations for the type of SIP submission at issue. A completeness determination does not constitute a finding on the merits of the SIP submission or whether it meets the relevant criteria for SIP approval. Consequently, this completeness determination does not constitute final agency action and is not reviewable pursuant to Section 307 of the CAA, 42 U.S.C. 7607, nor section 702 of the Administrative Procedure Act, 5 U.S.C. 702. The EPA's subsequent rulemaking action or actions on this complete SIP submission will be final agency action, capable of judicial review at the appropriate time.

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

Dated: January 9, 2020.

Krishna Viswanathan,

Acting Director, Air and Radiation Division, Region 10.

[FR Doc. 2020–00982 Filed 2–10–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 11, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *The McGehee Bank Employee Stock Ownership Plan, McGehee, Arkansas;* to acquire additional voting shares of Southeast Financial Bankstock Corporation, and thereby acquire shares of McGehee Bank, both of McGehee, Arkansas.

Board of Governors of the Federal Reserve System, February 5, 2020.

Michele Taylor Fennell

Assistant Secretary of the Board.

[FR Doc. 2020–02647 Filed 2–10–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The

grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–20–003, Research Grants for Preventing Violence and Violence Related Injury.

Date: April 1–2, 2020.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Embassy Suites Buckhead, 3285 Peachtree Road NE, Atlanta, GA 30305.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Kimberly Leeks, Ph.D., M.P.H., Scientific Review Official, NCIPC, CDC, 4770 Buford Highway NE, Building 106, MS S106–9, Atlanta, Georgia 30341, Telephone: (770) 488–6562, *KLeeks@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–02691 Filed 2–10–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–OH–20–002, Commercial Fishing Occupational Safety Research Cooperative Agreement; and RFA–OH–20–003, Commercial Fishing Occupational Safety Training Project Grants.

Date: May 12, 2020.

Time: 1:00 p.m.–5:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Michael Goldcamp, Ph.D., Scientific Review Officer, Office of Extramural Programs, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26505, Telephone: (304) 285–5951; *mgoldcamp@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–02694 Filed 2–10–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CK–20–004, Prevention Epicenters Program: Protecting Patients From Infections, Antibiotic Resistance and Other Adverse Events

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CK–20–004, Prevention Epicenters Program: Protecting Patients from Infections, Antibiotic Resistance and Other Adverse Events; May 21, 2020, 10:00 a.m.–5:00 p.m., (EDT).

Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Blvd., Atlanta, GA 30329 which was published in the **Federal Register** on January 30, 2020, Volume 85, Number 20, page 5440.

The meeting is being amended to change the date to May 20–21, 2020.

The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329, (404) 718–8833, *gca5@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–02695 Filed 2–10–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and

Control Special Emphasis Panel (SEP)—RFA OH–20–001, Miner Safety and Health Training Program Western United States.

Date: May 5, 2020.

Time: 1:00 p.m.–5:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Marilyn Ridenour, B.S.N., M.P.H., Scientific Reviewer Officer, Office of Extramural Programs, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26506, Telephone: (304) 285–5879, *dvn7@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–02693 Filed 2–10–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0505]

Submission for OMB Review; Procedural Justice-Informed Alternatives to Contempt Demonstration Project Data Collection

AGENCY: Office of Child Support Enforcement; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data as part of the rigorous evaluation of the *Procedural Justice-Informed Alternatives to Contempt* (PJAC) demonstration.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Office of Child Support Enforcement (OCSE) within the Administration for Children and Families (ACF) is proposing a data collection activity as part of the Procedural Justice-Informed Alternatives to Contempt (PJAC) Demonstration. In September 2016, OCSE issued grants to five state child support agencies to provide alternative approaches to the contempt process with the goal of increasing noncustodial parents' compliance with child support orders by building trust and confidence in the child support agency and its processes. OCSE also awarded a grant to support a rigorous evaluation of PJAC. The PJAC Demonstration is a five-year project that allows grantees and OCSE to learn whether incorporating principles of procedural justice into child support business practices increases reliable child support payments, reduces arrears, minimizes the need for continued enforcement actions and sanctions, and reduces the use of contempt proceedings.

The PJAC demonstration will yield information about the efficacy of applying procedural justice principles via a set of alternative services to the current use of a civil contempt process to address nonpayment of child support. It will generate knowledge regarding how the PJAC intervention operates, the effects the alternative services have, and whether the benefits of this approach exceed the costs. The information gathered will help inform future policy decisions related to the contempt process within the field of child support enforcement.

PJAC demonstration will include three interconnected evaluation components:

1. *Implementation Study*. The implementation study will provide a detailed description of the PJAC intervention—how it is implemented, whether it was implemented as intended, participant characteristics, the contexts in which it is operated, how treatment differed from the status quo, and the implications of PJAC practices. The study will identify the intervention features and conditions necessary for effective replication or improvement of the intervention. Key elements of the implementation study include: A Management Information System (MIS) for random assignment and data collection on participant engagement in PJAC activities; semi-structured interviews with staff from child support agencies and selected partner organizations; separate semi-structured interviews with study participants and the custodial parents connected to their child support case to learn about their experiences with and perceptions of the child support program; and a staff questionnaire to gather quantitative information on the implementation of PJAC services and staff experiences.

2. *Impact Study*. The impact study will provide rigorous estimates of the effectiveness of the PJAC intervention using an experimental research design. Noncustodial parents whose cases are being referred to the contempt process will be randomly assigned to either a program group that is offered PJAC services or to a control group that is offered business-as-usual services. Random assignment will require child support program staff to complete a brief data entry protocol. The impact study will rely on administrative data from state and county child support programs, court records, criminal justice records, and data from the National Directory of New Hires. Administrative records data will be used to estimate impacts on child support payments, enforcement actions, contempt proceedings, and jail stays.

3. *Benefit-Cost Study*. The benefit-cost study will estimate the costs and benefits associated with the implementation and impact of the PJAC interventions. The study will examine the costs and benefits from the perspective of the government, noncustodial parents, custodial parents, and society. Pertinent benefits and costs will be added together to determine the net value of the program for each perspective. Key outcomes to be assessed include the cost of PJAC interventions, costs for contempt actions, child support payments from noncustodial parents (program and control), court costs, and jail time, among others. The benefit-cost study

will rely on the results of the impact study, analysis of participation data from the MIS, and results of a staff time study to quantify various PJAC-related costs and benefits.

This notice is specific to the following data collection activities: the noncustodial parent participant interviews (these interview topic guides were approved under a previous submission and require content modification which also significantly lowers the collective public burden hours); the staff survey; the staff time study; and the custodial parent interviews. Data collection activities that were previously approved by OMB, following public comment, are the staff data entry on participant baseline information, study MIS to track receipt of services, staff and community partner interview topic guide, the participant interview topic guide, and the participant survey tracking letter. A participant survey has been eliminated from the data collection plans so the OMB-approved participant survey tracking letter will no longer be used.

Respondents: Respondents include study participants, child support program staff at the six PJAC demonstration sites, custodial parents associated with study participants, and the federal Office of Child Support Enforcement.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours
Noncustodial parent participant interview	60	1	1	60
Staff survey	20	1	.5	10
Staff time study	30	1	1.5	45
Custodial parent interview	60	1	1	60

Estimated Total Annual Burden Hours: 175.

Authority: 42 U.S.C. 1315.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–02628 Filed 2–10–20; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Ryan White HIV/AIDS Program: Allocation and Expenditure Forms, OMB No. 0915–0318—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 13, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Ryan White HIV/AIDS Program: Allocation and Expenditure Forms, OMB No. 0915–0318—Revision

Abstract: HRSA's HIV/AIDS Bureau administers the Ryan White HIV/AIDS Program (RWHAP) authorized under Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009. RWHAP Allocation and Expenditure Reports (A&E Reports), in conjunction with the Consolidated List of Contractors (CLC), allow HRSA to monitor and track the use of grant funds for compliance with program and grants policies and requirements as outlined in the 2009 legislation. To avoid duplication and reduce recipient reporting burden, HRSA created an electronic grantee contract management system (GCMS) that includes data required for various reports, including the Allocations Reports, the CLC, and other HRSA data reports, such as the RWHAP Services Report. Recipients can access GCMS year-round to upload or manually enter data on their service provider contractors or subrecipients, the RWHAP core medical and support services provided, and their funding amounts. GCMS automatically repopulates the data required for Allocations Reports and other reports. Expenditures Report data are not auto-populated in the GCMS, and are thus still manually reported in the data reporting system.

Allocations and Expenditures (A&E) Reports

Recipients funded under RWHAP Parts A, B, C, and D are required to report financial data to HRSA at the beginning (Allocations Report) and at the end of their grant budget period (Expenditures Report). The A&E Reports request information recipients already collect, including the use of RWHAP grant funds for core medical and support services and for various program components, such as administration, planning and evaluation, and clinical quality management. The reports are identical in content; however, in the first report recipients document the allocation of their RWHAP grant award at the beginning of their grant budget period, and in the second report recipients document actual expenditures of their RWHAP grant award (including any carryover dollars) at the end of their grant budget period.

HRSA is proposing several modifications to the A&E Reports. Recipients would be required to report program income and pharmaceutical rebate amounts in the Expenditures

Report in addition to grant award (including any carryover) amounts. This addition allows HRSA to understand the full scope and impact of the RWHAP on state and local levels. Program income and pharmaceutical rebate expenditures should already be tracked by recipients and should not increase reporting burden. RWHAP Parts A and B recipients funded under the Ending the HIV Epidemic Initiative (EHE)—a new funding source to implement four key strategies (diagnose, treat, prevent, and respond) to end the HIV epidemic—would be required to report EHE service allocations and corresponding EHE award expenditures in the A&E Reports.[1] This addition allows HRSA to track and report progress toward meeting the EHE goals.

In addition to these substantive modifications, minor changes are proposed to (1) the layout of the A&E Reports that affects how already required data is reported; (2) align service categories with HRSA Policy Clarification Notice #16–02: RWHAP Services: Eligible Individuals & Allowable Uses of Funds, updated October 22, 2019; and (3) add clarity to language used.

Consolidated List of Contractors

Recipients funded under RWHAP Parts A and B are required to report information about their service provider contracts or sub awards in the CLC, a report that is generated from data entered through other systems. The CLC form identifies a recipient's contracts with service providers for the current grant year, the contract amount, the types of services the service provider provided, and the service provider's status as a minority or faith-based provider. HRSA is not proposing any changes to the CLC.

Need and Proposed Use of the Information: Accurate allocation, expenditure, and service contract records of the recipients receiving RWHAP funding are critical to the implementation of the RWHAP legislation and thus are necessary for HRSA to fulfill its monitoring and oversight responsibilities.

The primary purposes of these forms are to provide information on the number of grant dollars spent on various services and program components and oversee compliance with the intent of Congressional appropriations in a timely manner. In addition to meeting the goal of accountability to Congress, RWHAP clients, advocacy groups, and the general public, information collected through these reports is critical for HRSA, state, and local grant recipients, and individual providers to evaluate the effectiveness of the RWHAP. The addition of program income, pharmaceutical rebates, and EHE funding to the A&E Reports will allow HRSA the ability to assess progress toward meeting the national goals for ending the HIV epidemic.

Likely Respondents: RWHAP Part A, Part B, Part C, and Part D recipients

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Part A Allocations Report	52	1	52	4	208
Part A Expenditures Report	52	1	52	4	208
Part A CLC	52	1	52	2	104
Part B Allocations Report	54	1	54	6	324
Part B Expenditures Report	54	1	54	6	324
Part B CLC	54	1	54	2	108
Part C Allocations Report	346	1	346	4	1,384
Part C Expenditures Report	346	1	346	4	1,384
Part D Allocations Report	116	1	116	4	464
Part D Expenditures Report	116	1	116	4	464
EHE Allocations Reports	47	1	47	4	188
EHE Expenditures Reports	47	1	47	4	188
Total	1,336		1,336		5,348

HRSA specifically requests comments on (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.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–02657 Filed 2–10–20; 8:45 am]

BILLING CODE 4165–15–P

[1] OMB granted HRSA approval to collect these data under OMB Control Number 0915–0318, ICR Reference Number 201909–0915–004.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0955–xxxx]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before April 13, 2020.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0955–New–60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: US Core Data for Interoperability (USCDI) New Data Element Submission Form.

Type of Collection: New.

OMB No. 0955–NEW–ONC.

Abstract: The Office of the National Coordinator for Health Information Technology is seeking the approval for a new information collection request item the ''US Core Data for Interoperability (USCDI) New Data Element Submission Form.'' The U.S. Core Data for Interoperability (USCDI) is a standardized set of health data classes and constituent data elements used to support nationwide, interoperable health information exchange. When published, the USCDI will become the required standard data elements set to which all health IT developers must conform to obtain ONC certification. This certification is required for participation in some federal healthcare payment plans. In order to insure the USCDI remains current and reflects the needs of the health IT community, ONC has established a predictable, transparent, and collaborative process to solicit broad stakeholder input to expand the USCDI. Anyone, including ONC staff, staff from other federal agencies, and other stakeholders may submit proposals for new data elements. These contributions will be in the form of public comments through our Health IT Advisory Committee (HITAC) as well as direct public contributions by proposing new data classes and data elements for addition to future versions of this health IT standard. The ONC will evaluate each submission in collaboration with the HITAC and upon approval by the National Coordinator for Health IT, new data classes and data elements from these submissions will be added to the newest version of the USCDI standard for integration into health information technology products such as electronic health records. The ONC is seeking approval to collect this information yearly from Health IT Stakeholders.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
USCDI Submission	HIT Stakeholder	100	1	20/60	33
Total					*33*

Dated: February 6, 2020.

Terry Clark,

Office of the Secretary, Asst Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–02698 Filed 2–10–20; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Loan Repayment Program for Repayment of Health Professions Educational Loans

Announcement Type: Initial.

CFDA Number: 93.164.

Key Dates: February 15, 2020, first award cycle deadline date; August 15, 2020, last award cycle deadline date; September 15, 2020, last award cycle deadline date for supplemental loan repayment program funds; September 30, 2020, entry on duty deadline date.

I. Funding Opportunity Description

The Indian Health Service (IHS) estimated budget for fiscal year (FY) 2020 includes $34,800,000 for the IHS Loan Repayment Program (LRP) for health professional educational loans (undergraduate and graduate) in return for full-time clinical service as defined in the IHS LRP policy at *https://www.ihs.gov/loanrepayment/policiesandprocedures/* in Indian health programs.

This notice is being published early to coincide with the recruitment activity of the IHS which competes with other Government and private health management organizations to employ qualified health professionals.

This program is authorized by the Indian Health Care Improvement Act (IHCIA) Section 108, codified at 25 U.S.C. 1616a.

II. Award Information

The estimated amount available is approximately $22,405,000 to support approximately 492 competing awards averaging $45,565 per award for a two-year contract. The estimated amount available is approximately $12,395,000 to support approximately 500 competing awards averaging $24,790 per award for a one-year extension. One-year contract extensions will receive priority consideration in any award cycle. Applicants selected for participation in the FY 2020 program cycle will be expected to begin their service period no later than September 30, 2020.

III. Eligibility Information

A. Eligible Applicants

Pursuant to 25 U.S.C. 1616a(b), to be eligible to participate in the LRP, an individual must:

(1)(A) Be enrolled—

(i) In a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) In an approved graduate training program in a health profession; or

(B) Have a degree in a health profession and a license to practice in a State; and

(2)(A) Be eligible for, or hold an appointment as a commissioned officer in the Regular Corps of the Public Health Service (PHS); or

(B) Be eligible for selection for service in the Regular Corps of the PHS; or

(C) Meet the professional standards for civil service employment in the IHS; or

(D) Be employed in an Indian health program without service obligation; and

(3) Submit to the Secretary an application for a contract to the LRP. The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant. Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. Indian health program sites are annually prioritized within the Agency by discipline, based on need or vacancy. The IHS LRP's ranking system gives high site scores to those sites that are most in need of specific health professions. Awards are given to the applications that match the highest priorities until funds are no longer available.

Any individual who owes an obligation for health professional service to the Federal Government, a State, or other entity, is not eligible for the LRP unless the obligation will be completely satisfied before they begin service under this program.

25 U.S.C. 1616a authorizes the IHS LRP and provides in pertinent part as follows:

(a)(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the Loan Repayment Program) in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

For the purposes of this program, the term ''Indian health program'' is defined in 25 U.S.C. 1616a(a)(2)(A), as follows:

(A) The term Indian health program means any health program or facility funded, in whole or in part, by the Service for the benefit of Indians and administered—

(i) Directly by the Service;

(ii) By any Indian Tribe or Tribal or Indian organization pursuant to a contract under—

(I) The Indian Self-Determination Act, or

(II) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or

(iii) By an urban Indian organization pursuant to Title V of [the Indian Health Care Improvement Act].

25 U.S.C. 1616a, authorizes the IHS to determine specific health professions for which IHS LRP contracts will be awarded. Annually, the Director, Division of Health Professions Support, sends a letter to the Director, Office of Clinical and Preventive Services, IHS Area Directors, Tribal health officials, and Urban Indian health programs directors to request a list of positions for which there is a need or vacancy. The list of priority health professions that follows is based upon the needs of the IHS as well as upon the needs of American Indians and Alaska Natives.

(a) Medicine—Allopathic and Osteopathic doctorate degrees.

(b) Nursing—Associate Degree in Nursing (ADN) (Clinical nurses only).

(c) Nursing—Bachelor of Science (BSN) (Clinical nurses only).

(d) Nursing (NP, DNP)—Nurse Practitioner/Advanced Practice Nurse in Family Practice, Psychiatry, Geriatric, Women's Health, Pediatric Nursing.

(e) Nursing—Certified Nurse Midwife (CNM).

(f) Certified Registered Nurse Anesthetist (CRNA).

(g) Physician Assistant (Certified).

(h) Dentistry—DDS or DMD degrees.

(i) Dental Hygiene.

(j) Social Work—Independent Licensed Master's degree.

(k) Counseling—Master's degree.

(l) Clinical Psychology—Ph.D. or Psy.D.

(m) Counseling Psychology—Ph.D.

(n) Optometry—OD.

(o) Pharmacy—PharmD.

(p) Podiatry—DPM.

(q) Physical/Occupational/Speech Language Therapy or Audiology—MS, Doctoral.

(r) Registered Dietician—BS.

(s) Clinical Laboratory Science—BS.

(t) Diagnostic Radiology Technology, Ultrasonography, and Respiratory Therapy: Associate and B.S.

(u) Environmental Health (Sanitarian): BS and Master's level.

(v) Engineering (Environmental): BS and MS (Engineers must provide environmental engineering services to be eligible.).

(w) Chiropractors: Licensed.

(x) Acupuncturists: Licensed.

B. Cost Sharing or Matching

Not applicable.

C. Other Requirements

Interested individuals are reminded that the list of eligible health and allied health professions is effective for applicants for FY 2020. These priorities will remain in effect until superseded.

IV. Application and Submission Information

A. Content and Form of Application Submission

Each applicant will be responsible for submitting a complete application. Go to *http://www.ihs.gov/loanrepayment* for more information on how to apply electronically. The application will be considered complete if the following documents are included:

- Employment Verification—Documentation of your employment with an Indian health program as applicable:
  - Commissioned Corps orders, Tribal employment documentation or offer letter, or Notification of Personnel Action (SF–50)—For current Federal employees.
- License to Practice—A photocopy of your current, non-temporary, full and unrestricted license to practice (issued by any State, Washington, DC, or Puerto Rico).
- Loan Documentation—A copy of all current statements related to the loans submitted as part of the LRP application.
- Transcripts—Transcripts do not need to be official.
- If applicable, if you are a member of a federally recognized Tribe or an Alaska Native (recognized by the Secretary of the Interior), provide a certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA) (Certification: Form BIA—4432 Category A—Members of federally Recognized Indian Tribes, Bands or Communities or Category D—Alaska Native).

B. Submission Dates and Address

Applications for the FY 2020 LRP will be accepted and evaluated monthly beginning February 15, 2020, and will continue to be accepted each month thereafter until all funds are exhausted for FY 2020 awards. Subsequent monthly deadline dates are scheduled for the fifteenth of each month until August 15, 2020.

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Received after the deadline date, but with a legible postmark dated on or before the deadline date. (Applicants should request a legibly dated U.S.

Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Applications submitted after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 2019, will be notified in writing.

Application documents should be sent to: IHS Loan Repayment Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857.

C. Intergovernmental Review

This program is not subject to review under Executive Order 12372.

D. Funding Restrictions

Not applicable.

E. Other Submission Requirements

New applicants are responsible for using the online application. Applicants requesting a contract extension must do so in writing by February 15, 2020, to ensure the highest possibility of being funded a contract extension.

V. Application Review Information

A. Criteria

The IHS will utilize the Health Professional Shortage Area (HPSA) score developed by the Health Resources and Services Administration for each Indian health program for which there is a need or vacancy. At each Indian health facility, the HPSA score for mental health will be utilized for all behavioral health professions, the HPSA score for dental health will be utilized for all dentistry and dental hygiene health professions, and the HPSA score for primary care will be used for all other approved health professions.

In determining applications to be approved and contracts to accept, the IHS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian Tribes or Tribal or Indian organizations.

B. Review and Selection Process

Loan repayment awards will be made only to those individuals serving at facilities with have a site score of 17 or above through March 1, 2020, if funding is available.

One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, will be selected.

(1) An applicant's length of current employment in the IHS, Tribal, or Urban program.

(2) Availability for service earlier than other applicants (first come, first served).

(3) Date the individual's application was received.

C. Anticipated Announcement and Award Dates

Not applicable.

VI. Award Administration Information

A. Award Notices

Notice of awards will be mailed on the last working day of each month. Once the applicant is approved for participation in the LRP, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

B. Administrative and National Policy Requirements

Applicants may sign contractual agreements with the Secretary for two years. The IHS may repay all, or a portion, of the applicant's health profession educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $20,000 per year for each year of contracted service. Payments will be made annually to the participant for the purpose of repaying his/her outstanding health profession educational loans. Payment of health profession education loans will be made to the participant within 120 days, from the date the contract becomes effective. The effective date of the contract is calculated from the date it is signed by the Secretary or his/her delegate, or the IHS, Tribal, Urban, or Buy Indian health center entry-on-duty date, whichever is more recent.

In addition to the loan payment, participants are provided tax assistance payments in an amount not less than 20 percent and not more than 39 percent of the participant's total amount of loan repayments made for the taxable year involved. The loan repayments and the tax assistance payments are taxable income and will be reported to the Internal Revenue Service (IRS). The tax assistance payment will be paid to the IRS directly on the participant's behalf. LRP award recipients should be aware that the IRS may place them in a higher tax bracket than they would otherwise have been prior to their award.

C. Contract Extensions

Any individual who enters this program and satisfactorily completes his or her obligated period of service may apply to extend his/her contract on a year-by-year basis, as determined by the IHS. Participants extending their contracts may receive up to the maximum amount of $20,000 per year plus an additional 20 percent for Federal withholding.

VII. Agency Contact

Please address inquiries to Ms. Jacqueline K. Santiago, Chief, IHS Loan Repayment Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857, Telephone: 301/443–3396 [between 8:00 a.m. and 5:00 p.m. (Eastern Standard Time) Monday through Friday, except Federal holidays].

VIII. Other Information

Indian Health Service area offices and service units that are financially able are authorized to provide additional funding to make awards to applicants in the LRP, but not to exceed the maximum allowable amount authorized by statute per year, plus tax assistance. All additional funding must be made in accordance with the priority system outlined below. Health professions given priority for selection above the $20,000 threshold are those identified as meeting the criteria in 25 U.S.C. 1616a(g)(2)(A), which provides that the Secretary shall consider the extent to which each such determination:

(i) Affects the ability of the Secretary to maximize the number of contracts that can be provided under the LRP from the amounts appropriated for such contracts;

(ii) Provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) Provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the LRP.

Contracts may be awarded to those who are available for service no later than September 30, 2020, and must be in compliance with 25 U.S.C. 1616a. In order to ensure compliance with the statutes, area offices or service units providing additional funding under this section are responsible for notifying the LRP of such payments before funding is offered to the LRP participant.

Should an IHS area office contribute to the LRP, those funds will be used for only those sites located in that area. Those sites will retain their relative ranking from their Health Professions Shortage Areas (HPSA) scores. For

example, the Albuquerque Area Office identifies supplemental monies for dentists. Only the dental positions within the Albuquerque Area will be funded with the supplemental monies consistent with the HPSA scores within that area.

Should an IHS service unit contribute to the LRP, those funds will be used for only those sites located in that service unit. Those sites will retain their relative ranking from their HPSA scores.

RADM Michael D. Weahkee,

Assistant Surgeon General, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indian Health Professions Preparatory, Indian Health Professions Pre-Graduate and Indian Health Professions Scholarship Programs

Announcement Type: Initial.

CFDA Numbers: 93.971, 93.123, and 93.972.

Key Dates

Application Deadline Date: February 28, 2020, 7:00 p.m. Eastern.

Application Review Date: March 30–April 30, 2020.

Continuation Award Notification Deadline Date: June 5, 2020.

New Award Notification Deadline Date: July 15, 2020.

Award Start Date: August 1, 2020.

Acceptance/Decline of Awards Deadline Date: August 15, 2020.

I. Funding Opportunity Description

The Indian Health Service (IHS) is committed to encouraging American Indians and Alaska Natives to enter the health professions and to assuring the availability of Indian health professionals to serve Indians. The IHS is committed to the recruitment of students for the following programs:

- *The Indian Health Professions Preparatory Scholarship* (Preparatory Scholarship) authorized by Section 103 of the Indian Health Care Improvement Act, Public Law 94–437 (1976), as amended (IHCIA), codified at 25 U.S.C. 1613(b)(1).
- *The Indian Health Professions Pre-graduate Scholarship* (Pre-graduate Scholarship) authorized by Section 103 of the IHCIA, codified at 25 U.S.C. 1613(b)(2).
- *The Indian Health Professions Scholarship* (Health Professions Scholarship) authorized by Section 104 of the IHCIA, codified at 25 U.S.C. 1613a.

Full-time and part-time scholarships will be funded for each of the three scholarship programs. The scholarship award selections and funding are subject to availability of funds.

II. Award Information

Type of Award

Scholarship.

Estimated Funds Available

An estimated $13.7 million will be available for fiscal year (FY) 2020 awards. The IHS Scholarship Program (IHSSP) anticipates, but cannot guarantee, student scholarship selections from any or all of the approved disciplines in the Preparatory Scholarship, Pre-graduate Scholarship, and Health Professions Scholarship programs for the scholarship period 2020–2021 academic year. Due to the rising cost of education and the decreasing number of scholars who can be funded by the IHSSP, the IHSSP previously changed the funding policy for Preparatory Scholarship and Pre-graduate Scholarship awards and reallocated a greater percentage of its funding in an effort to increase the number of Health Professions Scholarship, and inherently the number of service-obligated scholars, to better meet the health care needs of the IHS and its Tribal and Urban Indian health care system partners. This policy continues in effect for 2020–2021 academic year.

Anticipated Number of Awards

Approximately 25 new awards will be made by the IHSSP under the Preparatory Scholarship and Pre-graduate Scholarship programs for Indians. The awards are for 10 months in duration, with an additional 2 months for approved summer school requests, and will cover both tuition and fees and other related costs (ORC). The average award to a full-time student in both programs is approximately $40,372.61. Approximately 100 new awards will be made by the IHSSP under the Health Professions Scholarship program. The awards are for 12 months in duration and will cover both tuition and fees and ORC. The average award to a full-time student is approximately $120,814.38. Approximately a total of 300 awards will be made under the IHSSP Scholarship Program for FY 2020–2021.

Project Period

The project period for the Preparatory Scholarship stipend support, tuition, fees and ORC is limited to 2 years for full-time students and the part-time equivalent of 2 years, not to exceed 4 years for part-time students. The project period for the Pre-graduate Scholarship stipend support, tuition, fees and ORC is limited to 4 years for full-time students and the part-time equivalent of 4 years, not to exceed 8 years for part-time students. The Health Professions Scholarship provides stipend support, tuition, fees, and ORC and is limited to 4 years for full-time students and the part-time equivalent of 4 years, not to exceed 8 years for part-time students.

III. Eligibility Information

This is a limited competition announcement. New and continuation scholarship awards are limited to ''Indians'' as defined at 25 U.S.C. 1603(13). *Note:* The definition of ''Indians'' for Section 103 Preparatory Scholarship and Pre-graduate Scholarship is broader than the definition of ''Indians'' for the Section 104 Health Professions Scholarship, as specified below. Continuation awards are non-competitive.

1. Eligibility

The Indian Health Professions Preparatory Scholarship awards are made to American Indians (members of Federally recognized Tribes, including those from Tribes terminated since 1940, first and second degree descendants of members of federally recognized Tribes, members of State-recognized Tribes and first and second degree descendants of members of State-recognized Tribes), or Eskimo, Aleut, and other Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum.

The Indian Health Professions Pre-graduate Scholarship awards are made to American Indians (members of Federally recognized Tribes, including those from Tribes terminated since 1940, first and second degree descendants of members of federally recognized Tribes, members of State recognized Tribes, and first and second degree descendants of members of State-recognized Tribes), or Eskimo, Aleut, or other Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment or are enrolled in an accredited pre-graduate program leading to a baccalaureate degree in pre-medicine or pre-dentistry.

The Indian Health Professions Scholarship may only be awarded to an individual who is a member of a federally recognized Indian Tribe, Eskimo, Aleut, or other Alaska Native as provided by Section 1603(13) of the IHCIA. Membership in a Tribe recognized only by a State does not meet this statutory requirement. To receive an Indian Health Professions Scholarship, an otherwise eligible individual must be enrolled in an appropriately accredited school and pursuing a course of study in an eligible profession.

2. Cost Sharing/Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Benefits From State, Local, Tribal and Other Federal Sources

Awardees of the Preparatory Scholarship, Pre-graduate Scholarship, or Health Professions Scholarship, who accept outside funding from other scholarship, grant, and fee waiver programs, will have these monies applied to their student account tuition and fees charges at the college or university they are attending, before the IHSSP will pay any of the remaining balance, unless said outside scholarship, grant, or fee waiver award letter specifically excludes use for tuition and fees. These outside funding sources must be reported on the student's invoicing documents submitted by the college or university they are attending. Student loans and Veterans Administration (VA)/G.I. Bill benefits accepted by Health Professions Scholarship recipients will have no effect on the IHSSP payment made to their college or university.

IV. Application Submission Information

1. Electronic Application System and Application Handbook Instructions and Forms

Applicants must go online to: *www.ihs.gov/scholarship/online_application/index.cfm* to apply for an IHS scholarship and access the Application Handbook instructions for submitting a properly completed application for review and funding consideration. Applicants are strongly encouraged to seek consultation from their Area Scholarship Coordinator (ASC) in preparing their scholarship application for award consideration. The ASCs are listed on the IHS website at: *http://www.ihs.gov/scholarship/contact/areascholarshipcoordinators/.*

This information is listed below. Please review the following list to identify the appropriate IHS ASC for your State.

IHS Area Office and States/ Locality Served	Scholarship Coordinator Address
Great Plains Area IHS Nebraska, Iowa, North Dakota, South Dakota	Mr. Matthew Martin, IHS Area Scholarship Coordinator, Great Plains Area IHS, 115 Fourth Avenue SE, Aberdeen, SD 57401, Tel: (605) 226–7502.
Alaska Area Native Health Services Alaska	Ms. Jennifer Fielder, IHS Area Scholarship Coordinator, Alaska Area Native Health, 3900 Ambassador Drive, Anchorage, AK 99508, Tel: (907) 729–1387.
Albuquerque Area IHS Colorado, New Mexico	Ms. Jeanette Garcia, IHS Area Scholarship Coordinator, Albuquerque Area IHS, 4101 Indian School Rd. NE, Suite 225, Albuquerque, NM 87110, Tel: (505) 256–6729.
Bemidji Area IHS Illinois, Indiana, Michigan, Minnesota, Wisconsin	Mr. Tony Buckanaga, IHS Area Scholarship Coordinator, Bemidji Area IHS, 522 Minnesota Avenue NW, Room 115A, Bemidji, MN 56601, Tel: (218) 444–0486, (800) 892–3079 (toll free).
Billings Area IHS Montana, Wyoming	Mr. Brett Miller, IHS Area Scholarship Coordinator, Billings Area IHS. Area Personnel Office, P.O. Box 36600, 2900 Fourth Avenue, North, Suite 400, Billings, MT 59107, Tel: (406) 247–7211.
California Area IHS California	Mr. Sergio Islas, IHS Area Scholarship Coordinator, California Area IHS, 650 Capitol Mall, Suite 7–100, Sacramento, CA 95814, Tel: (916) 930–3983 ext. 724.
Nashville Area IHS Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, District of Columbia	Mr. Keith Neves, IHS Area Scholarship Coordinator, Nashville Area IHS, 711 Stewarts Ferry Pike, Nashville, TN 37214, Tel: (615) 467–1616.
Navajo Area IHS Arizona, New Mexico, Utah	Ms. Aletha John, IHS Area Scholarship Coordinator, Navajo Area IHS, P.O. Box 9020, Window Rock, AZ 86515, Tel: (928) 871–1360.
Oklahoma City Area IHS Kansas, Missouri, Oklahoma, Texas	Mr. Jarrod Tahsequah, IHS Area Scholarship Coordinator, Oklahoma City Area IHS, 701 Market Drive, Oklahoma City, OK 73114, Tel: (405) 951–3714, (800) 722–3357 (toll free).
Phoenix Area IHS Arizona, Nevada, Utah	Ms. Stephanie Qa'havi, IHS Area Scholarship Coordinator, Phoenix Area IHS, Southwest Region Human Resources, 40 North Central Avenue, Suite 510, Phoenix, AZ 85004, Tel: (602) 364–5225.
Portland Area IHS Idaho, Oregon, Washington	Ms. Heidi Hulsey, IHS Area Scholarship Coordinator, Portland Area IHS, 1414 NW Northrup Street, Suite 800, Portland, OR 97209, Tel: (503) 414–7745.
Tucson Area IHS Arizona	Ms. Stephanie Qa'havi (See Phoenix Area).

2. Content and Form Submission

Each applicant will be responsible for entering their basic applicant account information online, in addition to submitting required documents as requested. Applicants must initiate an application through the online portal or the application will be considered incomplete. For more information on how to use the online portal, go to *www.ihs.gov/scholarship.* The portal is expected to be open on December 30, 2019.

The following documents must be submitted by February 28, 2020, 7:00 p.m. Eastern:

- A completed online application.

• Official transcript(s) must be uploaded from the last college/university degree you earned, and from your current degree program. Official transcript(s) must support your intended enrollment/classification status for 2020–2021.

• Two Faculty/Employer Evaluations with faculty evaluators identified, evaluations transmitted and completed in the online applicant portal.

• Online narratives-reasons for requesting the scholarship.

• Delinquent Debt form completed in the online applicant portal.

• Course Curriculum Form completed in the online applicant portal.

Non-selected applicants will be notified by mail by the end of May. Selected applicants will be notified to upload the following documents within 30 days of notification:

• Current Letter of Acceptance from a college/university or proof of application to a college/university or health professions program.

• Applicant's Documents for Indian Eligibility.

If you are a member of a federally recognized Tribe or Alaska Native (recognized by the Secretary of the Interior), provide evidence of

A. Certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA) Certification: Form 4432—Category A or D, (whichever is applicable).

Note: If you meet the criteria of Form 4432—Category B or C, you are eligible only for the Preparatory or Pre-graduate Scholarships, which have eligibility criteria as follows in Section B.

B. For Preparatory Scholarship or Pre-graduate Scholarship, only: If you are a member of a Tribe terminated since 1940 or a State-recognized Tribe, provide official documentation that you meet the requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official; or other evidence, satisfactory to the Secretary of the Interior, that you are a member of the Tribe. In addition, if the terminated or State-recognized Tribe of which you are a member is not on a list of such Tribes published by the Secretary of the Interior in the **Federal Register**, you must submit an official signed document that the Tribe has been terminated since 1940 or is recognized by the State in which the Tribe is located in accordance with the law of that State.

C. For Preparatory Scholarship or Pre-graduate Scholarship, only: If you are not a Tribal member, but are a natural child or grandchild of a Tribal member you must submit: (1) Evidence of that fact, *e.g.,* your birth certificate and/or your parent's/grandparent's birth/death certificate showing the name of the Tribal member; and (2) evidence of your parent's or grandparent's Tribal membership in accordance with paragraphs A and B. The relationship to the Tribal member must be clearly documented. Failure to submit the required documentation will result in the application not being accepted for review.

• Degree/Major Plan of Study.

• Declaration of Federal Employment—OMB Form 3206–0162.

• Addendum OF 306 Form—OMB Form 0917–0028.

3. Submission Dates

Application Receipt Date: The online application submission deadline is February 28, 2020, 7:00 p.m. Eastern. No supporting documents will be accepted after this date and time, except final Letters of Acceptance, which must be submitted no later than July 1, 2020.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

No more than five percent of available funds will be used for part-time scholarships this fiscal year. Students are considered part-time if they are enrolled for a minimum of six hours of instruction and are not considered in full-time status by their college/university. Documentation must be received from part-time applicants that their school and course curriculum allows less than full-time status. Both part-time and full-time scholarship awards will be made in accordance with the applicable authorizing statutes at 25 U.S.C §§ 1613 and 1613a and the regulations at 42 CFR part 136 Subpart J, Subdivisions J–3, J–4, and J–8 and this information will be published in all IHSSP Application and Student Handbooks as they pertain to the IHSSP.

6. Other Submissions Requirements

New and continuation applicants are responsible for using the online application system. See section 3. Submission Dates for application deadlines.

V. Application Review Information

1. Criteria

Selected applications will be reviewed and scored with the following criteria.

• *Academic Performance (40 points):* Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgment of the applicant's achievement. Preparatory, Pre-graduate and Health Professions applicants with a cumulative GPA below 2.0 are not eligible for award.

• *Faculty/Employer Recommendations (30 points):* Applicants are rated according to evaluations by faculty members, current and/or former employers and Tribal officials regarding the applicant's potential in the chosen health related professions.

• *Stated Reasons for Asking for the Scholarship and Stated Career Goals Related to the Needs of the IHS (30 points):* Applicants must provide a brief written explanation of reasons for asking for the scholarship and of their career goals. Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health personnel needs.

The applicant's narrative will be judged on how well it is written and its content.

Applications for each health career category are reviewed and ranked separately.

• Applicants who are closest to graduation or completion of training are awarded first. For example, senior and junior applicants under the Pre-graduate Scholarship receive funding before freshmen and sophomores.

• *Priority Categories:* The following is a list of health professions that will be considered for funding in each scholarship program in FY 2020.

○ Preparatory Scholarship is limited to sophomore students pursuing the following degrees.

A. Pre-Nursing.

○ Pre-graduate Scholarship is limited to junior year and above students pursuing the following degrees.

A. Pre-Dentistry.

B. Pre-Medicine.

○ Health Professions Scholarship. This scholarship is limited to students who are or will be in the following plan of study by August 1, 2020.

A. Medicine—Allopathic and Osteopathic doctorate degrees.

B. Nursing—Bachelor of Science (BSN).
C. Nursing (NP, DNP)—Nurse Practitioner/Advanced Practice Nurse.
D. Nursing—Certified Nurse Midwife (CNM).
E. Certified Registered Nurse Anesthetist (CRNA).
F. Physician Assistant (certified).
G. Dentistry—DDS or DMD degree.
H. Social Work—Master's degree (Clinical).
I. Clinical Psychology—Ph.D. or PsyD.
J. Counseling Psychology—Ph.D.
K. Optometry—OD.
L. Pharmacy—PharmD.
M. Podiatry—DPM.
N. Physical Therapy—DPT.

2. Review and Selection Process

Selected applications will be reviewed and scored by the IHSSP Application Review Committee appointed by the IHS. Reviewers will not be allowed to review an application from their area or their own Tribe. Each application will be reviewed by three reviewers. The average score of the three reviews provides the final ranking score for each applicant. To determine the ranking of each applicant, these scores are sorted from the highest to the lowest within each scholarship health discipline by date of graduation and score. If several students have the same date of graduation and score within the same discipline, the computer will randomly sort the ranking list and will not sort by alphabetical name. Selections are then made from the top of each ranking list to the extent that funds allocated by the IHS among the three scholarships are available for obligation.

VI. Award Administration Information

1. Award Notices

It is anticipated that recipients applying for extension of their scholarship funding will be notified in writing during the second week of June 2020 and new applicants will be notified in writing during the second week of July 2020. An Award Letter will be issued to successful applicants. Unsuccessful applicants will be notified in writing.

2. Administrative and National Policy Requirements

Regulations at 42 CFR 136.304 provide that the IHS shall, from time to time, publish a list of allied health professions eligible for consideration for the award of the Preparatory Scholarship, Pre-graduate Scholarship, and Health Professions Scholarship. Section 104(b)(1) of the IHCIA, 25 U.S.C. 1613a(b)(1), authorizes the IHS to determine the distribution of scholarships among the health professions.

Awards for the Health Professions Scholarship will be made in accordance with the IHCIA, 25 U.S.C. 1613a and 42 CFR 136.330–136.334. Awardees shall incur a service obligation prescribed under the IHCIA, Section 1613a(b), shall be met by service, through full-time clinical practice (as detailed on page 18 of the IHSSP Service Commitment Handbook at: *http://www.ihs.gov/scholarship/handbooks/service_commitment_handbook.pdf*):

(1) In the IHS;

(2) In a program conducted under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) and its amendments;

(3) In a program assisted under Title V of the Indian Health Care Improvement Act (Pub. L. 94–437) and its amendments; or

(4) In a private practice option of his or her profession if the practice (a) is situated in a health professional shortage area, designated in regulations promulgated by the Secretary of Health and Human Services (Secretary) and (b) addresses the health care needs of a substantial number (75 percent of the total served) of Indians as determined by the Secretary in accordance with guidelines of the Service.

Pursuant to the IHCIA Section 1613a(b)(3)(C), an awardee of a Health Professions Scholarship may, at the election of the awardee, meet his or her service obligation prescribed under IHCIA Section 1613a(b) by a program specified in options (1)–(4) above that:

(i) Is located on the reservation of the Tribe in which the awardee is enrolled; or

(ii) Serves the Tribe in which the awardee is enrolled, if there is an open vacancy available in the discipline for which the awardee was funded under the Health Professions Scholarship during the required 90-day placement period.

In summary, all awardees of the Indian Health Professions Scholarship are reminded that acceptance of this scholarship will result in a service obligation required by both statute and contract, that must be performed, through full-time clinical practice, at an approved service payback facility. The IHS Director (Director) reserves the right to make final decisions regarding assignment of scholarship recipients to fulfill their service obligation.

Moreover, the Director has the authority to make the final determination, designating a facility, whether managed and operated by the IHS, or one of its Tribal or Urban Indian partners, consistent with IHCIA, as approved for scholar-obligated service payback.

3. Reporting Requirements

Scholarship Program Minimum Academic Requirements

It is the policy of the IHS that a scholarship awardee funded under the Health Professions Scholarship Program of the IHCIA must maintain a 2.0 cumulative GPA, remain in good academic standing each semester/trimester/quarter, maintain full-time student status (institutional definition of ''minimum hours'' constituting full-time enrollment applies) or part-time student status (institutional definition of ''minimum and maximum'' hours constituting part-time enrollment applies) for the entire academic year, as indicated on the scholarship application submitted for that academic year. The Health Professions Scholarship awardee may not change his or her enrollment status between terms of enrollment during the same academic year unless approved in advance by the Chief, Scholarship Program. New recipients may not request a leave of absence the first academic year. All requests for leave of absence are to be approved in advance by the Director, Division of Health Professions Support.

An awardee of a scholarship under the Preparatory Scholarship and Pre-graduate Scholarship authority must maintain a 2.0 cumulative GPA, remain in good standing each semester/trimester/quarter and be a full-time student (institutional definition of ''minimum hours'' constituting full-time enrollment applies, typically 12 credit hours per semester) or a part-time student (institutional definition of ''minimum and maximum'' hours constituting part-time enrollment applies, typically 6–11 credit hours). The Preparatory Scholarship and Pre-graduate Scholarship awardee may not change from part-time status to full-time status or vice versa in the same academic year unless approved in advance by the Chief, Scholarship Program. New recipients may not request a leave of absence the first academic year.

The following reports must be sent to the IHSSP at the identified time frame. Each scholarship awardee will have access to online Student and Service Commitment Handbooks and required program forms and instructions on when, how, and to whom these must be submitted, by logging into the IHSSP website at *www.ihs.gov/scholarship.* If a

scholarship awardee fails to submit these forms and reports as required, they will be ineligible for continuation of scholarship support and scholarship award payments will be discontinued.

A. Recipient's and Initial Progress Report

Within thirty days from the beginning of each semester/trimester/quarter, scholarship awardees must submit a Recipient's Initial Program Progress Report (Form IHS–856–8), found on the IHS Scholarship Program website at: *http://www.ihs.gov/scholarship/programresources/studentforms/.*

B. Transcripts

Within thirty days from the end of each academic period, *i.e.,* semester/trimester/quarter, or summer session, scholarship awardees must submit an Official transcript showing the results of the classes taken during that period.

C. Notification of Academic Problem

If at any time during the semester/trimester/quarter, scholarship awardees are advised to reduce the number of credit hours for which they are enrolled below the minimum of the 12 (or the number of hours considered by their school as full-time) for a full-time student or at least 6 hours for part-time students, or if they experience academic problems, they must submit this report (Form IHS–856–9), found on the IHS Scholarship Program website at: *www.ihs.gov/scholarship/programresources/studentforms/.*

D. Change of Status

- *Change of Academic Status:* Scholarship awardees must immediately notify their Scholarship Program Analyst if they are placed on academic probation, dismissed from school, or voluntarily withdraw for any reason (personal or medical).
- *Change of Health Discipline:* Scholarship awardees may not change from the approved IHSSP health discipline during the school year. If an unapproved change is made, scholarship payments will be discontinued.
- *Change in Graduation Date:* Any time that a change occurs in a scholarship awardee's expected graduation date, they must notify their Scholarship Program Analyst immediately in writing. Justification must be attached from the school advisor. Approvals must be made by the Chief, Scholarship Program. New awardees are not eligible to change their graduation dates during the first year in the program since awards were based on graduation dates.

VII. Agency Contacts

1. Questions on the application process may be directed to the appropriate IHS Area Scholarship Coordinator.

2. Questions on other programmatic matters may be addressed to: Ms. Reta Brewer, Chief, Scholarship Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857, Telephone: (301) 443–6197 (This is not a toll-free number).

3. Questions on payment information may be directed to: Mr. Craig Boswell, Grants Scholarship Coordinator, Division of Grants Management, Indian Health Service, 5600 Fishers Lane, Mail Stop: (09E65A), Rockville, Maryland 20857, Telephone: (301) 443–0056 (This is not a toll-free number).

VIII. Other Information

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2020,* a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may download a copy of *Healthy People 2020* from *http://www.healthypeople.gov.*

Interested individuals are reminded that the list of eligible IHSSP health and allied professions is effective for applicants for the 2020–2021 academic year. These priorities will remain in effect until superseded. Applicants who apply for health career categories not listed as a priorities during the current scholarship cycle will not be considered for a scholarship award.

RADM Michael D. Weahkee,

Assistant Surgeon General, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

[FR Doc. 2020–02618 Filed 2–10–20; 8:45 am]

BILLING CODE 4160–16–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; Review of Kidney Diseases RC2 Application.

Date: March 17, 2020.

Time: 12:00 p.m. to 1:30 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: Tian, Lan, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Suite 7016, Bethesda, MD 20892–5452, (301) 496–7050, *tianl@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK PKD–U54–U24 Review.

Date: March 30–31, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), Conference Room Bethesdan D, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7023, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Review of Hematology RC2 Application.

Date: March 31, 2020.

Time: 12:00 p.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, (Telephone Conference Call).

Contact Person: Tian, Lan, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Suite 7016, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 496–7050, *tianl@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 5, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02640 Filed 2–10–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel NIH Research Enhancement Award (AREA and REAP) (R15), March 03, 2020, 12:00 p.m. to March 03, 2020, 05:00 p.m., which was published in the **Federal Register** on February 05, 2020, 85 FR 6567.

The meeting start date is being changed to April 20, 2020 start time 12:00 p.m. and ending April 21, 2020 05:00 p.m. The meeting format is being changed to Virtual Meeting. The location remains the same. The meeting is closed to the public.

Dated: February 5, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02638 Filed 2–10–20; 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: AIDS and Related Research Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: March 10–11, 2020.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Adult Psychopathology and Disorders of Aging.

Date: March 11, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Katherine Colona Morasch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, *moraschkc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Muscle Biology and Diseases.

Date: March 11, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biology of the Visual System.

Date: March 11, 2020.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: March 12–13, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW, Washington, DC 20036.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: March 12–13, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiac Contractility, Hypertrophy, and Failure Study Section.

Date: March 12–13, 2020.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW, Washington, DC 20037.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Population and Public Health Approaches to HIV/AIDS Study Section.

Date: March 12–13, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Washington, DC, Georgetown, 2401 M Street NW, Washington, DC 20037.

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering Sciences and Technologies.

Date: March 12, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oral and Dental Biology.

Date: March 13, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 5, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02641 Filed 2–10–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Small Business: HIV/AIDS Innovative Research Applications, March 5, 2020, 12:00 p.m. to 5:00 p.m. at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on February 05, 2020, 85 FR 6567.

The meeting will start at 10:00 a.m. and end at 4:00 p.m. The meeting date and location remain the same. The meeting is closed to the public.

Dated: February 5, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02636 Filed 2–10–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Drug Discovery for the Nervous System Study Section, February 27, 2020 to February 28, 2020, 8:00 a.m. to 6:00 p.m., at the Holiday Inn Bayside, 4875 North Harbor Drive San Diego, CA 92106 which was published in the **Federal Register** on January 31, 2020, 85 FR 5672.

This meeting notice is amended to change the meeting date from February 27–28, 2020 to February 27, 2020. The meeting location and time remain the same. The meeting is closed to the public.

Dated: February 4, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02637 Filed 2–10–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

2019 Interagency Autism Coordinating Committee Call for Nominations Announcement

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services, National Institutes of Health published a Notice in the **Federal Register** on November 26, 2019, seeking nominations of individuals to serve as non-federal public members on the Interagency Autism Coordinating Committee (IACC). The purpose of this Notice is to provide an extension to allow additional time for the acceptance of nominations to the IACC.

DATES: Nominations have been extended until Friday, February 21, 2020.

ADDRESSES: Nominations are due by Friday February 21, 2020 and may be sent to Dr. Susan Daniels, Director, Office of Autism Research Coordination/NIMH/NIH, 6001 Executive Boulevard, Room 7220, Bethesda, Maryland 20892 by standard or express mail, or via email to *IACCPublicInquiries@mail.nih.gov*. Confirmation of receipt will be provided. More information about the IACC is available at *iacc.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Susan Daniels at 301–827–1437 or email at *iaccpublicinquiries@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: On November 26, 2019, the Department of Health and Human Services, National Institutes of Health published a Notice in the **Federal Register** on pages 65165–65166 (84 FR 65165), seeking nominations of individuals to serve as non-federal public members on the Interagency Autism Coordinating Committee (IACC). The closing date for nominations ended on January 17, 2020. The purpose of this notice is to extend acceptance of nominations until February 21, 2020. As specified in the Combating Autism Act of 2006 (Pub. L. 109–416) and reauthorized by the Autism Collaboration, Accountability, Research, Education and Support Act of 2019 (Pub. L. 116–60). The Office of the Secretary has directed the Office of Autism Research Coordination (OARC) of the National Institute of Mental Health, National Institutes of Health to assist the Department in conducting an open nomination process. Appointments of non-federal public members to the committee shall be made by the Secretary of Health and Human Services.

Eligibility Requirements

Nominations of new non-federal public members are encouraged, and current non-federal public members may also be re-nominated to continue to serve if they have served only one term previously, in accordance with the provisions of the Autism CARES Act of 2019. Self-nominations and nominations of other individuals are both permitted. Only one nomination per individual is required. Multiple nominations of the same individual will not increase likelihood of selection. The Secretary may select non-federal public members from the pool of submitted nominations and other sources as needed to meet statutory requirements and to form a balanced committee that represents the diversity within the autism spectrum disorder (ASD) community.

Those eligible for nomination include individuals on the autism spectrum, parents or guardians of individuals with ASD, leaders or representatives of major ASD research, advocacy and service organizations, healthcare and service providers, educators, researchers and other individuals with professional or personal experience with ASD. Nominations of individuals with a variety of disability and support needs, individuals from all U.S. states and territories, and individuals representing diverse populations within the autism community, including all genders and gender identities, cultural, ethnic and racial groups are encouraged. Requests for reasonable accommodation to enable participation on the Committee should be indicated in the nomination submission.

IACC non-federal public members are appointed as special government employees and are required to be U.S. citizens. To serve, they must submit an annual confidential financial disclosure report used to determine conflicts of interest as well as a foreign activities questionnaire. Prohibited foreign activities include holding a position or title with a foreign governmental entity (including certain universities), and from receiving compensation and certain gifts from a foreign government.

In accordance with White House Office of Management and Budget guidelines (FR Doc. 2014–19140), federally-registered lobbyists are not eligible. Federal employees may not serve as non-federal public members. IACC non-federal public members may be restricted from serving on other federal advisory committees while serving on the IACC. Male non-federal public members must have signed up for the U.S. Selective Service in order to be eligible.

Responsibilities of Appointed Non-Federal Public Members

As specified in the Committee's authorizing statute (section 399CC of the Public Health Service Act, 42 U.S.C. 280i–2, as amended), the Committee will carry out the following responsibilities: (1) Monitor autism spectrum disorder research, and to the extent practicable, services and support activities, across all relevant Federal departments and agencies, including coordination of Federal activities with respect to autism spectrum disorder; (2) develop a summary of advances in autism spectrum disorder research related to causes, prevention, treatment, early screening, diagnosis or ruling out a diagnosis; interventions, including school and community-based interventions, and access to services and supports for individuals with autism spectrum disorder across the lifespan of such individuals; (3) make recommendations to the Secretary regarding any appropriate changes to such activities, including with respect to the strategic plan; (4) make recommendations to the Secretary regarding public participation in decisions relating to autism spectrum disorder, and the process by which public feedback can be better integrated into such decisions; (5) develop a strategic plan for the conduct of, and support for, autism spectrum disorder research, including, as practicable, for services and supports, for individuals with an autism spectrum disorder across the lifespan of such individuals and the families of such individuals, which shall include (A) proposed budgetary requirements; and (B) recommendations to ensure that autism spectrum disorder research, and services and support activities to the extent practicable, of the Department of Health and Human Services and of other Federal departments and agencies are not unnecessarily duplicative; and (6) submit to Congress and the President: (A) an annual update on the summary of advances; and (B) an annual update to the strategic plan, including any progress made in achieving the goals outlined in such strategic plan.

Committee Composition

In accordance with the Committee's authorizing statute, ''Not more than ½, but not fewer than ⅓, of the total membership of the Committee shall be composed of non-Federal public members appointed by the Secretary.''

All non-Federal public members are appointed as Special Government Employees for their service on the IACC, of which:

- At least three such members shall be individuals with a diagnosis of autism spectrum disorder;
- At least three such members shall be parents or legal guardians of an individual with an autism spectrum disorder; and
- At least three such members shall be representatives of leading research, advocacy, and service organizations for individuals with autism spectrum disorder.

The Department strives to ensure that the membership of HHS Federal advisory committees is balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that diverse views and perspectives are represented on HHS Federal advisory committees and, therefore, the Department encourages nominations of qualified candidates of all genders, cultural, ethnic, and racial groups, people with disabilities, and individuals who may belong to other underrepresented groups. The Department also seeks geographic diversity in the composition of the Committee. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status. Requests for reasonable accommodation to enable participation on the Committee should be indicated in the nomination submission.

Member Terms

Non-Federal public members of the Committee ''shall serve for a term of 4 years, and may be reappointed for one additional 4-year term. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member [with a valid appointment] may serve after the expiration of the member's term until a successor has been appointed.''

Meetings and Travel

''The Committee shall meet at the call of the chairperson or upon the request of the Secretary. The Committee shall meet not fewer than 2 times each year.''

In the years 2014–2019, the IACC held an average of 4 meetings, 1 workshop and 2 phone conferences per year, including full committee, subcommittee, working and planning group meetings, and workshops. Travel expenses are provided for non-federal public Committee members to facilitate attendance at in-person meetings. Members are expected to be committed to making every effort to attend all full committee meetings and workshops in person and relevant subcommittee, working and planning group meetings by phone. For those who occasionally cannot travel or for individuals with a disability that prevents travel, remote access options are provided.

Submission Instructions and Deadline

Nominations should include a cover letter of no longer than 3 pages describing the candidate's interest in seeking appointment to the IACC, including relevant personal and professional experience with ASD, indication of any membership eligibility requirements met, disability accommodation requests, and an indication of commitment to attend IACC meetings if selected, as well as full contact information and a current resume or curriculum vitae. Up to 2 letters of support are permitted in addition to the nomination, with a page limit of 3 pages per letter. Please do not include other materials unless requested.

Nominations are due by Friday February 21, 2020 and may be sent to Dr. Susan Daniels, Director, Office of Autism Research Coordination/NIMH/NIH, 6001 Executive Boulevard, Room 7220, Bethesda, Maryland 20892 by standard or express mail, or via email to *IACCPublicInquiries@mail.nih.gov*. Confirmation of receipt will be provided.

More information about the IACC is available at *iacc.hhs.gov*.

Dated: February 5, 2020.

Susan A. Daniels,

Director, Office of Autism Research Coordination, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2020–02645 Filed 2–10–20; 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 Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Subcommittee DDK–B Subcommittee.

Date: March 11–13, 2020.

Time: 5:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, Conference Room Rooftop, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Charlene J. Repique, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7347, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *charlene.repique@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee DDK–C Subcommittee.

Date: March 12–13, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, Conference Room Embassy/Potomac, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@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: February 5, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02635 Filed 2–10–20; 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; Nutrition Obesity Research Centers (P30).

Date: March 9–10, 2020.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, Conference Room Embassy/Potomac, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Integrating Large Scale Genomics and Functional Studies to Accelerate FSGS/NS Discovery.

Date: March 11, 2020.

Time: 12:00 p.m. to 1:15 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: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Application of Progenitor Niche Signals to Ex Vivo Nephrogenesis.

Date: March 12, 2020.

Time: 3:00 p.m. to 4:15 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: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@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: February 5, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02639 Filed 2–10–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning the opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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.

Proposed Project: Mandatory Guidelines for Federal Workplace Drug Testing Programs (OMB No. 0930–0158)—Revision

SAMHSA will request OMB approval for a revision of the Federal Drug Testing Custody and Control Form (CCF) for federal agency and federally regulated drug testing programs which must comply with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine (UrMG) dated January 23, 2017 (82 FR 7920) and using Oral Fluid (OFMG) dated October 25, 2019, and OMB approval for information provided by test facilities (laboratories and Instrumented Initial Test Facilities, IITFs) for the National Laboratory Certification Program (NLCP).

The CCF is used by all federal agencies and employers regulated by the Department of Transportation (DOT) and the Nuclear Regulatory Commission (NRC) to document the collection and chain of custody of urine specimens at the collection site, for HHS-certified test facilities to report results, and for Medical Review Officers (MROs) to document and report a verified result. SAMHSA allows the use of the CCF as a paper or electronic form.

The current OMB-approved CCF has an August 31, 2020 expiration date. SAMHSA has resubmitted the CCF with major content revisions to the form for OMB approval. These revisions are:

Copies 1–5

Revised Step 1

1. Added ''Collector Contact Info:'' and ''Other'' line (*e.g.,* email)

Revised Step 2

1. Put Urine and Oral Fluid checkboxes above Step 2 for collector to annotate
2. Expanded to 4 lines for collector entries:
   —General entry for Split, Single, or None Provided (same as current)
   —Entries specific to urine collection (moved ''Collector reads urine temperature within 4 minutes'' here; other entries same as current)
   —Entries specific to oral fluid collection: added ''Split Type'' with checkboxes for Serial, Concurrent, and Subdivided; ''Each Device Within Expiration Date?'' with checkboxes Yes or No; and Volume Indicator(s) Observed checkbox)
   —Remarks (same as current)

Revised Step 3

1. Edited instruction to state ''collector affixes seal(s) to bottle(s)/tube(s)''

Revised Step 4 (Collector Section)

1. Edited ''Specimen Bottle(s) Released To'' box to state ''Specimen Bottle(s)/Tubes(s) Released To''

Copy 1 (Test Facility Copy)

Revised Step 4 (Accessioner Section)

1. Edited ''Specimen Bottle(s) Released To'' box to state ''Specimen Bottle(s)/Tubes(s) Released To''
2. Added ''Primary/Single Specimen Device Expiration Date'' and ''Split Specimen Device Expiration Date'' fields for accessioner to annotate expiration dates of oral fluid collection devices

Revised Step 5a (Certification and Reporting Section)

1. Removed analyte names and checkboxes
2. Repositioned results and checkboxes: Moved REJECTED FOR TESTING, ADULTERATED, SUBSTITUTED and INVALID RESULT checkboxes; moved POSITIVE checkbox to be under DILUTE
3. Added line for certifying scientist to record positive analytes and concentrations, and added ''*Analyte(s) in ng/mL*'' instruction (aligned under ''POSITIVE for:'')

Copy 2 (Medical Review Officer Copy)

Revised Step 6 (Donor Section)

1. Edited donor certification statement to state ''specimen bottle/tubes''

Revised Step 7 (MRO Section—Primary Specimen)

1. Put Urine and Oral Fluid checkboxes above Step 6 for MRO to annotate

Bottom of Copies

Revised Copy 1

1. Edited label/seal at bottom of Copy 1 to allow for modification (*e.g.,* perforations, label with transparent seal on one side, and separate label and seal)

Revised Copies 3–5

1. Removed Steps 6 and 7 (MRO sections)
2. Moved Public Burden Statement from the back to the front of the copies

Additional Edits to Copy 5

1. Moved Privacy Act Statement (for federal employees) from the back to the front of the copy
2. Removed Instructions for Completing the CCF from the back. SAMHSA will post instructions for completing the Federal CCF for urine and oral fluid on their website.

Based upon information from federal agencies and from DOT concerning their regulated industries, the number of respondents has increased from 5.4 million to 6.7 million, which increases the total burden hours by 170,701.8.

Laboratories and IITFs seeking HHS certification under the NLCP must complete and submit the NLCP application form. The NLCP application form has not been revised compared to the previous form.

Prior to an inspection, an HHS-certified laboratory or IITF is required to submit specific information regarding its procedures. Collecting this information prior to an inspection allows the inspectors to thoroughly review and understand the testing procedures before arriving for the onsite inspection. The NLCP information checklist has not been revised compared to the previous form.

The annual total burden estimates for the CCF, the NLCP application, the NLCP information checklist, and the NLCP recordkeeping requirements are shown in the following table.

Form/respondent	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)
Custody and Control Form: [1]					
Donor	6,726,610	1	6,726,610	0.08	538,128.8
Collector	6,726,610	1	6,726,610	0.07	378,000
Laboratory	6,726,610	1	6,726,610	0.05	336,330
IITF	1	0	0	0.05	0
Medical Review Officer	6,726,610	1	6,726,610	0.05	270,000
NLCP Application Form: [2]					
Laboratory	5	5	5	3	15

Form/respondent	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)
IITF	0	0	0	3	0
Sections B and C—NLCP Inspection Checklist:					
Laboratory	29	1	29	1	29
IITF	0	0	0	1	0
Record Keeping:					
Laboratory	29	1	29	250	7,250
IITF	0	0	0	250	0
Total	6,726,673		26,906,503		1,529,753

Send comments to Carlos Graham, SAMHSA Reports Clearance Officer, Room 15–E–57–A, 5600 Fishers Lane, Rockville, MD 20857 *OR* email a copy to *Carlos.Graham@samhsa.hhs.gov.* Written comments should be received by April 13, 2020.

Jennifer Wilson,

Budget Analyst.

[FR Doc. 2020–02671 Filed 2–10–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0007; OMB No. 1660–0143]

Agency Information Collection Activities: Proposed Collection; Comment Request; Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take the opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of Individual Assistance customer satisfaction survey responses and information for assessment and improvement of the delivery of disaster assistance to individuals and households.

DATES: Comments must be submitted on or before April 13, 2020.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2020–0007. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW, Room 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, 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 and Security Notice that is available via the link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Guillory, Statistician, Customer Survey & Analysis Section, Recovery Directorate, FEMA at *Jessica.Guillory@fema.dhs.gov.* You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This collection is in accordance with Executive Orders 12862 and 13571 requiring all Federal agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The Government Performance and Results Act (GPRA) requires agencies to set missions and goals and measure performance against them and the GPRA Modernization Act of 2010 requires quarterly performance assessments of government programs for the purposes of assessing agency performance and improvement. FEMA will fulfill these requirements by collecting customer satisfaction program information through surveys of the Recovery Directorate's external customers.

Collection of Information

Title: Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0143.

FEMA Forms: FEMA Form 519–0–36, Initial Survey—Phone, FEMA Form 519–0–37, Initial Survey—Electronic; FEMA Form 519–0–38, Contact Survey—Phone, FEMA Form 519–0–39, Contact Survey—Electronic; FEMA Form 519–0–40, Assessment Survey—Phone, FEMA Form 519–0–41, Assessment Survey—Electronic.

Abstract: Federal agencies are required to survey their customers to determine the kind and quality of services customers want and their level of satisfaction with those services. Analysis from the survey is used to measure FEMA's Strategic Plan's objective 3.1 Streamline the Disaster Survivor Experience.

Affected Public: Individuals or households.

Estimated Number of Respondents: 38,864.

Estimated Number of Responses: 38,864.

Estimated Total Annual Burden Hours: 8,982.

Estimated Total Annual Respondent Cost: $327,573

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $1,785,889.

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 Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–02634 Filed 2–10–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2020–0009; OMB No. 1660–0114]

Agency Information Collection Activities: Proposed Collection; Comment Request; FEMA Preparedness Grants: Port Security Grant Program (PSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the information collection activities required to administer the Port Security Grant Program (PSGP).

DATES: Comments must be submitted on or before April 13, 2020.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2020–0009. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW, 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, 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 in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Duane Davis, Section Chief, FEMA, Grant Programs Directorate, 202–680–4060, *duane.davis@fema.dhs.gov.* You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 102 of the Maritime Transportation Security Act of 2002, as amended (46 U.S.C. 70107), authorizes the PSGP to provide for the risk-based allocation of funds to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services and to train law enforcement personnel under 46 U.S.C. 70132. Before awarding a grant under the program, the Secretary of the Department of Homeland Security shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic, energy, and strategic defense concerns based upon the most current risk assessments available. In addition, any information collected by FEMA for this program is in accordance with general reporting requirements (*see, for example,* 2 CFR 200.328); or in accordance with 46 U.S.C. 70107(g), as amended by section 112(c) of the Security and Accountability For Every (SAFE) Port Act of 2006 (Pub. L. 109–347), which provides that entities subject to an Area Maritime Transportation Security Plan may submit an application for a grant under this program at such time, in such form, and containing such information and assurances as the Secretary may require.

Collection of Information

Title: FEMA Preparedness Grants: Port Security Grant Program (PSGP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0114.

FEMA Forms: FEMA Form 089–5, PSGP Investment Justification; and FEMA Form 088–0–1, Grant Preparedness Division Performance Report (GPD–PR replacing SF–PPR, OMB No. 0970–0334).

Abstract: The previous version of FEMA Form 089–5 presented numerous editing and submission challenges for applicants, often leaving required information blank within the form. Additionally, numerous applicants annually fail to provide required content information within a detailed budget worksheet or provide no detailed budget worksheet at all. A detailed budget worksheet is required, however is not currently in a required template. This update changes the format and software of Form 089–5 and incorporates the detailed budget worksheet to help ensure accurate project accounting. By broadening the form to include all required project information, applicants will have fewer documents to track and submit, and subsequent agency reviews will be streamlined and improve consistency among application format. FEMA has developed a new form, GPD–PR, to replace the SF–PPR for collection of reporting information required by regulation and statute. No changes are being made to the Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) requirements for layered security projects. FEMA continues to provide a sample template for use by applicants, but there is no required format for an MOU/MOA.

Affected Public: State, Local or Tribal Government; Business or other for-profit and non-profit.

Number of Respondents: 893.

Number of Responses: 1,759.

Estimated Total Annual Burden Hours: 17,450 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $1,299,153. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $1,055,219.

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,

Deputy Director, Information Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–02710 Filed 2–10–20; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2019–0019; OMB No. 1660–0100]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; General Admissions Applications (Long and Short) and Stipend Forms

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 12, 2020.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Smiley White, Supervisory Program Specialist, United States Fire Administration, 301–447–1055.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on October 7, 2019 at 84 FR 53452 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: General Admissions Applications (Long and Short) and Stipend Forms.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0100.

Form Titles and Numbers: FEMA Form 119–25–0–1, replaces 119–25–1, General Admissions Application; FEMA Form 119–25–0–6, Training Registration Form; FEMA Form 119–25–3, Student Stipend Agreement; FEMA Form 119–25–4, Student Stipend Agreement (Amendment); and FEMA Form 119–25–5, National Fire Academy Executive Fire Officer Program Application Admission.

Abstract: FEMA provides training to advance the professional development of personnel engaged in fire prevention and control and emergency management activities through the Center for Domestic Preparedness, Emergency Management Institute, National Fire Academy, National Training and Education Division, National Domestic Preparedness Consortium, and Rural Domestic Preparedness Consortium.

Affected Public: Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or Tribal Government.

Estimated Number of Respondents: 214,300.

Estimated Number of Responses: 214,300.

Estimated Total Annual Burden Hours: 24,375.

Estimated Total Annual Respondent Cost: $1,167,171.

Estimated Respondents' Operation and Maintenance Costs: None.

Estimated Respondents' Capital and Start-Up Costs: None.

Estimated Total Annual Cost to the Federal Government: $274,368.

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,

Deputy Director, Information Management Divsion, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–02709 Filed 2–10–20; 8:45 am]

BILLING CODE 9111–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2020–N001; FF07CAFB00–201–FXFR13350700001; OMB Control Number 1018–0146]

Agency Information Collection Activities; Depredation and Control Orders

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 to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before April 10, 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: PRB/PERMA (JAO/1N), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0146 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 Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine the number of take of birds of each species each year and whether the control actions are likely to affect the populations of those species.

Annual Report (FWS Form 3–2436)—Regulations at 50 CFR 21 establish depredation orders and impose reporting and recordkeeping requirements. All persons or entities acting under depredation orders must provide an annual report. The capture and disposition of all non-target migratory birds, including Endangered, Threatened, or Candidate species must be reported on the Annual Report. In addition to the name, address, phone number, and email address of each person or entity operating under the Order, we collect the following information for each target and non-target species taken:

- Species taken,
- Number of birds taken,
- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of non-target species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to non-target migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and,
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

§ 21.43—Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;

§ 21.44—Depredation order for horned larks, house finches, and white-crowned sparrows in California;

§ 21.46—Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon;

§ 21.49—Control order for resident Canada geese at airports and military airfields;

§ 21.50—Depredation order for resident Canada geese nests and eggs;

§ 21.51—Depredation order for resident Canada geese at agricultural facilities;

§ 21.52—Public health control order for resident Canada geese;

§ 21.53—Control order for purple swamphens;

§ 21.54—Control Order for Muscovy ducks in the United States;

§ 21.55—Control order for invasive migratory birds in Hawaii;

§ 21.60—Conservation Order for light geese; and

§ 21.61—Population control of resident Canada geese.

Recordkeeping Requirements (50 CFR 13.48)—Persons and entities operating under these orders must keep accurate records to complete Forms 3–436. The records must be legibly written or reproducible in English of any taking and maintained for five years after they have ceased the activity authorized by this Order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

Endangered, Threatened, and Candidate Species Take Report (50 CFR 21)—If attempts to trap any species under a depredation order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is a candidate for listing, the bird must be delivered to a rehabilitator and must be reported by phone or email to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

Proposed Revision

Previously, all persons or entities acting under depredation orders provided information on the annual report via FWS Form 3–202–21–2143, ''Annual Report—Depredation Order for Blackbirds, Cowbirds, Grackles, Magpies, and Crows'' or FWS Form 3–2500, ''Depredation Order for Depredating Jays in Washington and Oregon.'' In February 2019, the Service received OMB approval to pretest FWS

Form 3–2436 under the Department of the Interior ''Fast Track'' generic clearance process (OMB Control Number 1090–0011). With this submission, in an effort to streamline submissions and reduce public burden, the Service is proposing to discontinue FWS Forms 3–202–21–2143 and 3–2500 and use FWS Form 3–2436, ''Depredation and Control Orders—Annual Reporting'' as the sole annual reporting form. Additionally, to more accurately reflect the purpose of this collection, the Service is proposing to change the title of the collection from ''Depredation Orders Under 50 CFR 21.43 and 21.46'' to ''Depredation and Control Orders Under 50 CFR 21.''

As part of this revision, we will also request OMB approval to automate FWS Form 3–2436 in the Service's new ''ePermits'' initiative, an automated system that will allow the agency to move towards a streamlined permitting and reporting process to improve customer experience and to reduce public burden. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior. This new system will enhance the user experience by allowing users to enter data from any device that has internet access, including personal computers (PCs), tablets, and smartphones.

Title of Collection: Depredation and Control Orders Under 50 CFR 21.

OMB Control Number: 1018–0146.

Form Number: FWS Form 3–2436.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State and Federal wildlife damage management personnel, farmers, and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for take reports and annually for annual reports.

Total Estimated Annual Nonhour Burden Cost: None.

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Avg. time per response (hours)	Total annual burden hours
Depredation Order Annual Report (FWS Form 3–2436)						
Individuals	Reporting	15	1	15	2	30
	Recordkeeping				2	30
Private Sector	Reporting	15	1	15	2	30
	Recordkeeping				2	30
Government	Reporting	21	1	21	2	42
	Recordkeeping				2	42
Subtotals:		*51*		*51*		*204*
Endangered, Threatened, and Candidate Species Take Report *50 CFR 21.43*						
Individuals	Reporting	1	1	1	1	1
Private Sector	Reporting	1	1	1	1	1
Government	Reporting	3	1	3	1	3
Subtotals:		*5*		*5*		*5*
Totals:		*56*		*56*		*209*

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: February 6, 2020.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–02656 Filed 2–10–20; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–624–625 and 731–TA–1450–1451 (Final)]

Quartz Surface Products From India and Turkey; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: February 6, 2020.

FOR FURTHER INFORMATION CONTACT: Julie Duffy (202–708–2579), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On January 3, 2020, the Commission established a schedule for the conduct of the final investigations (85 FR 933, January 8, 2020). The Commission is revising its schedule by changing the hearing date and date for filing posthearing briefs.

The Commission's revised dates in the schedule are as follows: the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on April 29; the deadline for filing posthearing briefs is May 6.

For further information concerning this proceeding 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, D, E, and F (19 CFR part 207).

Authority: These investigations 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: February 6, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02679 Filed 2–10–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1191]

Certain Audio Players and Controllers, Components Thereof, and Products Containing the Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 7, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Sonos, Inc. of Santa Barbara, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio players and controllers, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent No. 9,195,258 (''the '258 patent''); U.S. Patent No. 10,209,953 (''the '953 patent''); U.S. Patent No. 8,588,949 (''the '949 patent''); U.S. Patent No. 9,219,959 (''the '959 patent''); and U.S. Patent No. 10,439,896 (''the '896 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2019).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 5, 2020, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 17, 21–24, and 26 of the '258 patent; claims 7, 12–14, and 22–24 of the '953 patent; claims 1, 2, 4, and 5 of the '949 patent; claims 5, 9, 10, 29, and 35 of the '959 patent; and claims 1, 3, 5, 6, and 12 of the '896 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''networked speaker devices, and devices (for example, mobile phones and laptops) capable of controlling these devices;''

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Sonos, Inc., 614 Chapala Street, Santa Barbara, CA 93101.

(b) The respondents are the following entities alleged to be in violation of section 337, and is/are the parties upon which the complaint is to be served:

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043.

Alphabet Inc., 1600 Amphitheatre Parkway, Mountain View, CA 94043.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 6, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02680 Filed 2–10–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–638 and 731–TA–1473 (Preliminary)]

Corrosion Inhibitors From China; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–638 and 731–TA–1473 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of corrosion inhibitors from China, provided for in subheading 2933.99.82 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach preliminary determinations in antidumping and countervailing duty investigations in 45 days, or in this case by March 23, 2020. The Commission's views must be transmitted to Commerce within five business days thereafter, or by March 30, 2020.

DATES: February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones 202 (205–3358), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on February 5, 2020, by Wincom Incorporated (''Wincom''), Blue Ash, Ohio.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, February 26, 2020, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before February 24, 2020. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 2, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 5, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02643 Filed 2–10–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0056]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection Special Agent Medical Preplacement—ATF Form 2300.10

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection OMB 1140–0056 (Special Agent Medical Preplacement—ATF F 2300.10), is being revised due to an increase in the number of respondents, public burden hours, and mailing costs since the last renewal 2017, as well as a change in the mailing address.

DATES: Comments are encouraged and will be accepted for 60 days until April 10, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Danielle Thompson Murray, Recruitment, Diversity and Hiring Division, either by mail at Bureau of Alcohol, Tobacco and Firearms, 99 New York Ave. NE, 2S–125, Washington, DC 20226, by email at *Danielle.Murray@atf.gov,* or by telephone at 202–648–9100.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Special Agent Medical Preplacement.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): ATF Form 2300.10. Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other (if applicable): Federal Government Abstract: The Special Agent Medical Preplacement Form—ATF Form 2300.10 is used to collect specific personally identifiable information (PII), including the name, address, telephone, social security number and certain medical data. The collected medical data is used to determine if a candidate is medically qualified for and can be hired to serve as a criminal investigator (special agent) or an explosives enforcement officer.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 288 respondents will utilize the form annually, and it will each respondents approximately 45 minutes for all respondents to prepare their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 216 hours, which is equal to 288 (# of respondents) * 1 (number or responses per respondents) * .75 (45 minutes).

7. *An Explanation of the Change in Estimates:* The adjustments associated with this collection include an increase in both the number of respondents and total burden hours by 168 and 126 hours respectively, since the last renewal in 2017. Due to more respondents and an increase in the postal rate, the public cost has also increased by $2,160, since 2017.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: February 6, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–02663 Filed 2–10–20; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–019]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We are proposing to request that OMB renew its approval of our currently-approved information collection on applying to use space in one of our Presidential libraries. People submit this application to request the use of space in the library for a privately sponsored activity. We invite you to comment on the proposed information collection.

DATES: We must receive comments in writing by April 13, 2020.

ADDRESSES: Send comments to Tamee Fechhelm, by mail at Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Rd; College Park, MD 20740–6001, by fax at 301–837–0319, or by email at *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, by phone at 301.837.1694 or by fax at 301.837.0319, with requests for additional information

or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite people to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for us to properly perform our agency's functions; (b) the accuracy of our estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. We will summarize the comments you submit and include them in our request to OMB for approval. All comments will become a matter of public record. In this notice, we are soliciting comments concerning the following information collection:

Title: Application and Permit for Use of Space in Presidential Library and Grounds.

OMB number: 3095–0024.

Agency form number: NA Form 16011.

Type of review: Regular.

Affected public: Private organizations.

Estimated number of respondents: 600.

Estimated time per response: 20 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 200 hours.

Abstract: The information collection is prescribed by 36 CFR 1280. Requesters submit the application to request the use of space in a Presidential library for a privately sponsored activity. We use the information to determine whether the requested use meets the criteria in 36 CFR 1280 and to schedule the date.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2020–02692 Filed 2–10–20; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Onsite Standby Diesel Generator Loading Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 174 and 172 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on January 28, 2020.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. 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–2008–0252. 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 request for the amendment and exemption was designated License Amendment Request (LAR) 19–015 and submitted by letter dated August 9, 2019, (ADAMS Accession No. ML19221B669).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Cayetano Santos, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7270; email: *Cayetano.Santos@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing License Amendment Nos. 174 and 172 to COLs NPF–91 and NPF–92, respectively, and is granting an exemption from Tier 1 information in the plant-specific DCD for the AP1000. The AP1000 DCD is incorporated by reference in appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR). The exemption, granted pursuant to paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' of 10 CFR part 52, appendix D, allows the licensee to depart from the Tier 1 information. With the requested amendment, SNC sought proposed changes to (1) add loads to the onsite standby diesel generator required for orderly plant shutdown, defense-in-depth, and prevention of automatic passive safety-related system actuation following anticipated operational occurrences; (2) delete inspections, tests, analyses and acceptance criteria (ITAAC) 2.6.01.04c and combine it with ITAAC 2.6.04.02a to prevent duplication of testing; and (3) provide editorial updates for clarification and consistency.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing

the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML19350C750.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML19350C627 and ML19350C661, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML19350C686 and ML19350C714, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated August 9, 2019, Southern Nuclear Operating Company requested from the Nuclear Regulatory Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' as part of license amendment request (LAR) 19–015, ''Onsite Standby Diesel Generator Loading Changes.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found at ADAMS Accession No. ML19350C750, the Commission finds that, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the facility Combined License, as described in the licensee's request dated August 9, 2019. This exemption is related to, and necessary for, the granting of License Amendment No. 174 [for Unit 3, 172 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML19350C750), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated August 9, 2019 (ADAMS Accession No. ML19221B669), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 8, 2019 (84 FR 53768). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on August 9, 2019.

The exemptions and amendments were issued on January 28, 2020, as part of a combined package to SNC (ADAMS Accession No. ML19350C549).

Dated at Rockville, Maryland, this 6th day of February 2020.

For the Nuclear Regulatory Commission.

Victor E. Hall,

Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–02683 Filed 2–10–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0042]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. This biweekly notice includes all amendments issued, or proposed to be issued, from January 14, 2020, to January 27, 2020. The last biweekly notice was published on January 28, 2020.

DATES: Comments must be filed by March 12, 2020. A request for a hearing or petitions for leave to intervene must be filed by April 13, 2020.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0042. 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.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Bernadette Abeywickrama, Office of Nuclear Reactor Regulations, 301–415–4081, email: *Bernadette.Abeywickrama@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0042, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0042.
- *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.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0042, facility name, unit number(s), docket number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensee's analyses provided, consistent with title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.91 is sufficient to support the proposed determination that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination, any hearing will take place after issuance. The Commission expects that the need to take action on an amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or

their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc.; Millstone Power Station, Unit No. 2; Waterford, CT

Application Date	December 17, 2019.
ADAMS Accession No	ML19353A022.
Location in Application of NSHC	Attachment 1, Pages 5 and 6.
Brief Description of Amendments	The proposed amendment would revise Technical Specification (TS) 6.25, ''Pre-Stressed Concrete Containment Tendon Surveillance Program,'' to replace the reference to Regulatory Guide 1.35 with a reference to Section XI, Subsection IWL of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. The proposed amendment would also delete the provisions of Surveillance Requirement 4.0.2 in TS 6.25.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Lillian M. Cuoco, Esq., Senior Counsel, Dominion Energy, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.
Docket Nos	50–336.
NRC Project Manager, Telephone Number	Richard Guzman, 301–415–1030.

DTE Electric Company; Fermi, Unit 2; Monroe County, MI

Application Date	November 8, 2019.
ADAMS Accession No	ML19312A110.
Location in Application of NSHC	Pages 22–24, Enclosure 1.
Brief Description of Amendments	The proposed change would revise the Technical Specifications (TSs) to increase certain Surveillance Requirement (SR) intervals from 18 months to 24 months. The proposed modification to TS 5.5.15 would also review the requested SR interval increases in accordance with NRC Generic Letter 91–04. Additionally, the submittal also proposes changes to TS 5.5.7, ''Ventilation Filter Testing Program,'' and TS 5.5.14, ''Control Room Envelope Habitability Program,'' to increase the current 18-month testing intervals to 24 months.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jon P. Christinidis, DTE Energy, Expert Attorney—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226
Docket Nos	50–341.
NRC Project Manager, Telephone Number	Booma Venkataraman, 301–415–2934.

**DTE Electric Company; Fermi, Unit 2;
Monroe County, MI**

Application Date	December 6, 2019.
ADAMS Accession No	ML19340A088.
Location in Application of NSHC	Pages 11–12, Enclosure 1.
Brief Description of Amendments	The proposed change would revise TS 3.6.4.1, ''Secondary Containment,'' Surveillance Requirement (SR) 3.6.4.1.1. The SR would be revised to allow conditions during which the secondary containment pressure may not meet the SR pressure requirements. In addition, SR 3.6.4.1.3 would be modified to acknowledge that secondary containment access openings may be open for entry and exit when no movement of recently irradiated fuel is in progress. An administrative change is also requested for SR 3.6.4.1.5.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jon P. Christinidis, DTE Energy, Expert Attorney—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226.
Docket Nos	50–341.
NRC Project Manager, Telephone Number	Booma Venkataraman, 301–415–2934.

**Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2;
Calvert County, MD**

Application Date	December 11, 2019.
ADAMS Accession No	ML19346E536.
Location in Application of NSHC	Pages 12 and 13 of Attachment 1.
Brief Description of Amendments	The proposed amendments would revise certain frequency and voltage acceptance criteria for steady-state emergency diesel generator surveillance testing in Calvert Cliffs Technical Specification 3.8.1, ''AC Sources—Operating.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos	50–317, 50–318.
NRC Project Manager, Telephone Number	Michael L. Marshall, Jr., 301–415–2871.

**Exelon Generation Company, LLC; Three Mile Island Nuclear Station, Unit 1;
Dauphin County, PA**

Application Date	November 12, 2019.
ADAMS Accession No	ML19316C659.
Location in Application of NSHC	Pages 6, 7, and 8 of Attachment 1.
Brief Description of Amendments	The proposed amendment would delete permanently defueled Technical Specification (TS) 3/4.1.4, ''Handling of Irradiated Fuel with the Fuel Handling Building Crane,'' once the replacement fuel handling building crane is installed and made operable. The proposed amendment would also correct two minor omissions that are administrative in nature, which were identified during implementation of Three Mile Island Nuclear Station, Unit 1, permanently defueled TS Amendment No. 297. The proposed changes would revise the Appendix A, TSs, List of Figures, to include Figure 5–1, ''Extended Plot Plan,'' and add the proper page number, 5–1a, to permanently defueled TS Figure 5–1a.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos	50–289.
NRC Project Manager, Telephone Number	Justin Poole, 301–415–2048.

**FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, Unit 1;
Lake County, OH**

Application Date	December 18, 2019.
ADAMS Accession No	ML19352D673.
Location in Application of NSHC	Pages 3–4, Enclosure 1.
Brief Description of Amendments	The proposed amendment would revise the technical specifications for the safety limit on minimum critical power ratio (MCPR) to reduce the need for cycle-specific changes in accordance with Technical Specification Task Force (TSTF)-564, ''Safety Limit MCPR.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.
Docket Nos	50–440.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

**FirstEnergy Nuclear Operating Company; Perry Nuclear Power Plant, Unit 1;
Lake County, OH**

Application Date	December 18, 2019.
ADAMS Accession No	ML19352D548.
Location in Application of NSHC	Pages 10–11, Enclosure 1.
Brief Description of Amendments	FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, Unit 1, Lake County, OH.

Proposed Determination	The proposed amendment would modify the non-destructive examination inspection interval for refueling special lifting devices from annually, or prior to each use, typically at each refueling outage, to a 10-year interval.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.
Docket Nos	50–440.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

FirstEnergy Nuclear Operating Company; Perry Nuclear Power Plant, Unit 1; Lake County, OH

Application Date	December 18, 2019.
ADAMS Accession No	ML19352E549.
Location in Application of NSHC	Pages 15–17, Enclosure 1.
Brief Description of Amendments	The proposed amendment would revise the fire protection program licensing basis and abandon in place the general area heat detection system in the drywell.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.
Docket Nos	50–440.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

Nine Mile Point Nuclear Station and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 2; Oswego County, NY

Application Date	October 31, 2019.
ADAMS Accession No	ML19304B653.
Location in Application of NSHC	Attachment 1, Pages 5 and 6.
Brief Description of Amendments	The proposed amendment would allow the use of risk-informed completion times in the Nine Mile Point, Unit 2, Technical Specifications. The proposed changes are based on Technical Specifications Task Force Traveler, TSTF–505, Revision 2, ''Provide Risk-Informed Extended Completion Times—RITSTF Initiative 4b'' (ADAMS Accession No. ML18183A493).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Exelon Generation Company, LLC, 101 Constitution Ave. NW, Suite 400, Washington, DC 20001.
Docket Nos	50–410.
NRC Project Manager, Telephone Number	Michael L. Marshall, Jr., 301–415–2871.

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2; Surry County, VA

Application Date	October 30, 2019.
ADAMS Accession No	ML19309D199.
Location in Application of NSHC	Pages 19, 20, and 21 of Attachment 1.
Brief Description of Amendments	The proposed amendment would revise the Technical Specification 3.16, ''Emergency Power System,'' to allow a one-time 14-day allowed outage time for replacement of the Reserve Station Service Transformer C 5KV cables to Transfer Bus F.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Lillian M. Cuoco, Esq., Senior Counsel, Dominion Energy, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.
Docket Nos	50–280, 50–281.
NRC Project Manager, Telephone Number	Thomas Vaughn, 301–415–5897.

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2; Surry County, VA

Application Date	December 6, 2019.
ADAMS Accession No	ML19343A019.
Location in Application of NSHC	Pages 25 and 26 of Enclosure 1.
Brief Description of Amendments	The proposed amendments would modify the current licensing basis by the addition of a license condition to allow the implementation of the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.69, ''Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Lillian M. Cuoco, Esq., Senior Counsel, Dominion Energy, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.
Docket Nos	50–280, 50–281.
NRC Project Manager, Telephone Number	Thomas Vaughn, 301–415–5897.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation, and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc.; Millstone Power Station, Unit Nos. 2 and 3; New London County, WI, Virginia Electric and Power Company, Dominion Nuclear Company; North Anna Power Station, Units 1 and 2; Louisa County, VA, Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2; Surry County, VA

Date Issued	December 31, 2019.
ADAMS Accession No	ML19305D248.
Amendment Nos	119 (Millstone Unit 1), 336 (Millstone Unit 2), 274 (Millstone Unit 3), 284 (North Anna Unit 1), 267 (North Anna Unit 2), 296 (Surry Unit 1), and 296 (Surry Unit 2).

Florida Power & Light Company, et al; St. Lucie Plant, Unit Nos. 1 and 2; St. Lucie County, FL

Date Issued	January 27, 2020.
ADAMS Accession No	ML19266A072.
Amendment Nos	250 (Unit 1) and 202 (Unit 2).
Brief Description of Amendments	The amendments revised the technical specifications to allow for the performance of selected emergency diesel generator surveillance requirements during power operation and relocated two surveillance requirements, for each unit, to licensee control.
Docket Nos	50–335, 50–389.

Omaha Public Power District; Fort Calhoun Station, Unit No. 1; Washington County, NE

Date Issued	January 10, 2020.
ADAMS Accession No	ML19346D680.
Amendment Nos	300.
Brief Description of Amendments	The amendment replaced the Fort Calhoun Station Permanently Defueled Emergency Plan and associated Permanently Defueled Emergency Action Level (EAL) technical bases document with an Independent Spent Fuel Storage Installation Only Emergency Plan and associated EAL scheme.
Docket Nos	50–285.

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Salem County, NJ

Date Issued	January 14, 2020.
ADAMS Accession No	ML19330F156.
Amendment Nos	331 (Unit 1) and 312 (Unit 2).
Brief Description of Amendments	The amendments adopted Technical Specifications Task Force (TSTF) Traveler TSTF–563, Revision 0, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.'' TSTF–563 revised the technical specification definitions of ''channel calibration'' and ''channel functional test.''
Docket Nos	50–272, 50–311.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Susquehanna County, PA

Date Issued	January 13, 2020.
ADAMS Accession No	ML19336D064.
Amendment Nos	274 (Unit 1) and 256 (Unit 2).
Brief Description of Amendments	The amendments revised the technical specification definition of ''shutdown margin'' based on Technical Specifications Task Force Traveler, TSTF–535, Revision 0, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs.''
Docket Nos	50–387, 50–388.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Susquehanna County, PA	
Date Issued	January 17, 2020.
ADAMS Accession No	ML19248A844.
Amendment Nos	275 (Unit 1) and 257 (Unit 2).
Brief Description of Amendments	The amendments revised requirements in Technical Specification (TS) 3.7.1, ''Residual Heat Removal Service Water (RHRSW) System and the Ultimate Heat Sink (UHS),'' and TS 3.7.2, ''Emergency Service Water (ESW) System,'' to temporarily allow one division of the ESW and RHRSW systems to be inoperable for a total of 14 days to address piping degradation. The changes are temporary as annotated by a note in each TS that specifies that the allowance expires on June 25, 2027 for Susquehanna Unit 1 and June 25, 2026 for Unit 2. The amendments also removed the tables of contents from the TSs and placed them under licensee control.
Docket Nos	50–387, 50–388.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2; Berrien County, MI	
Date Issued	January 23, 2020.
ADAMS Accession No	ML19329A011.
Amendment Nos	349 (Unit No. 1) and 330 (Unit No. 2).
Brief Description of Amendments	The amendments revised the Donald C. Cook Nuclear Plant (CNP), Unit Nos. 1 and 2, Technical Specifications (TSs) to apply leak-before-break methodology to the piping associated with the CNP, Unit No. 2, accumulator, residual heat removal system, and safety injection systems and changed CNP, Unit No. 2, TS 3.4.13, ''RCS [Reactor Coolant System] Operational LEAKAGE,'' to change the value for unidentified leakage from 1 gallon per minute (gpm) to 0.8 gpm. The amendments also revised the CNP, Unit Nos. 1 and 2, TS 3.4.15, ''RCS Leakage Detection Instrumentation,'' to delete the reference to the containment humidity monitor.
Docket Nos	50–315, 50–316.

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Burke County, GA	
Date Issued	January 8, 2020.
ADAMS Accession No	ML19343C013.
Amendment Nos	172 (Unit 3) and 170 (Unit 4).
Brief Description of Amendments	The amendments consisted of changes to the Combined License Appendix A, Technical Specifications (TS) 3.7.11, ''Spent Fuel Pool Boron Concentration, Applicability and Required Actions,'' to eliminate an allowance to exit the Applicability of Limiting Condition for Operation 3.7.11, ''Spent Fuel Pool Boron Concentration,'' once a spent fuel pool storage verification had been performed. The amendments also eliminated TS 3.7.11 Required Action A.2.2, which provided an option to perform a spent fuel pool storage verification in lieu of restoring spent fuel pool boron concentration to within limits.
Docket Nos.	52–025 and 52–026

IV. Previously Published Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 3, LLC; Indian Point Nuclear Generating Station, Unit No. 3; Westchester County, NY	
Application Date	November 21, 2019.
ADAMS Accession No	ML19325E913.
Brief Description of Amendment	The proposed amendment would revise Technical Specification (TS) Surveillance Requirement 3.7.7.2 to allow one of the backflow preventer isolation valves on the Indian Point Unit 3 city water header supply to be maintained closed when in the modes of applicability for TS Limiting Condition for Operation (LCO) 3.7.7 (*i.e.,* during Modes 1, 2, and 3, and Mode 4 when the steam generators are relied upon for heat removal), provided that the requirements of TS LCO 3.7.6 are met.
Date & Cite of **Federal Register** Individual Notice.	January 17, 2020, 85 FR 3081.
Expiration Dates for Public Comments & Hearing Requests.	February 18, 2020 (comments); March 17, 2020 (hearing requests).
Docket Nos	50–286.

Dated at Rockville, Maryland, this 30th day of January 2020.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–02161 Filed 2–10–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2020–0039]

NorthStar Nuclear Decommissioning Co., LLC; Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an August 28, 2019, request from NorthStar Nuclear Decommissioning Company (NorthStar NDC), for the Vermont Yankee Nuclear Power Station, from the requirement to investigate and report to the NRC when NorthStar NDC does not receive notification of receipt of a shipment, or part of a shipment, of low-level radioactive waste within 20 days after transfer from the Vermont Yankee facility. NorthStar NDC requested that the time period for it to receive acknowledgement that the shipment has been received by the intended recipient be extended from 20 to 45 days to avoid an excessive administrative burden as operational experience indicates that rail or mixed mode shipments may take more than 20 days to reach their destination.

DATES: The exemption was issued on February 5, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0039 when contacting the NRC about the availability of information regarding this document. 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–2020–0039. 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.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jack D. Parrott, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6634, email: *Jack.Parrott@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated at Rockville, Maryland, this 5th day of February 2020.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption From Certain Low-Level Waste Shipment Tracking Requirements of 10 CFR Part 20, Appendix G, Section III.E

I. Background

The Vermont Yankee Nuclear Power Station (VY), licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) part 50 (renewed license no. DPR–28, docket no. 50–271), is located in the town of Vernon, Vermont, in Windham County on the western shore of the Connecticut River immediately upstream of the Vernon Hydroelectric Station. VY employed a General Electric boiling water reactor nuclear steam supply system licensed to generate 1,912 megawatts (thermal energy). The operating license for VY was issued on March 21, 1972, and commercial operation commenced on November 30, 1972. The license was renewed on March 21, 2011. VY permanently ceased operations on December 29, 2014 and on January 12, 2015 (ADAMS Accession No. ML15013A426), the licensee certified to the NRC that it had permanently ceased operations at VY and that all fuel from the reactor vessel had been permanently removed.

The VY renewed operating license was transferred to NorthStar NDC by NRC order issued October 11, 2018 (ADAMS Accession No. ML18248A096). Upon implementation of the license transfer, on January 11, 2019, NorthStar NDC commenced dismantlement and decommissioning activities at the VY site that included the generation of low-level radioactive waste. This waste is primarily destined for transfer to the Waste Control Specialists disposal site in Andrews, Texas by rail or mixed mode shipment, such as a combination of truck/rail shipments. Decommissioning of VY is scheduled to be complete by 2030.

II. Request/Action

By letter dated August 28, 2019 (ADAMS Accession No. ML19252A056), NorthStar NDC requested an exemption from 10 CFR part 20, Appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' section III.E. for disposals from the VY facility. Section III.E requires that the shipper of any low-level radioactive waste to a licensed land disposal facility must investigate and trace the shipment if the shipper has not received notification of the shipment's receipt by the disposal facility within 20 days after transfer. In addition, Section III.E requires licensees to report such missing shipments to the NRC. Specifically, NorthStar NDC is requesting an exemption from the requirements in 10 CFR part 20, Appendix G, Section III.E, under the provisions of 10 CFR 20.2301, ''Applications for exemptions,'' to extend the time period for NorthStar NDC to receive acknowledgement that the shipment has been received from 20 to 45 days after transfer for rail or mixed mode shipment from VY to the intended recipient.

Inherent to the decommissioning process, large volumes of low-level radioactive waste are generated and require disposal. The licensee has transported low-level radioactive waste from VY to distant locations such as the waste disposal facility operated by Waste Control Specialists in Andrews, Texas. Experience with waste shipments from VY and other decommissioning power reactor sites indicates that rail or mixed-mode transportation time to waste disposal facilities has, in several instances, exceeded the 20-day receipt of notification requirement. In addition, administrative processes at the disposal facility and mail delivery times can further delay the issuance or arrival of the receipt of notification.

III. Discussion

A. The Exemption Is Authorized by Law

The NRC's regulations in 10 CFR 20.2301 allow the Commission to grant exemptions from the requirements of the regulations in 10 CFR part 20 if it determines the exemption would be authorized by law and would not result in undue hazard to life or property. There are no provisions in the Atomic Energy Act of 1954, as amended (or in any other Federal statute) that impose a requirement to investigate and report on low-level radioactive waste shipments that have not been acknowledged by the recipient within 20 days of transfer. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption and the NRC is authorized to grant the exemption by law.

With respect to compliance with Section 102(2) of the National Environmental Policy Act, 42 U.S.C. 4332(2) (NEPA), the NRC staff has determined that the proposed action, namely, the approval of the NorthStar NDC exemption request, is within the scope of the two categorical exclusions listed at 10 CFR 51.22(c)(25)(vi)(B) and 10 CFR 51.22(c)(25)(vi)(C). The categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(B) concerns approval of exemption requests from reporting requirements and the categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(C) concerns approval of exemption requests from inspection or surveillance requirements. Therefore, no further analysis is required under NEPA.

B. The Exemption Would Not Result in Undue Hazard to Life or Property

The purpose of 10 CFR part 20, Appendix G, Section III.E is to require licensees to investigate, trace, and report radioactive shipments that have not reached their destination, as scheduled, for unknown reasons. Data from the VY (for example see NorthStar NDC reports on investigation pursuant to 10 CFR part 20, Appendix G (ADAMS Accession Nos. ML19233A015, ML19233A032, ML19233A019, ML20014D560, and ML19347B109) found that several shipments took longer than 20 days, and one up to 59 days, to reach the Waste Control Specialist disposal facility in Andrews, Texas once they left the VY facility. The NRC acknowledges that, based on the history of low-level radioactive waste shipments from VY, the need to investigate, trace and report on shipments that take longer than 20 days could result in an excessive administrative burden on the licensee. As stated in the request for exemption, NorthStar NDC will request a daily update to be provided for the location of the shipment from the appropriate carriers of the low-level radioactive waste shipments.

Because of the oversight and monitoring of radioactive waste shipments throughout the entire journey from VY to the disposal site, it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or NorthStar NDC. Furthermore, by extending the elapsed time for receipt acknowledgment to 45 days before requiring investigations, tracing, and reporting, a reasonable upper limit on shipment duration (based on historical analysis) is still maintained if a breakdown of normal tracking systems were to occur. Consequently, the NRC finds that extending the receipt of notification period from 20 to 45 days after transfer of the low-level radioactive waste as described by NorthStar NDC in its August 28, 2019, letter would not result in an undue hazard to life or property.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption is authorized by law and will not result in undue hazard to life or property. Therefore, the Commission hereby grants NorthStar NDC an exemption from 10 CFR part 20, Appendix G, Section III.E to extend the receipt of notification period from 20 days to 45 days after transfer for rail or mixed-mode shipments of low-level radioactive waste from the VY facility to a licensed land disposal facility.

[FR Doc. 2020–02681 Filed 2–10–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 052–00025 and 052–00026; NRC–2008–0252]

Vogtle Electric Generating Plant, Units 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment and exemption to Combined Licenses (NPF–91 and NPF–92), issued to Southern Nuclear Operating Company, Inc. (SNC), and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (collectively, SNC), for construction and operation of the Vogtle Electric Generating Plant (VEGP), Units 3 and 4, located in Burke County, Georgia.

DATES: Submit comments by March 12, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date. A request for a hearing or petition for leave to intervene must be filed by April 13, 2020.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Donald Habib, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–000; telephone: 301–415–1035; email: *Donald.Habib@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252.
- *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 application for amendment, dated September 6, 2019, and supplemented by letter dated January 31, 2020, is available in ADAMS under Accession Nos. ML19249C738 and ML20031E665, respectively.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0252 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to facility Operating License Nos. NPF–91 and NPF–92, issued to SNC for operation of the VEGP Units 3 and 4, located in Burke County, Georgia.

The proposed changes would revise the Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document (DCD) Tier 2 information and related changes to the VEGP Units 3 and 4 combined license (COL) Appendix C (and corresponding plant-specific DCD Tier 1) information. Specifically, the request proposes to remove the natural circulation test of the passive residual heat removal (PRHR) heat exchanger, which is conducted during preoperational testing, from the scope of the initial test program described in the UFSAR. In lieu of performing this test according to Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) 2.2.03.08b.01 specified in COL Appendix C, the ITAAC would be updated to reflect the heat removal performance test of the PRHR heat exchanger under forced flow conditions. Because this proposed change requires a departure from Tier 1 information in the Westinghouse AP1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with section 52.63(b)(1) of title 10 of the *Code of Federal Regulations* (10 CFR).

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not affect the operation of any systems or equipment that initiates an analyzed accident or alter any structures, systems, or components (SSC) accident initiator or initiating sequence of events. The proposed changes remove the requirement to perform the preoperational PRHR heat exchanger natural circulation test and revise ITAAC which demonstrates the heat removal capability of the PRHR heat exchanger. The remaining preoperational testing and ITAAC will confirm the PRHR heat exchanger can perform its design and licensing bases functions. The changes do not adversely affect any methodology which would increase the probability or consequences of a previously evaluated accident.

The changes do not impact the support, design, or operation of mechanical or fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the proposed change create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of a previously evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed changes remove the requirement to perform the preoperational PRHR heat exchanger natural circulation test and revise ITAAC related to the PRHR heat exchanger. The remaining tests will demonstrate the heat removal capabilities of the PRHR heat exchanger. The remaining preoperational testing and ITAAC will confirm the PRHR heat exchanger can perform its design and licensing bases functions. The proposed changes do not adversely affect any design function of any SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or non-safety-related equipment. This activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes maintain the existing safety margin and provide adequate protection through continued application of the existing requirements in the UFSAR. The proposed changes satisfy the same design functions in accordance with the same codes and standards as stated in the UFSAR. The changes do not adversely affect any design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed change.

Since no safety analysis or design basis acceptance limit/criterion is changed, the margin of safety is not reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, the Commission will publish a notice of issuance in the **Federal Register**. Should the Commission make a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by

the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated September 6, 2019, and supplement dated January 31, 2020.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Victor E. Hall.

Dated at Rockville, Maryland, this 6th day of February 2020.

For the Nuclear Regulatory Commission.

Victor E. Hall,

Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–02704 Filed 2–10–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–264; NRC–2020–0048]

Dow TRIGA Research Reactor; Consideration of Approval of Transfer of License

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by the Dow Chemical Company (TDCC, the licensee) on November 22, 2019. The application seeks NRC approval of the indirect transfer of control of TDCC's interests in the Dow TRIGA Research Reactor (DTRR, the facility) Renewed Facility Operating License No. R–108 to Dow, Inc. The indirect transfer resulted from the merger of TDCC with E.I. du Pont De Nemours and Company in August 2017, which established a new parent company, DowDuPont, Inc. Subsequently, in April 2019, Dow, Inc. was formed as a separate company from DowDuPont, Inc. and TDCC became a wholly-owned subsidiary of Dow, Inc.

DATES: Comments must be filed by March 12, 2020. A request for a hearing must be filed March 2, 2020.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0048. 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.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Geoffrey Wertz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0893, email: *Geoffrey.Wertz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to *Regulations.gov* Docket ID NRC–2020–0048 or NRC Docket No. 50–264 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0048.
- *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 application for indirect transfer of the license dated November 22, 2019, is available in ADAMS under Accession No. ML19330E244.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0048 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under § 50.80, ''Transfer of licenses,'' of title 10 of the *Code of Federal Regulations* (10 CFR) approving the indirect transfer of control of the DTRR Renewed Facility Operating License No. R–108, currently held by TDCC.

According to the application for approval filed by TDCC, the indirect transfer resulted from the merger of TDCC with E.I. du Pont De Nemours and Company in August 2017, which established a new parent company, DowDuPont, Inc. Subsequently, in April 2019, Dow, Inc. was formed as a separate company from DowDuPont, Inc. and TDCC became a wholly-owned subsidiary of Dow, Inc. TDCC will continue to own and operate the facility and hold the license.

No physical changes to the DTRR or operational changes are being proposed in the application.

The NRC's regulations in 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the transaction will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the

action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, ''Hearing requests, petitions to intervene, requirements for standing, and contentions.'' The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements in 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 20 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 20 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time

the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated November 22, 2019.

Dated at Rockville, Maryland, this 6th day of February 2020.

For the Nuclear Regulatory Commission.

Geoffrey A. Wertz,

Project Manager, Non-Power Production and Utilization Facility Licensing Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–02682 Filed 2–10–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of February 10, 17, 24, March 2, 9, 16, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of February 10, 2020

There are no meetings scheduled for the week of February 10, 2020.

Week of February 17, 2020—Tentative

There are no meetings scheduled for the week of February 17, 2020.

Week of February 24, 2020—Tentative

Tuesday, February 25, 2020

9:00 a.m. Overview of Accident Tolerant Fuel Activities (Public Meeting) (Contact: Luis Betancourt: 301–415–6146)

This meeting will be webcast live at the Web address—*https://www.nrc.gov/*.

Week of March 2, 2020—Tentative

Thursday, March 5, 2020

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

Week of March 9, 2020—Tentative

There are no meetings scheduled for the week of March 9, 2020.

Week of March 16, 2020—Tentative

There are no meetings scheduled for the week of March 16, 2020.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at

Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 6th day of February 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–02739 Filed 2–7–20; 11:15 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval of information collections.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's intent and solicits public comment on the collections of information.

DATES: Comments must be received on or before April 13, 2020.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* (Follow the online instructions for submitting comments.)
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to multiemployer information collection. All comments received will be posted without change to PBGC's website at *https://www.pbgc.gov,* including any personal information provided.

Copies of the collections of information may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.) PBGC's regulations on multiemployer plans may be accessed on PBGC's website at *https://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–3839. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–229–3839.)

SUPPLEMENTARY INFORMATION: OMB has approved and issued control numbers for seven collections of information in PBGC's regulations relating to multiemployer plans. These collections of information are described below. OMB approvals for these collections of information expire August 31, 2020. PBGC intends to request that OMB extend its approval of these collections of information for three years. 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. PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are 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 collections of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments should identify the specific part number(s) of the regulation(s) they relate to.

1. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB Control Number 1212–0023)

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most one plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is 3 hours and $7,000.

2. Variances for Sale of Assets (29 CFR Part 4204) (OMB Control Number 1212–0021)

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances. PBGC estimates that each year, 100 employers submit, and 100 plans respond to, variance requests under the regulation, and one employer submits a variance request to PBGC. The estimated annual burden of the collection of information is 1,050 hours and $501,000.

3. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB Control Number 1212–0044)

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, at most one employer submits, and one plan responds to, an application for abatement of complete withdrawal liability, and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.5 hours and $450.

4. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB Control Number 1212–0039)

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, at most one employer submits, and one plan responds to, an application for abatement of partial withdrawal liability and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.50 hours and $450.

5. Allocating Unfunded Vested Benefits To Withdrawing Employers (29 CFR Part 4211) (OMB Control Number 1212–0035)

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how it will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 10 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 100 hours and $100,000.

6. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB Control Number 1212–0034)

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a ''mass withdrawal.'' ERISA section 4209(c) deals with an employer's liability for de minimis amounts if the employer withdraws in a ''substantial withdrawal.''

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that there are six mass withdrawals and three substantial withdrawals per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a mass withdrawal, there are two assessments and two certifications that deal with two different types of liability. For a substantial withdrawal, there is one assessment and one certification (combined with the withdrawal notice to PBGC).) The estimated annual burden of the collection of information is 45 hours and $148,500.

7. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB Control Number 1212–0031)

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting PBGC's approval of an amendment. PBGC needs the required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

PBGC estimates that at most one plan sponsor submits an approval request per year under this regulation. The estimated annual burden of the collection of information is 2 hours and $5,000 dollars.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2020–02646 Filed 2–10–20; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–94 and CP2020–93; MC2020–95 and CP2020–94]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 13, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–94 and CP2020–93; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 112 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* February 5, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* February 13, 2020.

2. *Docket No(s).:* MC2020–95 and CP2020–94; *Filing Title:* USPS Request to Add Priority Mail Contract 593 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* February 5, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* February 13, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–02670 Filed 2–10–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 5, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 593 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–95, CP2020–94.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–02604 Filed 2–10–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 5, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 112 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–94, CP2020–93.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–02603 Filed 2–10–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88122; File No. 4–631]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan To Address Extraordinary Market Volatility To Add the Long-Term Stock Exchange LLC as a Participant

February 5, 2020.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on November 20, 2019, Long-Term Stock Exchange LLC (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') an amendment to the Plan to Address Extraordinary Market Volatility (''LULD Plan'' or ''Plan'') as a Participant.[3] The

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Letter from Howard Steinberg, General Counsel, LTSE, dated November 18, 2019, to Vanessa Countryman, Secretary, Commission. On May 6, 2012, the Commission issued an order approving the Plan on a pilot basis (the ''Approval

Continued

amendment adds LTSE as a Participant [4] to the LULD Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Amendment

On May 10, 2019, the Commission issued an order granting LTSE's application for registration as a national securities exchange.[5] As noted above, the proposed amendment adds LTSE as a Participant to the LULD Plan.

Under Section II(C) of the LULD Plan, any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III (B) of the Plan. Section III(B) of the LULD Plan sets forth the process for a prospective new Participant to effect an amendment of the Plan. Specifically, the LULD Plan provides that such an amendment to the Plan may be effected by the new national securities exchange or national securities association by executing a copy of the Plan as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan); and submitting such executed Plan to the Commission. The amendment will be effective when it is approved by the Commission in accordance with Rule 608 of Regulation NMS, or otherwise becomes effective pursuant to Rule 608 of Regulation NMS.

LTSE has become a participant in the applicable Market Data Plans,[6] executed a copy of the Plan currently in effect, with the only change being the addition of its name in Section II(A) of the Plan, and has provided a copy of the Plan executed by LTSE to each of the other Participants. LTSE has also submitted the executed Plan to the Commission. Accordingly, all of the Plan requirements for effecting an amendment to the Plan to add LTSE as a Participant have been satisfied.

II. Effectiveness of the Proposed Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) [7] because it involves solely technical or ministerial matters.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment 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 4–631 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 4–631. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 20549–1090 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 4–631and should be submitted on or before March 3, 2020.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02633 Filed 2–10–20; 8:45 am]

BILLING CODE 8011–01–P

Order''). *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The Commission approved the LULD Plan on a permanent basis on April 11, 2019. *See* Securities Exchange Act Release No. 85623, 84 FR 16079 (April 17, 2019).

[4] Defined in Section I(K) of the Plan as follows: ''Participant'' means a Party to the Plan.

[5] *See* Securities Exchange Act Release No. 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019).

[6] *See* Letter from Robert Books, Chairman, Operating Committee, CTA/CQ Plans, to Vanessa Countryman, Secretary, Commission, dated October 23, 2018 [sic]to Vanessa Countryman, Secretary, SEC, from Robert Books (relating to Thirty-Second Substantive Amendment to the Second Restatement of the CTA Plan and Twenty-Third Substantive Amendment to the Restated CQ Plan adding LTSE as a participant) and letter from Robert Books, Chairman, Operating Committee, UTP Plan, to Vanessa Countryman, Secretary, Commission, dated October 23, 2019 (relating to Forty-Sixth Amendment to the UTP Plan adding LTSE as a participant).

[7] 17 CFR 242.608(b)(3)(iii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88131; File No. SR–NYSEAMER–2019–38]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Allow Certain Flexible Equity Options To Be Cash Settled

February 5, 2020.

I. Introduction

On October 17, 2019, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rules 903G and 906G to allow certain Flexible Exchange (''FLEX'') Equity Options to be cash settled.[3] The proposal, as modified by Amendment No. 1, would allow FLEX Equity Options to be cash settled where the underlying security is an Exchange-Traded Fund (''ETF'') that meets prescribed criteria (''FLEX ETF Option'').

The proposed rule change was published for comment in the **Federal Register** on November 7, 2019.[4] On December 18, 2019, the Commission extended the time period within which to approve the proposed rule changes, disapprove the proposed rule changes,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For the definition of ''FLEX Equity Option,'' *see infra* note 7.

[4] *See* Securities Exchange Act Release No. 87444 (November 1, 2019), 84 FR 60120 (November 7, 2019) (''Notice'').

or institute proceedings to determine whether to approve or disapprove the proposed rule changes, to February 5, 2020.[5] On February 4, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes the original filing in its entirety.[6] The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange has proposed to amend NYSE American Rule 903G(c) to allow for cash settlement of certain FLEX Equity Options.[7] FLEX Equity Options permit investors to specify certain options contract terms, within parameters set forth in the Exchange's FLEX rules, such as exercise style, expiration date, and exercise prices.[8] Currently, FLEX Equity Options are settled by physical delivery of the underlying security.[9] The Exchange proposed, in the case of a FLEX Equity Option with an underlying security that is an Exchange-Traded Fund (*i.e.,* a FLEX ETF Option) and that meets prescribed criteria, to allow settlement either by delivery in cash or, as currently permitted under the Exchange rules, by physical delivery of the underlying security.[10]

As proposed, the Exchange would allow for the cash settlement of a FLEX ETF Option if the underlying ETF, measured over the prior six-month period, has (1) an average daily notional value of at least $500 Million; and (2) a national average daily volume (''ADV'') of at least 4,680,000 shares.[11] The Exchange proposed to determine bi-annually the underlying ETFs that satisfy these notional value and trading volume requirements by using trading statistics for the previous six-months.[12] The Exchange also proposed to permit cash settlement as a contract term on no more than 50 underlying ETFs, and that if more than 50 underlying ETFs satisfy the notional value and trading volume requirements, to select the top 50 securities based on the ETFs with the highest ADV after meeting the initial requirements.[13] Further, the Exchange's proposed rule states that if the Exchange determines pursuant to the bi-annual review that an underlying ETF ceases to satisfy the specified criteria, any new position overlying such security entered into would be required to have exercise settlement by physical delivery and any open positions overlying such security would be able to be traded only to close the position.[14]

In support of its proposal, the Exchange stated that it believes it is appropriate to introduce cash settlement as an alternative contract term to the select group of ETFs because they are ''among the most highly liquid and actively-traded securities,'' [15] and that the deep liquidity and robust trading activity in these ETFs, in the Exchange's view, mitigate against historic concerns regarding susceptibility to manipulation.[16] The Exchange stated that it believes that average daily notional value is an appropriate proxy for selecting underlying ETFs that are not readily susceptible to manipulation because it believes that as a general matter, the more expensive an underlying ETF's price, the less cost-effective manipulation could become, and that manipulation of the price of an ETF encounters greater difficulty the more volume that is traded.[17] In addition, the Exchange stated that it believes an ADV requirement of 4,680,000 shares a day is appropriate because it represents average trading in the underlying ETF of 200 shares per second.[18] The Exchange stated that it believes that while no security is immune from all manipulation, the combination of average daily notional value and ADV as prerequisite requirements would limit cash settlement of FLEX ETF Options to those underlying securities that would be less susceptible to manipulation in order to establish a settlement price.[19] The Exchange further stated that it believes that permitting cash settlement as a contract term for FLEX ETF Options would broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC market for customized options, where settlement restrictions do not apply.[20]

The Exchange represented that the table below provides the list of the 26 securities that, as of December 31, 2019, would be eligible to have cash settlement as a contract term.[21]

[5] *See* Securities Exchange Act Release No. 87792 (December 18, 2019), 84 FR 71053 (December 26, 2019).

[6] In Amendment No. 1, the Exchange: (1) Limited cash settlement as a contract term to those FLEX Equity Options whose underlying security is an ETF; (ii) proposed to aggregate positions in cash-settled FLEX ETF Options with positions in physically-settled options on the same underlying ETF for purposes of position and exercise limits; (3) proposed to limit the number of ETFs that could underlie cash-settled FLEX ETF Options to no more than 50 underlying ETFs and set a tiebreaker if there are more than 50; (4) specified that the Exchange will provide the Commission with annual reports for five years that include, at a minimum, certain trading information and analysis, and, if any, recommendations, regarding the trading of cash-settled FLEX ETF Options; and (5) proposed some clarifying changes to its original proposal. Amendment No. 1 replaces and supersedes the original filing in its entirety and is available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse-american/rule-filings/filings/2020/NYSEAmex-2019-38,%20Am.%201.pdf.*

[7] A ''FLEX Option'' is a customized options contract that is subject to the rules of Section 15, Flexible Exchange Options. *See* NYSE American Rule 900G(b)(1). A ''FLEX Equity Option'' is an option on a specified underlying equity security that is subject to the rules of Section 15. *See* NYSE American Rule 900G(b)(10).

[8] *See* NYSE American Rule 903G.

[9] *See* NYSE American Rule 903G(c)(3)(i). There is one exception for a specific type of option called FLEX Binary Return Derivatives (''ByRDs''). *See* NYSE American Rules 900G(b)(17), 903G(c)(3)(ii), and 910ByRDs.

[10] *See* proposed NYSE American Rule 903G(c)(3)(ii). The Exchange proposed conforming changes to NYSE American Rule 903G(c)(3) to reflect that the proposed rule change would add a second exception to the general requirement for physical settlement for FLEX Equity Options on an eligible ETF. *See* proposed NYSE American Rule 903G(c)(3)(i) and (iii).

[11] *See* proposed NYSE American Rule 903G(c)(3)(ii).

[12] *See* proposed NYSE American Rule 903G(c)(3)(ii)(A). The Exchange stated that it plans to conduct the bi-annual review on January 1 and July 1 of each year, announce the results via a Trader Update, and permit FLEX ETF Options any new ETFs that qualify to have cash settlement as a contract term beginning on February 1 and August 1 of each year. *See* Amendment No. 1, *supra* note 6, at n.8.

[13] *See* proposed NYSE American Rule 903G(c)(3)(ii)(A).

[14] *See* proposed NYSE American Rule 903G(c)(3)(ii)(B). The Exchange represented that it will provide guidance to reflect that an Exchange member acting as a market maker in cash-settled FLEX ETF Options can enter into an opening transaction to facilitate closing only transactions of another market participant when such orders are restricted to closing only transactions. *See* Amendment No. 1, *supra* note 6, at 5. The Exchange noted in its proposal that this is consistent with how it addresses other situations when transactions in certain options series are restricted to closing-only transactions and represented that this interpretation is consistent with a market maker's duty to maintain fair and orderly markets as set forth in NYSE American Rule 920NY. *See* Amendment No. 1, *supra* note 6, at n.10 (citing *https://www.nyse.com/publicdocs/nyse/markets/arca-options/rule-interpretations/2017/NYSE%20Arca%20Options%20RB%2017-01.pdf).*

[15] *See* Amendment No. 1, *supra* note 6, at 5.

[16] *See* Amendment No. 1, *supra* note 6, at 5.

[17] *See* Notice, *supra* note 4, 84 FR at 60120. *See also* Amendment No. 1, *supra* note 6, at 6–7. To calculate average daily notional value, the Exchange summed the notional value of each trade for each symbol (*i.e.,* the number of shares times the price for each execution in the security) and divided that total by the number of trading days in the six-month period (from July 1, 2019 through December 31, 2019) reviewed by the Exchange. *See* Amendment No. 1, *supra* note 6, at 6–7.

[18] *See* Notice, *supra* note 4, 84 FR at 60120. *See also* Amendment No. 1, *supra* note 6, at 7.

[19] *See* Amendment No. 1, *supra* note 6, at 7.

[20] *See* Amendment No. 1, *supra* note 6, at 8.

[21] *See* Amendment No. 1, *supra* note 6, at 7–8.

Symbol	Security name	Average daily notional value (7/1/19–12/31/19)	Average daily volume (7/1/19–12/31/19)
SPY	SPDR S&P 500 ETF Trust	$19,348,446,943	64,473,579
GDX	VanEck Vectors Gold Miners ETF	1,642,832,369	59,224,665
EEM	iShares MSCI Emerging Markets ETF	2,452,054,515	58,392,976
XLF	Financial Select Sector SPDR Fund	1,326,369,702	51,114,805
VXX	iPath Series B S&P 500 VIX Short-Term Futures ETN	771,760,803	34,481,358
XOP	SPDR S&P Oil & Gas Exploration & Production ETF	634,221,618	28,045,372
QQQ	Invesco QQQ Trust	4,881,991,635	25,290,206
EWZ	iShares MSCI Brazil ETF	1,021,953,287	23,573,072
EFA	iShares MSCI EAFE ETF	1,547,095,600	23,547,995
FXI	iShares China Large-Cap ETF	962,138,508	23,499,870
IWM	iShares Russell 2000 ETF	2,850,264,638	18,418,308
HYG	iShares iBoxx High Yield Corporate Bond ETF	1,596,947,580	18,385,570
GDXJ	VanEck Vectors Junior Gold Miners ETF	644,620,425	16,792,343
TQQQ	ProShares UltraPro QQQ	1,107,279,835	16,739,207
XLU	Utilities Select Sector SPDR Fund	1,037,188,333	16,587,526
XLE	Energy Select Sector SPDR Fund	857,120,647	14,338,385
IEMG	iShares Core MSCI Emerging Markets ETF	690,635,496	13,711,914
XLP	Consumer Staples Select Sector SPDR Fund	740,499,207	12,203,155
TLT	iShares 20+ Year Treasury Bond ETF	1,482,683,513	10,608,009
XLK	Technology Select Sector SPDR Fund	846,007,077	10,319,276
XLI	Industrial Select Sector SPDR Fund	771,117,183	9,884,799
LQD	iShares iBoxx Investment Grade Corporate Bond ETF	1,215,543,560	9,602,402
GLD	SPDR Gold Trust	1,335,356,112	9,569,458
XLV	Health Care Select Sector SPDR Fund	776,822,924	8,333,845
IYR	iShares U.S. Real Estate ETF	641,445,902	6,981,265
JNK	SPDR Bloomberg Barclays High Yield Bond ETF	632,969,484	5,845,332

The Exchange proposed that cash-settled FLEX ETF Options would be subject to the position limits set forth in NYSE American Rule 904 and the exercise limits set forth in NYSE American Rule 905, which rules also apply to the standardized options market.[22] In addition, the Exchange proposed that positions in cash-settled options will be aggregated with all positions in physically-settled options on the same underlying ETF for the purpose of calculating the position limits set forth in Rule 904, and the exercise limits set forth in Rule 905.[23]

The Exchange noted in its filing that cash-settled FLEX ETF Options would not be available for trading until The Options Clearing Corporation (''OCC'') represents to the Exchange that it is fully able to clear and settle such options.[24] The Exchange stated that it represents that it and The Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of cash-settled FLEX ETF Options, and that it believes that its members will not have a capacity issue as a result of the proposed rule change.[25] The Exchange also represented that it does not believe the proposed rule change will cause fragmentation of liquidity.[26] The Exchange further represented that it will monitor for any effects additional trading volume from the proposal may have on both market fragmentation and capacity of the Exchange's automated systems.[27]

The Exchange stated that it believes that it has an adequate surveillance program in place for cash-settled FLEX ETF Options and intends to apply the same program procedures that it applies to the Exchange's other options products.[28] The Exchange represented, among other things, that its existing trading surveillances are adequate to monitor the trading in the underlying securities and subsequent trading of options on those securities on the Exchange, including cash-settled FLEX ETF Options.[29] The Exchange noted that the regulatory program operated by and overseen by NYSE Regulation includes cross-market surveillance designed to identify manipulative and other improper trading that may occur on the Exchange and other markets.[30] The Exchange also represented, among other things, that it believes its existing surveillance technologies and procedures adequately address potential concerns regarding possible manipulation of the settlement value at or near the close of the market.[31] In addition, the Exchange stated that it believes that improvements in audit trails, recordkeeping practices, and inter-exchange cooperation over the last two decades have greatly increased the

[22] *See* proposed NYSE American Rule 906G(b)(ii). The Exchange represented that, out of the 26 underlying ETFs that would currently be eligible to have cash settlement as a contract term, 18 would have a position limit of 250,000 contracts (*see* NYSE American Rule 904, Commentary .07(a)) and the position limit for the other eight underlying securities would be as follows: For QQQ and SPY, 1,800,000 contracts; for IWM and EEM, 1,000,000 contracts; and for FXI, EFA, EWZ and TLT, 500,000 contracts (*see* NYSE American Rule 904, Commentary .07(f)). *See* Amendment No. 1, *supra* note 6, at 9–10. The Commission notes that, under the Exchange's rules, the applicable exercise limits will be the same as the position limits.

[23] *See* proposed NYSE American Rule 906G(b)(ii). The Exchange also proposes a non-substantive amendment to Rule 906G to renumber current NYSE American Rule 906G(b)(ii) as new NYSE American Rule 906G(b)(iii). The Exchange stated that, given that each of the underlying securities that would currently be eligible to have cash-settlement as a contract term have established position and exercise limits applicable to physically-settled options, the Exchange believes it is appropriate for the same position and exercise limits to also apply to cash-settled options. *See* Notice, *supra* note 4, 84 FR at 60122. *See also* Amendment No. 1, *supra* note 6, at 9.

[24] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 10.

[25] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 10.

[26] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 10.

[27] *See* Notice, *supra* note 4, 84 FR at 60123. *See also,* Amendment No. 1, *supra* note 6, at 10.

[28] *See* Amendment No. 1, *supra* note 6, at 11.

[29] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 11.

[30] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 11.

[31] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 11. The Commission notes that the Exchange's surveillance procedures are described in more detail in the Notice and in Amendment No. 1 and that these descriptions are substantively identical. *See* Notice, *supra* note 4, 84 FR 60123–24; Amendment No. 1, *supra* note 6, at 11–12.

Exchange's ability to detect and punish attempted manipulative activities.[32]

The Exchange represented that it is a member of the Intermarket Surveillance Group (''ISG'') under the Intermarket Surveillance Group Agreement dated June 20, 1994.[33] The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets.[34] For surveillance purposes, the Exchange stated that it would have access to information regarding trading activity in the pertinent underlying securities.[35]

Finally, the Exchange represented that, given the novel characteristics of cash-settled FLEX ETF Options, the Exchange will conduct a review of the trading in cash-settled FLEX ETF Options over an initial five-year period and furnish annual reports to the SEC based on this review.[36] At a minimum, the reports will provide a comparison between the trading volume of all cash-settled FLEX ETF Options listed under the proposed rule and physically-settled options on the same underlying security, the liquidity of the market for such options products and the underlying ETFs, and any manipulation concerns arising in connection with the trading of cash-settled FLEX ETF Options under the proposed rule, and will also discuss any recommendations the Exchange may have for enhancements to the listing standards based on its review.[37]

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment No. 1, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[38] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[39] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange's modified proposal would allow cash settlement for FLEX Equity Options only on ETFs, and only where the underlying ETF, as measured over the prior six-month period, has (1) an average daily notional value of at least $500 Million; and (2) a national ADV of at least 4,680,000 shares.[40] The Commission notes, and the Exchange has represented, that the 26 ETFs currently eligible using the proposed criteria appear to be among some of the most liquid and actively-traded ETFs based on their average daily volume and average notional value. The Commission believes that, by limiting the trading of options permitted to have cash settlement to those with underlying ETFs and only where these ETFs are liquid and actively traded, along with the other proposed requirements, appears to be reasonably designed to mitigate concerns about the susceptibility to manipulation of such cash-settled FLEX ETF Options and their underlying ETFs and the potential for market disruption. Additionally, the proposed aggregated position and exercise limits and surveillance procedures discussed below, taken together with the liquid and active markets in the underlying eligible ETFs, also appears reasonably designed to address and mitigate concerns about the potential for manipulation and market disruption in markets for the options and the underlying securities.

The Commission also notes that the Exchange has proposed to use the same position limits and exercise limits for cash-settled FLEX ETF Options that are applicable to the non-FLEX standardized options market, and to aggregate the positions in cash-settled FLEX ETF Options with all positions in physically-settled options on the same underlying ETF for purposes of calculating the position and exercise limits.[41] The Commission has previously recognized that position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse market impact surrounding the use of options and that the limits can be useful to prevent investors from disrupting the market in securities underlying the options as well as the options market itself.[42] The Commission believes therefore that establishing position and exercise limits at the same levels as those in the non-FLEX standardized options market and aggregating those positions with all physically-settled options on the same underlying ETFs[43] can further help mitigate the concerns that the limits are designed to address about the potential for manipulation and market disruption in the options and the underlying securities.

The Commission notes that the Exchange will conduct a biannual review of the underlying ETFs to determine whether they no longer meet the requirements for cash-settled FLEX ETF Options on those ETFs.[44] The Commission believes that this requirement is a reasonable means to limit cash settlement to those FLEX ETF Options that only overlie ETFs that continue to meet the specified liquidity and trading volume standards. The Commission also believes that while, as part of the biannual review, the Exchange can identify new underlying ETFs that meet the requirements and are thus eligible for cash-settled FLEX ETF Options, limiting the number of qualifying underlying ETFs to 50 will prevent the scope of cash settlement on FLEX ETF Options from growing considerably without an evaluation about whether the level of the requirements remains reasonable.[45] The Commission further believes that selecting the top 50 securities based on ETFs with the highest ADV, if more than 50 ETFs otherwise meet the requirements in Rule 903(G)(c)(3)(ii), appears to be a reasonable tiebreaker. In addition, the Commission notes that, should the Exchange determine, pursuant to the bi-annual review that an underlying ETF ceases to satisfy the

[32] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 12.

[33] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 12.

[34] *See* Notice, *supra* note 4, 84 FR at 60123. *See also* Amendment No. 1, *supra* note 6, at 12.

[35] *See* Notice, *supra* note 4, 84 FR at 60124. *See also* Amendment No. 1, *supra* note 6, at 12.

[36] *See* Amendment No. 1, *supra* note 6, at 13. The Exchange stated that it would provide the first report within 60 days after the first anniversary of the initial listing date of the first cash-settled FLEX ETF Option under the proposal and that each subsequent report will be provided within 60 days of the anniversary of the initial listing date on an annual basis up until and including year five. *Id.*

[37] *See* Amendment No. 1, *supra* note 6, at 13.

[38] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[39] 15 U.S.C. 78f(b)(5).

[40] *See supra* note 11 and accompanying text.

[41] *See supra* notes 22–23 and accompanying text.

[42] *See* Securities Exchange Act Release No. 82770 (February 23, 2018), 83 FR 8907, 8910 (March 1, 2018) (SR–CBOE–2017–057).

[43] The aggregation of position and exercise limits would include all positions on physically-settled FLEX and non-FLEX options on the same underlying ETFs.

[44] *See* supra note 12 and accompanying text.

[45] *See supra* note 13 and accompanying text. At the same time, the overall limit of 50 ETFs that can underlie cash settled FLEX ETF Options should also provide the Exchange with flexibility to add additional ETFs that meet the Exchange's requirements given that the current eligible list of ETFs as of December 31, 2019 contains 26 ETFs.

requirements under Rule 903(G)(c)(3)(ii), any new options position overlying such ETF would be required to have exercise settlement by physical delivery and any open cash-settled FLEX ETF Option positions may be traded only to close the position.[46] The Commission believes that this provision is a reasonable means to address how to wind down an outstanding cash-settled FLEX ETF Option where the underlying ETF no longer qualifies under the liquidity and volume criteria, thereby addressing manipulation concerns, while still allowing market participants to close out positions.

The Commission recognizes that the proposal is unique in that it would allow options on ETFs that currently are only available to be traded on a national securities exchange with physical settlement to now have a cash-settlement alternative. The Exchange, acknowledging the ''novel characteristics'' of its proposal has committed to perform periodic data analyses with written assessments and to make such analyses and assessments available to the Commission on an annual basis for the first five years of trading in the subject options.[47] As noted above, the Exchange has also stated that the reports will discuss any recommendations it has on enhancements to its proposed listing standards based on these reviews. The Commission notes that the annual reports will allow the Commission and the Exchange to evaluate, among other things, the impact such options have, and any potential adverse effects, on price volatility and the market for the underlying ETFs, the component securities underlying the ETFs, and the options on the same underlying ETFs and make appropriate recommendations, if any, in response to the reports.

The Commission notes that surveillance is important, among other things, to detect and deter fraudulent and manipulative trading activity as well as other violations of Exchange rules and the federal securities laws. The Exchange has represented that it has adequate surveillance procedures in place to monitor trading in these options and the underlying securities, including to detect manipulative trading activity in both the options and the underlying ETF.[48] The Exchange further asserted that the liquidity and active markets in the underlying ETFs, and the high number of market participants in both the underlying ETFs and existing options on the ETFs, helps to minimize the possibility of manipulation. The Commission notes that the proposed surveillance, along with the liquidity criteria and position and exercise limits requirements, appear to be reasonably designed to mitigate manipulation concerns. The Commission further notes that under Section 19(g) of the Act, the Exchange, as a self-regulatory organization, is required to enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder, and the rules of the Exchange.[49] The Commission understands that the Exchange performs ongoing evaluations of its surveillance program to ensure its continued effectiveness and the Commission would, therefore, expect the Exchange to continue to review its surveillance procedures on an ongoing basis and make any necessary enhancements and/or modifications that may be needed for the cash settlement of FLEX ETF Options.

In approving the proposed rule change, the Commission notes that cash-settled FLEX ETF Options will be subject to the same trading rules and procedures that currently govern the trading of other FLEX Options on the Exchange, with the exception of the rules to accommodate the cash settlement feature being approved herein. The Commission also notes that the Exchange has represented that it will monitor any effect additional options series listed under the proposal have on market fragmentation and the capacity of the Exchange's automated systems. The Commission notes that FLEX ETF Options, as the Exchange represented, cannot be traded until OCC represents to the Exchange that it is fully able to clear and settle such options.[50] Finally, the Commission expects that the Exchange will take prompt action, including timely communication with the Commission and with other self-regulatory organizations responsible for oversight of trading in options, the underlying ETFs, and the ETFs' component securities, should any unanticipated adverse market effects develop.

Based on the Exchange's representations with respect to the proposed cash-settlement of FLEX Equity Options, whose underlying security is an ETF, and for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Accelerated Approval of Proposed Rule Change, as Modified By Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 modified the original proposed rule change to limit the cash settlement of FLEX Equity Options to underlying ETFs, with a maximum cap of 50 such ETFs, that have met the originally proposed average daily notional value and national average daily volume requirements, using average daily volume as a tiebreaker if more than 50 ETFs otherwise qualify. Amendment No 1 also modified the original proposal to require that the proposed position and exercise limits for cash-settled FLEX ETF Options be aggregated with all physically-settled options on the same underlying ETF. Amendment No. 1 stated that the Exchange would provide a report to the Commission annually for five years providing an analysis, along with any recommendations, concerning the trading of cash-settled FLEX ETF Options. Finally, Amendment No. 1 made some additional clarifying changes to the original proposal.

The Commission notes that the changes made to the original proposal in Amendment No. 1 narrows the scope of the proposed rule change and limits its applicability to ETFs, which should help to mitigate potential risks of manipulation and market disruption. The amendment to aggregate position and exercise limits also addressed similar concerns. Furthermore, the Commission notes that the original, broader proposal, including the proposed numerical eligibility criteria applied to the underlying ETFs, was published for comment in the **Federal Register** and no comments were received. The Exchange's annual report requirement also supplements the

[46] *See* supra note 14 and accompanying text.

[47] *See supra* notes 36–37 and accompanying text.

[48] *See supra* notes 28–35 and accompanying text. Among other things, the Exchange noted that its regulatory program included cross-market surveillance designed to identify manipulative and other improper trading, including spoofing, algorithm gaming, marking the close and open, as well as more general abusive behavior related to front running, wash sales, quoting/routing, and Reg SHO violations, that may occur on the Exchange and other markets. Furthermore, the Exchange stated that it has access to information regarding trading activity in the pertinent underlying securities as a member of ISG. *See* Amendment No. 1, *supra* note 6, at 11–12. *See also id.* at n.15.

[49] 15 U.S.C. 78s(g).

[50] *See supra* note 24 and accompanying text. The Commission understands that, as of the date of this Order, OCC has not yet made the necessary representations for the Exchange to be able to commence trading.

proposal and should help the Exchange and the Commission in assessing any potential market impacts, including on price volatility, from the trading of the cash-settled FLEX ETF Options under the proposal. In addition, Amendment No. 1 clarifies and provides additional explanation relating to the proposed rule change. The changes and additional information in Amendment No. 1 have also assisted the Commission in evaluating the proposal and finding that the proposal is consistent with the Act.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[51] to approve the proposed rule change, SR–NYSEAMER–2019–38, as modified by Amendment No. 1, on an accelerated basis.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–38 and should be submitted on or before March 3, 2020.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[52] that the proposed rule change (SR–NYSEAMER–2019–38), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

J. Matthew DeLesDernier,

Assistant Secretary.

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[51] 15 U.S.C. 78s(b)(2).

[52] 15 U.S.C. 78s(b)(2).

[53] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Securities Act of 1933, Release No. 10753/February 6, 2020; Securities Exchange Act of 1934, Release No. 88137/February 6, 2020; Order Regarding Review of FASB Accounting Support Fee for 2020 Under Section 109 of The Sarbanes-Oxley Act of 2002

The Sarbanes-Oxley Act of 2002 (the ''Act'') provides that the Securities and Exchange Commission (the ''Commission'') may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard setting body that meets certain criteria. Consequently, Section 109 of the Act provides that all of the budget of such a standard setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the ''recoverable budget expenses'' of the standard setting body. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board (''FASB'') and its parent organization, the Financial Accounting Foundation (''FAF''), satisfied the criteria for an accounting standard-setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as ''generally accepted'' under Section 108 of the Act.[1] As a consequence of that recognition, the Commission undertook a review of the FASB's accounting support fee for calendar year 2020.[2] In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2020.

Section 109 of the Act also provides that the standard setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB, and the Governmental Accounting Standards Board (''GASB''), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB, nor the GASB accept contributions from the accounting profession.

The Commission understands that the Office of Management and Budget (''OMB'') has determined the FASB's spending of the 2020 accounting support fee is sequestrable under the Budget Control Act of 2011.[3] So long as sequestration is applicable, we anticipate that the FAF will work with the Commission and Commission staff

[1] Financial Reporting Release No. 70.

[2] The Financial Accounting Foundation's Board of Trustees approved the FASB's budget on November 19, 2019. The FAF submitted the approved budget to the Commission on November 20, 2019.

[3] See ''OMB Report Pursuant to the Sequestration Transparency Act of 2012'' (P.L. 112–155), page 222 of 224 at: *http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf.*

as appropriate regarding its implementation of sequestration.

After its review, the Commission determined that the 2020 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

It Is Ordered, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–02678 Filed 2–10–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88120; File No. SR–OCC–2020–801]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice Concerning a Master Repurchase Agreement as Part of OCC's Overall Liquidity Plan

February 5, 2020.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[3] notice is hereby given that on January 10, 2020, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') an advance notice as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by OCC this advance notice is filed by OCC [sic] in connection with a proposed change to its operations in the form of enter into a committed master repurchase agreement with a bank counterparty as part of OCC's overall liquidity plan. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of Change

This advance notice is being filed in connection with a proposed change to OCC's operations through which OCC would enter into a committed master repurchase agreement with a bank counterparty (the ''Repo Liquidity Facility'') to access an additional committed source of liquidity to meet its settlement obligations.

Background

OCC's current liquidity plan provides it with access to a diverse set of funding sources, including OCC's syndicated credit facility,[5] a committed master repurchase program with institutional investors such as pension funds (the ''Non-Bank Liquidity Facility'') [6] and Clearing Member minimum Cash Clearing Fund Requirement.[7] The Repo Liquidity Facility would provide OCC with an additional source of liquidity resources. The facility would take the form of OCC executing a committed master repurchase agreement (''MRA'') with a commercial bank counterparty. OCC would perform a review and ongoing monitoring of the counterparty to obtain reasonable assurance that the counterparty has the financial and operational ability to satisfy its obligations under the agreement. This review would include the counterparty's standing on OCC's watch list including key metrics and ratios from the financial statements, the proposed level of activity including a comparison to the counterparty's regulatory capital levels, proposed operational processes associated with the agreement, past relevant operational incidents, and research of adverse counterparty news.

Although the MRA would be based on the standard form of master repurchase agreement,[8] OCC would require the MRA, or an annex thereto, to contain certain additional provisions tailored to help ensure certainty of funding and operational effectiveness, as described in more detail below. OCC believes that these provisions are necessary and appropriate to integrate the program into its operations and in order to promote safety and soundness consistent with OCC's systemic responsibilities. A summary of the additional terms and conditions applicable to the MRA are set forth in the Summary of Terms attached [sic] to this filing as confidential Exhibit 3a.[9]

The Proposed Program: Standard Repurchase Agreement Terms

The MRA would be structured like a typical repurchase arrangement in which the buyer (*i.e.,* the bank counterparty) would purchase from OCC, from time to time, United States government securities (''Eligible Securities'').[10] OCC, as the seller, would transfer Eligible Securities to the buyer in exchange for a payment by the buyer to OCC in immediately available funds (''Purchase Price''). The buyer would simultaneously agree to transfer the purchased securities back to OCC at a specified later date (''Repurchase Date'') or on OCC's demand against the transfer

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

[5] *See* Securities Exchange Act Release No. 85924 (May 23, 2019), 84 FR 25089 (May 30, 2019) (SR–OCC–2019–803).

[6] *See* Securities Exchange Act Release No. 76821 (Jan. 4, 2016), 81 FR 3208 (Jan. 20, 2016) (SR–OCC–2015–805).

[7] *See* OCC Rule 1002.

[8] The standard form master repurchase agreement is published by the Securities Industry and Financial Markets Association (''SIFMA'') and is commonly used in the repurchase market by institutional investors.

[9] In addition, OCC is attaching to this filing as Exhibit 3b responses to certain information requests from staff of the Division of Trading and Markets (''Staff'') concerning the additional provisions summarized in confidential Exhibit 3a as reflected in a draft of this advance notice provided to Staff.

[10] OCC would use U.S. government securities that are included in Clearing Fund contributions by Clearing Members and margin deposits of any Clearing Member that has been suspended by OCC for the repurchase arrangements. OCC Rule 1006(f) and OCC Rule 1104(b) authorize OCC to obtain funds from third parties through securities repurchases using these sources. The officers who may exercise this authority include the Executive Chairman, Chief Executive Officer, and Chief Operating Officer.

of funds by OCC to the buyer in an amount equal to the outstanding Purchase Price plus the accrued and unpaid price differential (together, ''Repurchase Price''), which is the interest component of the Repurchase Price.

At all times while a transaction is outstanding, OCC would be required to maintain a specified amount of securities or cash margin with the buyer.[11] The market value of the securities supporting each transaction would be determined daily, typically based on a price obtained from a generally recognized pricing source. If the market value of the purchased securities is determined to have fallen below OCC's required margin, OCC would be required to transfer to the buyer sufficient cash or additional securities reasonably acceptable to the buyer so that OCC's margin requirement is satisfied.[12] If the market value of the purchased securities is determined to have risen to above OCC's required margin, OCC would be permitted to require the return of excess purchased securities from the buyer.

As in a typical master repurchase agreement, an event of default would occur with respect to the buyer if the buyer failed to purchase securities on a Purchase Date, failed to transfer purchased securities on any applicable Repurchase Date, or failed to transfer any interest, dividends or distributions on purchased securities to OCC within a specified period after receiving notice of such failure. An event of default would occur with respect to OCC if OCC failed to transfer purchased securities on a Purchase Date or failed to repurchase purchased securities on an applicable Repurchase Date. The MRA would also provide for standard events of default for either party, including a party's failure to maintain required margin or an insolvency event with respect to the party. Upon the occurrence of an event of default, the non-defaulting party, at its option, would have the right to accelerate the Repurchase Date of all outstanding transactions between the defaulting party and the non-defaulting party, among other rights. For example, if OCC were the defaulting party with respect to a transaction and the buyer chose to terminate the transaction, OCC would be required to immediately transfer the Repurchase Price to the buyer. If the buyer were the defaulting party with respect to a transaction and OCC chose to terminate the transaction, the buyer would be required to deliver all purchased securities to OCC. If OCC or the buyer did not timely perform, the non-defaulting party would be permitted to buy or sell, or deem itself to have bought or sold, securities as needed to be made whole and the defaulting party would be required to pay the costs related to any covering transactions. Additionally, if OCC was required to obtain replacement securities as a result of an event of default, the buyer would be required to pay the excess of the price paid by OCC to obtain replacement securities over the Repurchase Price.

The Proposed Program: Customized Features To Promote Certainty of Funding and Operational Effectiveness

In addition to the typical repurchase arrangements, OCC would require the MRA, or an annex thereto, to contain certain additional provisions tailored to help ensure certainty of funding and operational effectiveness.[13]

Commitment to Fund

The buyer would provide a funding commitment of $500 million, with the commitment extending for one year and one day. The buyer would be obligated to enter into transactions under the MRA up to its committed amount so long as no default had occurred and OCC transferred sufficient Eligible Securities. The buyer would be obligated to enter into transactions even if OCC had experienced a material adverse change, such as the failure of a Clearing Member. This commitment to provide funding would be a key departure from ordinary repurchase arrangements and a key requirement for OCC.

Funding Mechanics

Funding mechanics would be targeted so that OCC would receive the Purchase Price in immediately available funds within 60 minutes of its request for funds and delivery of Eligible Securities and, if needed, prior to OCC's regular daily settlement time.[14] These targeted funding mechanics would allow OCC to receive needed liquidity in time to satisfy settlement obligations, even in the event of a default by a Clearing Member or a market disruption. The funding mechanism may be, for example, delivery versus payment/receive versus payment[15] or another method acceptable to OCC that both satisfies the objectives of the Repo Liquidity Facility and presents limited operational risks.[16]

No Rehypothecation

The buyer would not be permitted to grant any third party an interest in purchased securities. This requirement is important to reduce the risk that a third party could interfere with the buyer's transfer of the purchased securities on the Repurchase Date. Further, the buyer would agree to provide OCC with daily information about the account the buyer uses to hold the purchased securities. This visibility would allow OCC to act quickly in the event the buyer violates any requirements.

Early Termination Rights

OCC would have the ability to terminate any transaction upon written notice to the buyer, but the buyer would only be able to terminate a transaction upon the occurrence of an event of default with respect to OCC, as further described below. A notice of termination by OCC would specify a new Repurchase Date prior to the originally agreed upon Repurchase Date. Upon the early termination of a transaction, the buyer would be required to return all purchased securities to OCC and OCC would be required to pay the Repurchase Price. This optional early termination right is important to OCC because OCC's liquidity needs may change unexpectedly over time and as a result OCC may not want to keep a transaction outstanding as long as originally planned.

Substitution

OCC would have the ability to substitute any Eligible Securities for purchased securities in its discretion by a specified time, so long as the Eligible Securities satisfy any applicable criteria contained in the MRA and the transfer

[11] OCC expects that it would be required to maintain margin equal to 102% of the Repurchase Price, which is a standard rate for arrangements involving U.S. government securities.

[12] OCC expects that it would use Clearing Fund securities and securities posted as margin by defaulting Clearing Members, as more fully discussed in footnote 8.

[13] OCC expects that the MRA will also include other, more routine, provisions such as the method for giving notices and basic due authorization representations by the parties.

[14] This would include OCC's regular daily settlement time and any extended settlement time implemented by OCC in an emergency situation under Rule 505.

[15] Delivery versus payment/receive versus payment is a method of settlement under which payment for securities must be made prior to or simultaneously with delivery of the securities.

[16] Unlike for the Non-Bank Liquidity Facility, OCC would not require the Repo Liquidity Facility counterparty to maintain cash and investments in a designated account in which OCC has visibility. OCC required a designated account for Non-Bank Liquidity Facility counterparties in order to facilitate prompt funding by counterparties that, unlike the Repo Liquidity Facility counterparty, are not commercial banks and therefore are not in the business of daily funding.

of the Eligible Securities would not create a margin deficit, as described above.[17] This substitution right is important to OCC because it must be able to manage requests of Clearing Members to return excess or substitute Eligible Securities in accordance with established operational procedures.

Events of Default

Beyond the standard events of default for a failure to purchase or transfer securities on the applicable Purchase Date or Repurchase Date, as described above, OCC would require that the MRA not contain any additional events of default that would restrict OCC's access to funding. Most importantly, OCC would require that it would not be an event of default if OCC suffers a ''material adverse change.'' [18] This provision is important because it provides OCC with certainty of funding, even in difficult market conditions. Upon the occurrence of an event of default, in addition to the non-defaulting party's right to accelerate the Repurchase Date of all outstanding transactions or to buy or sell securities as needed to be made whole, the non-defaulting party may elect to take the actions specified in the ''mini close-out'' provision of the MRA, rather than declaring an event of default. For example, if the buyer fails to transfer purchased securities on the applicable Repurchase Date, rather than declaring an event of default, OCC may (1) if OCC has already paid the Repurchase Price, require the buyer to repay the Repurchase Price, (2) if there is a margin excess, require the buyer to pay cash or delivered purchased securities in an amount equal to the margin excess, or (3) declare that the applicable transaction, and only that transaction, will be immediately terminated, and apply default remedies under the MRA to only that transaction. Therefore, if the buyer fails to deliver purchased securities on any Repurchase Date, OCC would have remedies that allow it to mitigate risk with respect to a particular transaction, without declaring an event of default with respect to all transactions under the MRA.

Anticipated Effect on and Management of Risk

Completing timely settlement is a key aspect of OCC's role as a clearing agency performing central counterparty services. OCC believes that the overall impact of the Repo Liquidity Facility on the risks presented by OCC would be to reduce settlement risk associated with OCC's operations as a clearing agency. The Repo Liquidity Facility would reduce settlement risk by providing an additional source of liquidity that would promote the reduction of risks to OCC, its Clearing Members and the options market in general because it would allow OCC to obtain short-term funds to address liquidity demands arising out of the default or suspension of a Clearing Member, in anticipation of a potential default or suspension of Clearing Members, the insolvency of a bank or another securities or commodities clearing organization, or the failure of a bank or another securities or commodities clearing organization to achieve daily settlement. The resulting reduction in OCC settlement risk would lead to a corresponding reduction in systemic risk and would have a positive impact on the safety and soundness of the clearing system by enabling OCC to have continuous access to funds to settle its obligations to its Clearing Members. In order to sufficiently perform this key role in promoting market stability, it is critical that OCC continuously has access to funds to settle its obligations.

Providing for another committed source of liquidity resources would also help OCC manage the allocation between its sources of liquidity by giving OCC more flexibility to adjust the mix of liquidity resources based on market conditions, availability and shifting liquidity needs. If circumstances arise that affect OCC's current liquidity resources from another of its facilities,[19] an additional source of liquidity resources would allow OCC to reallocate liquidity resources as necessary to avoid a shortfall in its overall liquidity resources.[20]

The Repo Liquidity Facility, like any liquidity source, would involve certain risks, but OCC would structure the program to mitigate those risks. Most of these risks are standard in any master repurchase agreement. For example, the buyer could fail to deliver, or delay in delivering, purchased securities to OCC by the applicable Repurchase Date. OCC will address this risk by seeking a security interest from the buyer in that portion of the purchased securities representing the excess of the market value over the Repurchase Price, or by obtaining other comfort from the buyer that the purchased securities will be timely returned. Further, the purchased securities generally will not be ''on-the-run'' securities, *i.e.,* the most recently issued Treasury securities. The demand in the marketplace for Treasury securities, for uses other than collateral, is much greater for on-the-run Treasury securities, and therefore, OCC believes the buyer will have little incentive to retain the securities transferred by OCC.

The mechanics under the Repo Liquidity Facility would be structured so that OCC could avoid losses by paying the Repurchase Price. For example, OCC will have optional early termination rights, under which OCC would be able to accelerate the Repurchase Date of any transaction by providing written notice to the buyer and paying the Repurchase Price. Through this mechanism, OCC can maintain the benefit of the Repo Liquidity Facility, while mitigating any risk associated with a particular transaction.

The Repo Liquidity Facility would be structured to avoid potential third-party risks, which are typical of repurchase arrangements. The prohibition on buyer rehypothecation and use of purchased securities would reduce the risk to OCC of a buyer default.

As with any repurchase arrangement, OCC is subject to the risk that it may have to terminate existing transactions and accelerate the applicable Repurchase Date with respect to the buyer due to changes in the financial health or performance of the buyer. Terminating transactions could negatively affect OCC's liquidity position. However, any negative effect is

[17] In addition to its substitution rights, OCC could cause the return of purchased securities by exercising its optional early termination rights under the Master Repurchase Agreement. If OCC were to terminate the transaction, the buyer would be required to return purchased securities to OCC against payment of the corresponding Repurchase Price.

[18] When included in a contract, a ''material adverse change'' is typically defined as a change that would have a materially adverse effect on the business or financial condition of a company.

[19] For example, the existing confirmations under OCC's Non-Bank Liquidity Facility, totaling $1 billion, expired on January 2, 2020 and January 6, 2020. In anticipation of their expiration, OCC exercised an accordion feature under its syndicated credit facility to increase the amount from $2 billion to $2.5 billion. Since learning of the Non-Bank Liquidity Facility counterparty's decision not to renew its confirmations, OCC has also been working with a lending agent to identify interested institutional investors to secure replacement commitments to cover the difference between the Non-Bank Liquidity Facility's $1 billion in commitments and the $500 million increase in OCC's syndicated credit facility. The proposed $500 million Repo Liquidity Facility would also cover that difference.

[20] For example, OCC has authority under OCC Rule 1002(a)(i) to temporarily increase the cash funding requirement in its Clearing Fund for the protection of OCC, Clearing Members or the general public. On December 12, 2019, OCC informed Clearing Members that OCC would exercise this authority on January 3, 2020 to increase the Cash Clearing Fund Requirement temporarily from $3 billion to $3.5 billion during the monthly sizing of the Clearing Fund.

reduced by the fact that OCC maintains a number of different financing arrangements, and thus will have access to liquidity sources in the event the Liquidity Repo Facility is no longer a viable source.

Under the MRA, OCC would be obligated to transfer additional cash or securities as margin in the event the market value of any purchased securities decreases. OCC seeks to ensure it can meet any such obligation by monitoring the value of the purchased securities and maintaining adequate cash resources to make any required payments. Such payments are expected to be small in comparison to the total amount of cash received for each transfer of purchased securities.

Consistency With the Payment, Clearing and Settlement Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[21] Section 805(a)(2) of the Clearing Supervision Act [22] also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act [23] states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Exchange Act in furtherance of these objectives and principles.[24] Rule 17Ad–22 requires registered clearing agencies, like OCC, to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[25] Therefore, the Commission has stated [26] that it believes it is appropriate to review changes proposed in advance notices against Rule 17Ad–22 and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[27]

OCC believes that the proposed changes are consistent with Section 805(b)(1) of the Clearing Supervision Act [28] because the proposed Repo Liquidity Facility would provide OCC with an additional source of committed liquidity to meet its settlement obligations while at the same time being structured to mitigate certain operational risks, as described above, that arise in connection with this committed liquidity source. In this way, the proposed changes are designed to promote robust risk management; promote safety and soundness; reduce systemic risks; and support the stability of the broader financial system.

OCC believes that the Repo Liquidity Facility is also consistent with the requirements of Rule 17Ad–22(e)(7) under the Act.[29] Rule 17Ad–22(e)(7) requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by OCC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity, as specified in the rule.[30] In particular, Rule 17Ad–22(e)(7)(i) under the Act [31] directs that OCC meet this obligation by, among other things, ''[m]aintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day . . . 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 [OCC] in extreme but plausible market conditions.''

As described above, the Repo Liquidity Facility would provide OCC with a readily available liquidity resource that would enable it to, among other things, continue to meet its obligations in a timely fashion and as an alternative to selling Clearing Member collateral under what may be stressed and volatile market conditions. For these reasons, OCC believes that the proposal is consistent with Rule 17Ad–22(e)(7)(i).[32]

Rule 17Ad–22(e)(7)(ii) under the Act requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to satisfy payment obligations owed to Clearing Members.[33] Rule 17Ad–22(a)(14) of the Act defines ''qualifying liquid resources'' to include, among other things, lines of credit without material adverse change provisions, that are readily available and convertible into cash.[34] The MRA under the Repo Liquidity Facility would not be subject to any material adverse change provision and would be designed to permit OCC to, among other things, help ensure that OCC has sufficient, readily-available qualifying liquid resources to meet the cash settlement obligations of its largest Clearing Member Group. Therefore, OCC believes that the proposal is consistent with Rule 17Ad–22(e)(7)(ii).[35]

For the foregoing reasons, OCC believes that the proposed changes are consistent with Section 805(b)(1) of the Clearing Supervision Act [36] and Rule 17Ad–22(e)(7) [37] under the Act.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date the proposed change was filed with the Commission or (ii) the date any additional information requested by the Commission is received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information

[21] 12 U.S.C. 5461(b).

[22] 12 U.S.C. 5464(a)(2).

[23] 12 U.S.C. 5464(b).

[24] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11) (''Clearing Agency Standards''); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies'').

[25] 17 CFR 240.17Ad–22.

[26] *See, e.g.,* Securities Exchange Act Release No. 86182 (June 24, 2019), 84 FR 31128, 31129 (June 28, 2019) (SR–OCC–2019–803).

[27] 12 U.S.C. 5464(b).

[28] 12 U.S.C. 5464(b)(1).

[29] 17 CFR 240.17Ad–22(e)(7).

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e)(7)(i).

[32] *Id.*

[33] 17 CFR 240.17Ad–22(e)(7)(ii).

[34] 17 CFR 240.17Ad–22(a)(14).

[35] 17 CFR 240.17Ad–22(e)(7)(ii).

[36] 12 U.S.C. 5464(b)(1).

[37] 17 CFR 240.17Ad–22(e)(7).

requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC shall post notice on its website of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision 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–OCC–2020–801 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2020–801. 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 advance notice that are filed with the Commission, and all written communications relating to the 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 the filing also will be available for inspection and copying at the principal office of the self-regulatory organization.

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–OCC–2020–801 and should be submitted on or before February 26, 2020.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02622 Filed 2–10–20; 8:45 am]

BILLING CODE 8011–01–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 9 a.m. on February 13, 2020.

PLACE: The Lyric Theatre, 1006 Van Buren Avenue, Oxford, Mississippi.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Meeting No. 20–01

The TVA Board of Directors will hold a public meeting on February 13, 2020, at the Lyric Theatre, 1006 Van Buren Avenue, Oxford, Mississippi. The meeting will be called to order at 9 a.m. CT to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

On February 12, at the Powerhouse, 413 South 14th Street, the public may comment on any agenda item or subject at a board-hosted public listening session which begins at 3:30 p.m. CT and will last until 5:30 p.m. Preregistration is required to address the Board.

Agenda

1. Approval of Minutes of the November 14, 2019, Board Meeting
2. Report from President and CEO
3. Report of the External Relations Committee
   A. FACA Charter Renewals
4. Report of the Finance, Rates, and Portfolio Committee
   A. Spent Fuel Settlement Agreement
   B. Flexibility Option
5. Report of the People and Performance Committee
6. Report of the Nuclear Oversight Committee
7. Report of the Audit, Risk, and Regulation Committee
8. Information Item
   A. Amendments to the Long-Term Partnership Option

CONTACT PERSON FOR MORE INFORMATION: For more information: Please call Jim Hopson, TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: February 6, 2020.

Sherry A. Quirk,

General Counsel.

[FR Doc. 2020–02791 Filed 2–7–20; 4:15 pm]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions and Amendments: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions and amendments.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative's determination included a decision to establish a product exclusion process. The U.S. Trade Representative initiated the exclusion process in July 2018, and stakeholders have submitted requests for the exclusion of specific products. In December 2018, and March, April, May, June, July, September, October, and December 2019, the U.S. Trade Representative granted exclusion requests. This notice announces the U.S. Trade Representative's determination to grant additional exclusions, as specified in the Annex to this notice, and makes amendments to certain notes in the Harmonized Tariff Schedule of the United States (HTSUS). The U.S. Trade Representative will continue to issue decisions as necessary.

DATES: The product exclusions will apply as of the July 6, 2018 effective date of the $34 billion action, and will extend to October 1, 2020 at 11:59 p.m. EDT. The amendments announced in

this notice are retroactive to the date the original exclusions were published and do not further extend the period for the original exclusions. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsel Philip Butler or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), 84 FR 7966 (March 5, 2019), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), and 84 FR 69016 (December 17, 2019).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the HTSUS, with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

Under the July 11 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit subheading covered by the $34 billion action. Requestors also had to provide the 10-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

The July 11 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the U.S. Trade Representative periodically would announce decisions. In December 2018, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 83 FR 67463. The U.S. Trade Representative granted additional exclusions in March, April, May, June, July, September, October, and December 2019. *See* 84 FR 11152, 84 FR 16310, 84 FR 21389, 84 FR 25895, 84 FR 32821, 84 FR 49564, 84 FR 52567 and 84 FR 69016.

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the July 11 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion request.

Exclusions from the duties have been established in two different formats: (1) As an exclusion for an existing 10-digit subheading from within an 8-digit subheading covered by the $34 billion action, or (2) as an exclusion reflected in specially prepared product descriptions. The exclusions announced in this notice take the form of four specially prepared product descriptions.

In accordance with the July 11 notice, the exclusions are available for any products that meet the descriptions in the Annex, regardless of whether the importer filed an exclusion request. Furthermore, the scope of the exclusions are governed by the scope of the 10-digit HTSUS subheadings and product descriptions in the Annex, and not by the product descriptions set out in any particular request for exclusion.

C. Amendments to Certain Exclusions

The Annex also makes technical amendments to certain notes in the HTSUS. Subparagraphs B(1–26) clarify periodic revisions in U.S. notes 20(i)(6–7), 20(m)(16–18), 20(m)(27), 20(n)(13–27), 20(n)(30), 20(q)(19–21), and 20(x)(20) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 11153 (March 25, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 49564 (September 20, 2019), and 84 FR 52567 (October 2, 2019).

In order to correct typographical or other ministerial errors, subparagraphs B(27–29) of the Annex make amendments to U.S. notes 20(n)(86), 20(q)(102), and 20(q)(170) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 32821 (July 9, 2019) and 84 FR 49564 (September 20, 2019).

The U.S. Trade Representative will continue to issue determinations on a periodic basis as needed.

Joseph Barloon,

General Counsel,

Office of the U.S. Trade Representative.

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, and before October 2, 2020, U.S. note 20(x) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by inserting the following exclusions in numerical order after exclusion (93):

(94) Centrifugal pumps, submersible, designed for use in artificial lift systems for extracting oil and gas (described in statistical reporting number 8413.70.2004)

(95) Pistons and housings for hydraulic fluid power pumps of the type used in power lawn mowers (described in statistical reporting number 8413.91.9050 prior to January 1,

2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019)

(96) Furnace roll end-shafts of steel (described in statistical reporting number 8417.90.0000)

(97) Multi-phase AC motors of an output of at least 5.8 kW but not exceeding 14.92 kW, each assembled with planetary gears and a gearbox (described in statistical reporting number 8501.52.4000)

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018:

1. U.S. note 20(i)(6) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''or described in statistical reporting number 8413.91.9095, post January 1, 2019'' and inserting ''; described in statistical reporting number 8413.91.9095, January 1, 2019, through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

2. U.S. note 20(i)(7) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''or described in statistical reporting number 8413.91.9095, post January 1, 2019'' and inserting ''; described in statistical reporting number 8413.91.9095, January 1, 2019, through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

3. U.S. note 20(m)(16) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9060'' and inserting ''8413.91.9050 prior to January 1, 2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019'' in lieu thereof.

4. U.S. note 20(m)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9060'' and inserting ''8413.91.9050 prior to January 1, 2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019'' in lieu thereof.

5. U.S. note 20(m)(18) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8414.90.4190'' and inserting ''8414.90.4175 prior to July 1, 2018; described in statistical reporting number 8414.90.4190 effective July 1, 2018'' in lieu thereof.

6. U.S. note 20(m)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8427.10.8070 and 8427.10.8095'' and inserting ''8427.10.8090 prior to July 1, 2019; described in statistical reporting number 8427.10.8070 or 8427.10.8095 effective July 1, 2019'' in lieu thereof.

7. U.S. note 20(n)(13) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020)'' in lieu thereof.

8. U.S. note 20(n)(14) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting numbers 8413.91.9065, 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

9. U.S. note 20(n)(15) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting '' 8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

10. U.S. note 20(n)(16) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

11. U.S. note 20(n)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

12. U.S. note 20(n)(18) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

13. U.S. note 20(n)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

14. U.S. note 20(n)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

15. U.S. note 20(n)(21) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

16. U.S. note 20(n)(22) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

17. U.S. note 20(n)(23) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

18. U.S. note 20(n)(24) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

19. U.S. note 20(n)(25) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

20. U.S. note 20(n)(26) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

21. U.S. note 20(n)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

22. U.S. note 20(n)(30) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''(described in statistical reporting number 8427.20.8090)'' and inserting ''(described in statistical reporting number 8427.20.8000 prior to July 1, 2019; described in statistical reporting number 8427.20.8090 effective July 1, 2019)'' in lieu thereof.

23. U.S. note 20(q)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

24. U.S. note 20(q)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting numbers 8413.91.9065, 8413.91.9085 or 8413.91.9096 effective January 1, 2020'' in lieu thereof.

25. U.S. note 20(q)(21) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8413.91.9095'' and inserting ''8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9096 effective January 1, 2020'' in lieu thereof.

26. U.S. note 20(x)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''statistical note 1 to chapter 84'' and inserting ''statistical note 1 to chapter 84 effective July 1, 2019, to December 31, 2019, or in statistical note 2 to chapter 84 effective January 1, 2020'' in lieu thereof, and deleting ''8427.10.8020'' and inserting ''8427.10.8010 prior to July 1, 2019; described in statistical reporting number 8427.10.8020 effective July 1, 2019'' in lieu thereof.

27. U.S. note 20(n)(86) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''18'' and inserting ''39'' in lieu thereof.

28. U.S. note 20(q)(102) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''Cold-chamber die casting machines having a maximum casting volume of 52.78 m^3, a die height of 0.4 m or more but not exceeding 1 m, and a maximum die locking force of 8,400 kN'' and inserting ''Die casting machines with casting volume not to exceed 5,278 cm^3, die height of not less than 360 mm but not more than 1,000 mm, and die locking force of not less than 6,600 kN but not more than 8,400 kN'' in lieu thereof.

29. U.S. note 20(q)(170) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting ''8.9 kW or more but not exceeding 12 kW'' and inserting ''12 W or more but not exceeding 16 W'' in lieu thereof.

[FR Doc. 2020–02684 Filed 2–10–20; 8:45 am]

BILLING CODE 3290–FO–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Drone Advisory Committee (DAC); Notice of Public Meeting

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Drone Advisory Committee (DAC).

DATES: The meeting will be held on February 27, 2020, from 9:00 a.m. to 4:00 p.m. Eastern Time.

Requests to attend the meeting must be received by February 20, 2020.

Requests for accommodations to a disability must be received by February 14, 2020.

Requests to submit written materials to be provided to the committee prior to the meeting must be received no later than February 20, 2020.

ADDRESSES: The meeting will be held at the National Transportation Safety Board Boardroom and Conference Center located at 420 10th Street SW, Washington, DC 20594. Members of the public who wish to attend, must register by emailing *DACmeetingRSVP@faa.gov.* General committee information including copies of the meeting minutes will be available on the DAC internet website at *https://www.faa.gov/uas/programs_partnerships/drone_advisory_committee/.*

FOR FURTHER INFORMATION CONTACT: Gary Kolb, UAS Stakeholder & Committee Liaison, Federal Aviation Administration, U.S. Department of Transportation, at *gary.kolb@faa.gov* or 202–267–4441. Any committee related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The DAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide the FAA with advice on key UAS integration issues by helping to identify challenges and prioritize improvements.

II. Agenda

At the meeting, the agenda will cover the following topics

- Official Statement of the Designated Federal Officer
- Approval of the Agenda and Minutes
- Opening Remarks
- FAA Update
- Industry-Led Technical Topics

- New Business/Agenda Topics
- Closing Remarks
- Adjourn

A detailed agenda will be posted on the DAC internet website at *https://www.faa.gov/uas/programs_partnerships/drone_advisory_committee/* one week in advance of the meeting.

III. Public Participation

The meeting will be open to the public on a first-come, first served basis, as space is limited. Members of the public who wish to attend in person must RSVP by emailing *DACmeetingRSVP@faa.gov* with your name and affiliation.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA is not accepting oral presentations at this meeting due to time constraints. The public may present written statements to the committee at any time. Written statements submitted by February 20, 2020, will be provided to DAC members before the meeting. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 4, 2020.

Erik W. Amend,

Manager, Executive Office, AUS–10, Federal Aviation Administration.

[FR Doc. 2020–02599 Filed 2–10–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Competitive Research Funding Opportunity: Redesign of Transit Bus Operator Compartment To Improve Safety, Operational Efficiency, and Passenger Accessibility.

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO) and Solicitation of Project Proposals.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of $2,000,000 in Fiscal Year (FY) 2018 Public Transportation Innovation Program (49 U.S.C. 5312) funds for the redesign of the transit bus operator compartment to improve operator and public safety. Bus operator assaults have been increasing. On July 6, 2015, the Transit Advisory Committee for Safety (TRACS) published report 14–01, ''Reinventing and Mitigating Transit Worker Assaults in the Bus and Rail Transit Industry,'' (14–01 Report) highlighting news articles documenting bus operator assaults. The report recommended incorporating measures such as installing protective barriers and educating the workforce in conflict resolution tactics. This NOFO provides an opportunity to reevaluate the bus operator compartment and develop innovative solutions to the space around the bus operator with the purpose to not just increase safety, but also to improve bus operator efficiency and passenger accessibility. FTA is seeking to fund cooperative agreements to engage in the research and development of new transit bus operator compartment designs in partnership with bus manufacturers, technology vendors, vehicle engineering and design firms, and transit agencies. The major goals of this program are to support a redesign of the bus operator compartment that improves bus operator and public safety, and to improve bus operator access to key vehicle instruments and controls without hindering the accessibility of the bus. Transit agency partners would have an important role to test a promising compartment redesign. This research will apply only to transit buses that are 40 ft. or longer, and almost exclusively used for local, fixed-route public transportation revenue service.

An eligible lead applicant and eligible project partners and subrecipients 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 to address the objectives described under the Program Description of this notice, provides instructions for submitting proposals, describes criteria FTA will use to identify meritorious proposals for funding, and the process to apply for funding.

This announcement is also available 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 at *http://www.grants.gov.* The funding Opportunity ID is FTA–2020–003–TRI–BCP and the Catalog of Federal Domestic Assistance (CFDA) number for FTA's Public Transportation Innovation Program (49 U.S.C. 5312) is 20.530.

DATES: Complete proposals are due by 11:59 p.m. EST on Tuesday, March 24, 2020.

ADDRESSES: 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 related to this notice to Jamel El-Hamri, Office of Research, Demonstration, and Innovation (TRI), by email at *Jamel.El-Hamri@dot.gov,* or by telephone at (202) 366–8985. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Contents

A. Program Description

FTA's Public Transportation Innovation Program (49 U.S.C. 5312) authorizes FTA to fund research, development, demonstration, and deployment projects to improve public transportation. The ''Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency, and Passenger Accessibility Program'' is a competitive research and development opportunity under FTA's research emphasis areas of innovation, infrastructure and safety. This program supports the U.S. Department of Transportation's Safety and Infrastructure goals to provide technical and financial support to design, build, and deploy innovative solutions and advanced-technology systems to make crucial improvements in public transit infrastructure that reduce injuries and fatalities.

Over the past decade, the level and intensity of assaults on transit bus operators has increased. Bus operators are being physically assaulted and do not have enough protection in their bus compartment. Bus operators need a compartment that is safe and secure, and one where they can safely steer transit buses through congested traffic, protecting the lives of passengers, pedestrians, cyclists, and drivers of other vehicles. The physical and emotional impact of these assaults on transit bus operators and their travelers is significant. While many bus operators recover from their physical wounds, the mental and debilitating emotional damage may linger indefinitely.

Transit agencies are not immune to the effects of these assaults. Lost work hours due to related injuries and illness have impacted service. As an indirect consequence ridership decreases due to declines in service reliability and loss of public confidence in buses being secure and safe.

According to the Bureau of Labor Statistics and the National Institute for Occupational Safety and Health, there is an increased risk of workplace violence for workers who have direct contact with the public, have mobile workplaces or deliver services, work in community settings, deliver passengers, handle money, and work in small numbers. Transit bus operators fall into this larger group. Therefore, a safe working environment coupled with access to key instruments and controls is critical for transit bus operators.

The Transit Advisory Committee for Safety (TRACS) states in its 14–01 Report, ''protective infrastructure can hinder assault through design and technology, thereby playing a key role in assault mitigation and prevention systems.'' Additionally, TRACS recommended FTA conduct further research on protective infrastructure for situations in which transit workers must leave the bus or rail transit vehicle unattended.

For these reasons, FTA is issuing this NOFO to fund innovative proposals that will increase workplace safety for bus operators, reduce the opportunity for assaults, and increase security and safety for travelers. Modifying the bus operator compartment, however, cannot be at the expense of operator visibility of other roadway users or passenger accessibility. Because of this, FTA also seeks to address recommendations put forth by the public transit industry to improve operator visibility of other roadway users and passenger accessibility as equal evaluation criteria for this project.

The primary objectives of this project are as follows:

- Increase bus operator safety from assaults.
- Increase operator visibility to improve safety of pedestrians and other roadway users (*e.g.* minimizing bus operator blind-spots around A-pillars and mirrors of the bus).
- Increase passenger accessibility for positive interactions between operators and passengers, including assisting passengers in need of special assistance.
- Improve ergonomics to reduce bus operator work-related health issues and injuries, as well as locate key instrument and control interfaces to improve operational efficiency and convenience.
- Reduce operator distractions.
- Accommodate Americans with Disabilities Act compliance for passenger boarding, alighting and securement.

The Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency and Passenger Accessibility Program will be carried out in two phases, based on the availability of Federal funding.

Phase I: Bus operator compartment re-design competition;

Phase II: Procure, manufacture, and test the redesign through one or more partner transit agencies and vehicle manufacturers.

This notice will provide funding for Phase I; thus, applicants should submit proposals to address Phase I. The post award evaluation process will be managed and conducted by FTA personnel along with FTA hired independent evaluators. Recipients of Phase I awards with the most promising redesigns—as determined by FTA in accordance with the evaluation criteria—will be eligible for Phase II, subject to the availability of funding.

B. Federal Award Information

A total of $2,000,000 in FY 2018 funds is available for award under this announcement. FTA intends to fund as many meritorious projects as possible under this announcement, and FTA recognizes that the available funding may be insufficient to fund all meritorious projects. 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.

FTA anticipates a minimum grant award of $250,000 to maximum amount of $1,000,000. Only proposals from eligible recipients (see section C.1, below) 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 prototype transit bus, 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 for Section 5312 of title 49, United States Code. 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. 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 one or more strategic partner(s) with a substantial interest and involvement in the project. An application must clearly identify the eligible lead applicant and all project partners on the team.

Eligible lead applicants must be one of the listed entities prescribed below. Additionally, project partners and subrecipients 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 strategic partners 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, as approved by FTA, is essential to the project and is, therefore, eligible for a noncompetitive award to the lead applicant to provide the goods or services described in the application. A key party on a selected project may not later be substituted without FTA's approval. For-profit companies may participate as a strategic partner; however, entities receiving funding under this program may not charge a fee or profit from the FTA research program funding.

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, or equivalent, of their 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 must demonstrate the redesign proposal meets the three main objectives: Operator safety, operational efficiency, and passenger accessibility.

The goal of this program is to ultimately manufacture the selected redesign proposals from Phase I in Phase II. For this reason, lead applicants must partner with at least one transit agency and at least one transit vehicle manufacturer in Phase I to ensure the redesigns are feasible and can be manufactured into a prototype. Proposals should include a cost-benefit analysis of the redesign.

Proposals should also show how bus operators and their unions will be consulted and involved in the process. FTA will assess the strength of these partnerships and inclusion activities in the evaluation of applications.

At the conclusion of Phase I, feasible redesign project(s) will be selected and move forward to Phase II where applicants will then need to develop and test a prototype bus(es). Proposals in Phase I should include how they intend to test their future prototype, including, but not limited to, a test procedure that validates the redesign's operability, and identification of the test laboratory that will be running the test.

Phase I proposals should be separated into a research phase and design phase. The research phase should document the process to partner with a vehicle transit manufacturer and transit agency. It should also demonstrate how the prototype will meet the objectives described in the Program Description section of this notice, above. The design phase should include engineering drawings and computer renderings that are ready for prototype manufacturing. The design phase should demonstrate that the redesign complies with Federal requirements applicable to buses.

3. Cost Sharing or Matching

The Federal share of project costs under this program is limited to eighty percent (80 percent). 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 local cost share than the minimum twenty percent (20 percent) 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

Upon completion of Phase I, projects funded under this announcement will be required to gather and share all relevant and required data with 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 (more information available at *https://its.dot.gov/data/secure/*), or recipients 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,'' U.S. DOT is incorporating public access requirements into all funding awards (grants and cooperative agreements) for scientific research. All work conducted under the Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency, and Passenger Accessibility 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.

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 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 FTA 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. 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 part 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 the recipient timely notice of such order to allow the recipient the opportunity to challenge such an order. FTA will not challenge a court order on behalf of a recipient.

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, Transportation Research Board, and U.S. DOT, among others.

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 Tuesday, March 24, 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 ''Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency, and Passenger Accessibility Program'' found on the FTA website at *https://www.transit.dot.gov/research-innovation.* The supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. Once completed, the supplemental form must be placed in the attachments section of the SF 424 Mandatory form. Applicants must use the supplemental form designated for the ''Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency, and Passenger Accessibility 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 24 to 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 on the *Grants.gov* website well in advance of the submission deadline. Instructions on registration process are available at *Grants.gov*. Registration is a multi-step process, which may take 3 to 5 days, but could take as long 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 proposer 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 ''Redesign of Transit Bus Operator Compartment to Improve Safety, Operational Efficiency, and Passenger Accessibility Program'' funding.

2. Proposal Content

At a minimum, every proposal must include an SF–424 form, with the Applicant and 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 practice regarding bus operator safety, visibility, and passenger accessibility,

their challenges, and how the proposed project will address those needs.

(c) Details on whether the proposed project is a new effort or a continuation of a prior research and degree of improvement over current bus compartment design and practices.

(d) Address each evaluation criterion separately, demonstrating how the project responds to each criterion as described in Section E of this notice, below.

(e) Provide a line-item budget for the total project with enough detail to indicate the various key components of the project. As 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 methods to demonstrate the engineering designs and computer renderings of Phase I.

(i) The technologies and design modifications to be used in this project and explanation of the principle of operation.

(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 exceptions from its requirements, but may consider exceptions if the applicant can show a compelling benefit.

(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(s) of performance.

3. Unique Entity Identifier and System for Award Management (Sam) Registration in Brief

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. 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 Taxpayer Identification Number (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 or an authorizing official is registered with SAM. 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 a Federal award, FTA may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

STEP 3: Username & Password: Same day. Complete your Authorized Organization Representative (AOR) profile on *Grants.gov* and create your username and password.

STEP 4: AOR Authorization: Same day. The organization's E-Business Point of Contact (E-Biz POC) must login to *Grants.gov* to confirm the AOR. Please note that there can be more than one AOR per 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 under applicant profile.

4. Submission Dates and Times

Project proposals must be submitted electronically through *http://www.grants.gov* by 11:59 p.m. EST on Tuesday, March 24, 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

1. Evaluation Criteria

Projects will be evaluated by FTA according to the five 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 proposer 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 requirements identified under the objectives of this program.

ii. Degree of public and operator safety, and operational efficiency improvement over current and existing technologies applicable to the bus operator compartment design and passenger accessibility.

b. Project Approach

i. Quality of the project approach, including bus interface design, existing partnerships and collaboration strategies in meeting the objectives of the program.

ii. Level of cost share by project partners to support the proposed project (in-kind or cash).

iii. Details on whether the proposed project is a new effort or a continuation of a related research project and how the project plans to move from Phase I to Phase II if the proposed redesign is selected.

c. National Applicability

i. Degree to which the new compartment design could be replicated by other transit bus manufacturers regionally or nationally.

ii. Ability to evaluate technologies and designs in a wide variety of conditions and locales.

iii. Degree to which the proposed redesign could be used for buses of different capacity such as 35-foot or 60-foot buses. Applicability to smaller body-on-chassis buses is not required for this program, but is desirable.

iv. Degree to which the compartment design elements could be retrofitted to existing transit buses.

d. Team Capacity and Commitment

i. Timeliness of the proposed project schedule, and reasonableness of the proposed milestones.

ii. Availability of existing resources (physical facilities, human resources including bus operators and civil rights specialists, partnerships with TVMs and vendors) to carry out the project.

iii. Demonstrated capacity and experience of the partners to carry out project of similar size and/or scope.

iv. Clear performance management strategy for tracking results and a public data management plan approach including where data will be housed and shared.

e. Commercialization or Dissemination Plan

i. Demonstrates cost-effective manufacturability of the redesigned compartment.

ii. Description of how the project team plans to disseminate the result of the project to the transit industry.

iii. The anticipated intangible benefits, such as increasing bus operator retention, making public transportation service more appealing to potential passengers, providing educational opportunities, or reducing negative externalities such as bus operator injuries, stress, and downtime.

2. Review and Selection Process

A technical evaluation panel comprised of FTA subject matter expert and possibly other U.S. DOT staff will review project proposals against the evaluation criteria listed above. Members of the technical evaluation panel reserve the right to 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 a 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.

3. SAM Review

FTA, prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold (currently $350,000), 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

FTA intends to fund as many meritorious projects as possible 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

FTA will publish final project selections on the FTA website, to include a list of the selected projects, including Federal dollar amounts and recipients.

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 the applicable Federal requirements are met. 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

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 or cooperative agreement. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant or cooperative 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.

3. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Progress 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 Jamel El-Hamri at *jamel.el-hamri@dot.gov* or 202–366–8985. 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. 2020–02624 Filed 2–10–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0017]

Nuro, Inc.; Grant of Temporary Exemption for a Low-Speed Vehicle With an Automated Driving System

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of grant of a petition for a temporary exemption from three provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 500, ''Low-speed vehicles.''

SUMMARY: This notice grants the petition of Nuro, Inc. (Nuro) for a temporary exemption from three requirements of FMVSS No. 500 under two bases: (1) That an exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; and (2) that compliance with these requirements would prevent Nuro from selling a motor vehicle with an overall safety level at least equal to the overall safety level of a nonexempt vehicle. The vehicle that Nuro intends to manufacture under this exemption—the ''R2X''—is a highly automated, electric, low-speed vehicle (LSV) that lacks seating positions and manual driving controls and is smaller, lower, and narrower than conventional vehicles. The exemption applies to the requirements that an LSV be equipped with exterior and/or interior mirrors; have a windshield that complies with FMVSS No. 205, ''Glazing materials''; and a backup camera system that meets the requirement in FMVSS No. 111, ''Rear visibility,'' limiting the length of time that a rearview image can remain displayed by the system after a vehicle's transmission has been shifted out of reverse gear.

DATES: Nuro's petition is granted as of February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Daniel Koblenz, Office of Chief Counsel, Telephone: 202–366–2992, Facsimile: 202–366–3820. The mailing address for this official is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

This document grants a petition submitted by Nuro Inc. (Nuro) for a temporary exemption of a vehicle from three requirements of FMVSS No. 500, Low-speed vehicles. Nuro's vehicle, the R2X, is a highly automated (SAE Level 4 or L4), low-speed (25 mph maximum), electric-powered delivery vehicle.[1] According to Nuro, the R2X is designed to carry exclusively cargo and operate without a human driver. Accordingly, the R2X does not have any occupant compartments, designated seating positions, or manual controls for driving the vehicle.[2]

Nuro seeks exemptions from various FMVSS that are designed to provide safety benefits for occupants. Since the R2X does not accommodate any occupants, Nuro argues that these FMVSS do not serve their intended functions in the R2X. Accordingly, Nuro has sought exemptions from these requirements. NHTSA has analyzed the request for exemption and is granting them in accordance with its exemption authority under the Vehicle Safety Act and its implementing regulations in part 555.[3]

Pursuant to the Vehicle Safety Act, NHTSA may grant an exemption from an FMVSS if NHTSA determines that such exemption is consistent with the public interest and the Act, and meets at least one of four additional bases for exemption, described further below.[4] Nuro applied for its exemption on the basis that it ''would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.'' [5] NHTSA has determined to grant this petition under this basis. In addition, NHTSA believes that the Vehicle Safety Act provision allowing the agency to grant an exemption when ''compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles'' [6] would also be an appropriate basis for granting the exemption, based on the evidence provided in the application and in public comments, and given NHTSA's institutional expertise as the federal agency vested with the responsibility for promoting motor vehicle safety.

The three substantive requirements in FMVSS No. 500 from which the agency is granting an exemption are the exterior and/or interior mirror requirement (S5(b)(6)), the windshield requirement (S5(b)(8)), and the backup camera ''Linger time'' requirement (S5(b)(11)).[7]

[1] See SAE International, J3016_201806: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles (Warrendale: SAE International, 15 June 2018), *https://www.sae.org/standards/content/j3016_201806/.*

[2] The R2X is equipped with a ''remote operation'' system through which a remote operator can take over the driving functions of the R2X. Although remote operators presumably input driving commands to the R2X using some sort of manually operated set of controls from an offsite location, NHTSA understands the remote operator system to be a ''fallback'' safety feature and thus not a primary means of controlling the vehicle.

[3] See 49 U.S.C. 30113; 49 CFR part 555.

[4] 49 U.S.C. 30113.

[5] 49 U.S.C. 30113(b)(3)(B)(iii).

[6] 49 U.S.C. 30113(b)(3)(B)(iv).

[7] This provision requires that LSVs meet all of FMVSS No. 111, S6.2, ''Rear visibility.'' While exempted R2X vehicles are not required to comply with FMVSS No. 111, S6.2.4, ''Linger time,'' they are still required to comply with the rest of S6.2.

The agency is also granting Nuro an exemption from certain provisions of the backup camera test procedures in FMVSS No. 111 that cannot be performed due to the R2X's unique design.

NHTSA made its decision to grant Nuro's petition after making several statutorily mandated agency findings, including its finding that exempting the R2X from three of the requirements in FMVSS No. 500 would not lower the safety of the R2X as compared to a compliant version of the vehicle—which, as described below, means that this finding is sufficient for the safety determinations required under both the ''Low Emission Vehicle'' (LEV) and the ''equivalent overall safety'' (EOS) bases. To examine the effects of the requested exemptions and make this finding, NHTSA compared two nearly identical versions of the same vehicle: A compliant version of the R2X [8] and an exempt, noncompliant R2X. This approach enabled the agency to make the statutorily required comparisons more concrete and understandable and to simplify and focus its analysis on the requirements from which an exemption is being sought and on the vehicle features that would be directly affected by an exemption.

The question of whether an exemption would lower the safety of an exempt version of the R2X as compared to a compliant version of the vehicle turns on the very limited differences between those two versions of the R2X, which are only that the exempted R2X would not comply with the certain requirements described in this notice. Importantly, under the Vehicle Safety Act, manufacturers are permitted include any design feature they want on a vehicle so long as the vehicle conforms to the FMVSS, and the vehicle does not contain a defect that poses an unreasonable risk to safety. As discussed in more detail below, because NHTSA does not currently have in place FMVSS requirements that regulate Automated Driving System (ADS) driving capability, and NHTSA does not have any basis to believe that it poses an unreasonable risk to safety, no barrier prevents including such a system on a vehicle. Moreover, because LSVs (unlike most vehicle classes) are not required to have human-operated driving and signaling controls, nothing in the FMVSS prevents a manufacturer from producing an LSV without manual controls that is operated exclusively by an ADS. Given that both an exempted and compliant R2X would have no occupants and would operate without a human driver, compliance with the three requirements from which Nuro seeks an exemption would not provide a safety benefit.

First, the requirement for internal and external mirrors is meant to improve situational visibility for human drivers, who internalize information about the driving environment through direct or reflected line of sight. In a vehicle without manual controls that operates using an ADS, mirrors do not serve a safety purpose because the ADS perceives the driving environment using cameras and sensors that directly feed it information about the vehicle's surroundings. Moreover, because exterior mirrors protrude from the side of the vehicle, they may act as a potential hazard to other road users in certain situations. Second, the requirement for a windshield made of compliant glazing material is meant to protect human occupants from intrusion, ejections, or laceration while ensuring driver visibility. In an occupantless vehicle that operates using an ADS, there are no human occupants for the glazing to protect, and, as we have already noted, visibility through the windshield is not a concern because the ADS obtains information about the driving environment through the use of cameras and sensors. Lastly, the requirement that a rearview camera image cease to be illuminated (*i.e.,* ''linger'') after shifting from reverse is meant to avoid distraction of the human operator. Without a human driver, there is no risk of distraction. Further, by permitting the backup camera system to remain active in all driving situations, the ADS has more consistent access to information about the area immediately behind the vehicle, which may assist the ADS in performing the driving task.[9]

Based on its engineering expertise and the information available to it, NHTSA finds that exempting the R2X from these three requirements would result in a vehicle that is at least as safe as a compliant version of the R2X. NHTSA has also determined that an exemption would be consistent with the public interest and the Safety Act because, by allowing for the manufacture and commercial deployment of their desired design vehicle, an exemption would further the development of innovative technologies used in the R2X (most notably, its ADS), which could lead to safety, environmental, and economic benefits to the communities in which the R2X operates, and could eventually lead to benefits for other communities where ADS vehicles are deployed in the future. Moreover, an exemption would further the development and implementation of innovative business models, like Nuro's delivery service, for putting those technologies to use. This determination is consistent not only with NHTSA's exercise of its longstanding safety authority and expertise on motor vehicle issues, but also, with the broad authority that Congress vested in the Secretary of Transportation to grant exemptions in the public interest.

The R2X will be the first ADS vehicle exempted under NHTSA's general exemption authority, and, according to Nuro, will be deployed as part of a commercial operation that will involve frequent interaction with the public. Accordingly, the agency has taken efforts to ensure the vehicles operate in as safe a manner as a non-exempted vehicle. Specifically, NHTSA has determined that it is in the public interest to establish a number of reporting and other terms of deployment of the vehicles that will apply throughout the useful life of these vehicles—violation of which can result in the termination of this exemption. The agency also notes that it retains the full suite of its investigative and enforcement authorities with respect to Nuro's vehicles and operations.

II. Relevant Legal Authority and Regulations

a. Statutory Requirements for Temporary Exemption Petitions

The National Traffic and Motor Vehicle Safety Act (Vehicle Safety Act), codified at Chapter 301 *et seq.,* of title 49, United States Code, provides the Secretary of Transportation with broad authority to exempt motor vehicles from an FMVSS or bumper standard on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.[10]

[8] Nuro has already produced a vehicle that appears to be an FMVSS compliant version of the R2X: Its model R1. As noted below, this vehicle has already been deployed for certain delivery services in Arizona. A discussion comparing the R1 and R2X, which includes a side-by-side visual depiction of the two vehicles, is included later in this document.

[9] We note that Nuro also asked for an exemption from the backup camera ''Deactivation'' requirement (FMVSS No. 111, S6.2.5), and from certain portions of the FMVSS No. 111 test procedures for the ''Field of View'' and ''Size'' requirements (FMVSS No. 111, S6.2.1 and S6.2.2). NHTSA has deemed these requests moot for the reasons explained later in the document, so they will not be discussed extensively in the Executive Summary.

[10] 49 CFR 1.95.

In exercising this authority, NHTSA must look comprehensively at the request for exemption and find that an exemption would be consistent with the public interest and with the objectives of the Vehicle Safety Act.[11] In addition, NHTSA must make at least one of the following more-focused findings, which NHTSA commonly refers to as the ''basis'' for the exemption:

(i) Compliance with the standard[s] [from which exemption is sought] would cause substantial economic hardship to a manufacturer that has tried to comply with the standard[s] in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.[12]

NHTSA's procedural regulations implementing these statutory requirements are codified at 49 CFR part 555, ''Temporary Exemption from Motor Vehicle Safety and Bumper Standards.''

The statute and implementing regulations provide the Secretary and, as delegated, NHTSA with significant discretion in making these required determinations.[13] As the expert agency in automotive safety and the interpretation of its existing standards, NHTSA has significant discretion in making the safety findings required under these provisions. Further, the broad authority to determine whether the public interest and general goals of the Vehicle Safety Act will be served by granting the exemption allows the Secretary to consider many diverse effects of the exemption, including: The overall safety of the transportation system beyond the analysis required in the safety determination; how an exemption will further technological innovation; economic impacts, such as consumer benefits; and environmental effects.

b. Low Speed Vehicles (LSVs) and FMVSS No. 500

NHTSA defines a low-speed vehicle (LSV) as ''a motor vehicle, (1) [t]hat is 4-wheeled; (2) [w]hose speed attainable in 1.6 km [kilometers] (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface, and (3) [w]hose GVWR [gross vehicle weight rating] is less than 1,361 kilograms (3,000 pounds).'' [14]

Unlike other vehicle categories that must meet a wide array of FMVSSs and other vehicle standards, LSVs are only required to meet a single standard: FMVSS No. 500, ''Low-speed vehicles.'' Currently, FMVSS No. 500 requires that LSVs be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, exterior and/or interior mirrors, a windshield constructed from FMVSS No. 205-compliant glazing, seat belts, a vehicle identification number, and a rear visibility system that complies with S6.2 of FMVSS No. 111 (*i.e.,* a backup camera). In addition, all electric LSVs manufactured on or after September 1, 2020 will be required to comply with FMVSS No. 141, ''Minimum Sound Requirements for Hybrid and Electric Vehicles.''

NHTSA created the LSV classification and established FMVSS No. 500 in June 1998 in response to safety concerns over the growing use of golf cart-sized, 4-wheeled ''Neighborhood Electric Vehicles'' (NEVs) on public roads.[15] In developing FMVSS No. 500, NHTSA determined that, given the speed and weight limitations of the LSV classification, and the closed or controlled environments in which LSVs typically operate (usually planned communities and golf courses), there was not a safety need to apply the full range of FMVSS to these vehicles. Moreover, at the time NHTSA was developing the LSV standard, some States had begun to enact laws limiting where and when speed-limited vehicles like LSVs could operate, and currently most States have enacted legal restrictions on where LSVs can operate.[16] Accordingly, the safety equipment the that the agency determined should be required under FMVSS No. 500 is far more limited than what is required for other vehicle categories.

III. Nuro's Petition

NHTSA received Nuro's petition for a temporary exemption on October 23, 2018, seeking an exemption from three of the requirements that apply to LSVs: The exterior and/or interior mirror requirement (FMVSS No. 500, S5(b)(6)), the windshield requirement (FMVSS No. 500, S5(b)(8)), and the backup camera ''Linger time'' and ''Deactivation'' requirements (FMVSS No. 500, S5(b)(11); FMVSS No. 111, S6.2.4 & S6.2.5). In addition, Nuro requested an exemption from portions of the test procedures in FMVSS No. 111 that relate to the backup camera ''Field of view'' and ''Size'' requirements. Nuro submitted its petition under the basis that an exemption would make easier the development or field evaluation of a low-emission vehicle (LEV) and that an exemption would not unreasonably lower the safety of that vehicle. As described in Nuro's petition, the vehicle for which Nuro requested an exemption, the ''R2X,'' would be an occupantless, electric LSV that is designed to be operated almost exclusively by an ADS. According to Nuro, the R2X would not be sold, but rather would be operated by Nuro in partnerships with grocery stores and other merchants to autonomously deliver goods to nearby customers.

Nuro argued in its petition that provisions of FMVSS No. 500 from which it is seeking an exemption require the inclusion of safety features that do not serve a safety purpose on the R2X, due to the fact that the R2X is operated by an ADS and does not have any occupants. Moreover, Nuro argued that including these required features would reduce the safety of the R2X. Nuro's arguments for its three exemption requests are summarized in the table below:

[11] 49 U.S.C. 30113(b)(3)(A).

[12] 49 U.S.C. 30113(b)(3)(B).

[13] *Cf. Geier* v. *American Honda Motor Co.,* 529 U.S. 861, 883 (2000) (explaining that, in the context of interpreting the Vehicle Safety Act's preemption provisions, ''Congress has delegated to DOT authority to implement the statute; the subject matter is technical; and the relevant history and background are complex and extensive,'' and, thus, ''[t]he agency is likely to have a thorough understanding of its own regulation and its objectives and is 'uniquely qualified' to comprehend the likely impact of state requirements,'' concluding that, ''[i]n these circumstances, the agency's own views should make a difference.'') (internal citations omitted).

[14] 49 CFR 571.3.

[15] 63 FR 33194 (June 17, 1998).

[16] See ''Summary of State Speed Laws, Twelfth Edition,'' December 2013, DOT HS 811 769, *available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/summary_state_speed_laws_12th_edition_811769.pdf.*

Requirement from which an exemption is requested	Safety purpose of the requirement	Nuro's argument for why the safety purpose is not relevant to the R2X	Nuro's argument for why compliance would be detrimental to the safety of the R2X
Exterior Mirrors, *FMVSS No. 500, S5(b)(6).*	To provide the driver of the LSV with information about the driving environments to the rear.	The R2X's ADS does not use mirrors to perceive its surroundings for purposes of performing the driving task.	Exterior mirrors increase pedestrian strike risk, and interfere with the R2X's pedestrian safety features such as rounded corners.
Windshield made from FMVSS No. 205-compliant glazing material, *FMVSS No. 500 S5(b)(8).*	To prevent the ejection of vehicle occupants, and to ensure forward visibility for the driver.	The R2X does not have occupants who need protection, and the ADS does not require a transparent windshield to perceive the driving environment in front of the vehicle.	FMVSS No. 205-compliant glazing is both heavy and rigid and must be held in place by a rigid frame, and so it would interfere with plans to provide a ''front-end safety system, including rounded contouring, softer materials, and a 'crumple zone' '' on exempted vehicles.
Backup Camera ''Linger time'' and ''Deactivation'' requirements, *FMVSS No. 500 S5(b)(11); FMVSS No. 111 S6.2.4 & S6.2.5*[17].	Linger time: To prevent the driver from being distracted by the rearview image when traveling in the forward direction. Deactivation: To allow deactivation of the image either when the driver modifies the view, or the vehicle direction selector is removed from the reverse position.	The R2X's ADS is not a human. It can process the information from all of its cameras simultaneously, regardless of the direction of their aim, without distraction.	Because R2X's ADS uses its rearview cameras during forward motion to gain a comprehensive understanding of its environment and avoid collisions with vehicles or objects approaching from the rear, deactivating the view to these cameras while in forward motion would decrease the vehicle's safety.

In addition, while Nuro stated that the R2X would conform to the backup camera ''Field of view'' (FOV), ''Size,'' and ''Response time'' requirements (FMVSS No. 111, S6.2.1, S6.2.2, S6.2.3), Nuro requested an exemption from portions of the test procedures in FMVSS No. 111 related to those requirements, because the design of the R2X precluded those test procedure steps from being executed. Nuro provided an alternative test procedure that it argued would enable NHTSA to verify the R2X's compliance with the FOV and Size requirements through the use of the vehicle's remote operator system. Nuro supported its arguments with the analyses and documentation required under 49 CFR 555.6, which are discussed in our safety analysis below.

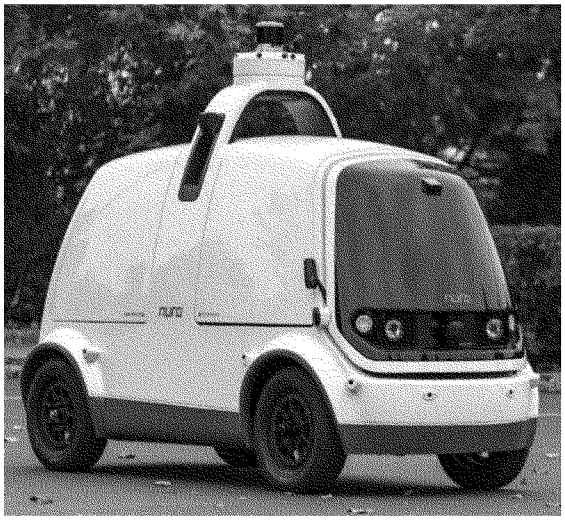
Nuro stated in its petition that granting its exemption would be in the public interest and consistent with the Vehicle Safety Act because the R2X incorporates various design features that enable the ADS to operate reliably, and minimize safety risks that may occur if the ADS malfunctions or otherwise encounters a driving situation it cannot handle. Nuro also argued that enabling it to field test its ADS would lead to downstream environmental improvements and economic productivity.

It is important to note that the most unusual characteristics of the R2X—its lack of occupants and autonomous operation—do not require an exemption to be included on the R2X, as there is nothing in the FMVSSs that preclude Nuro from manufacturing a fully compliant version of the R2X that includes these two novel design features.[18] In fact, within two months of submitting its petition, Nuro began testing on public roads an occupantless, low-speed ADS vehicle that the company states it has certified as FMVSS-compliant. Nuro deployed this vehicle, the ''R1,'' in December 2018 as part of a grocery delivery testing program in partnership with a Kroger location in Scottsdale, Arizona. Based on Nuro's descriptions in its public comment, NHTSA understands the R1 to have been an occupantless, low-speed ADS vehicle that has a very similar design to the R2X, except that the R1 was equipped with exterior mirrors, a windshield constructed out of FMVSS No. 205-compliant glazing, and a backup camera that meets the ''Linger time'' requirement of FMVSS No. 111, S6.2.4. (See Figures 1 and 2 below for a visual comparison of the R1 and R2X vehicles.) For purposes of NHTSA's analysis of Nuro's petition, NHTSA assumes that a compliant version of the R2X would also differ from an exempted R2X in that the compliant R2X would be equipped with these features. This assumption is reasonable because such equipment is required by law unless subject to an exemption.

[17] As is explained later in this document, NHTSA has determined that Nuro's exemption request from the ''Deactivation'' requirement (FMVSS No. 111, S6.2.5) is moot. Therefore, although this request is discussed in this summary of Nuro's petition, it is not discussed in the agency's safety analysis or findings.

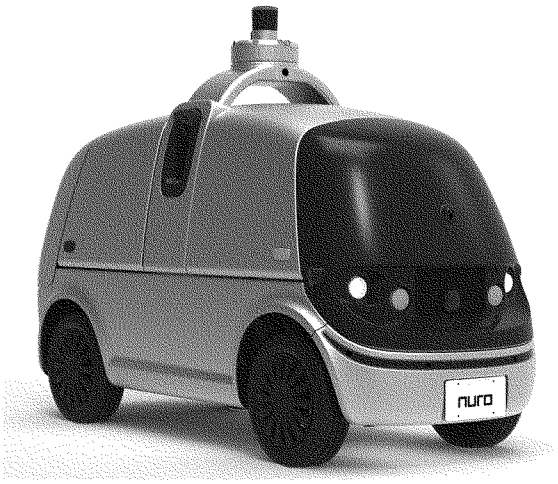
[18] The Vehicle Safety Act provides that, for aspects of vehicle performance that are not covered by an FMVSS, the only Federal restriction on the vehicle's performance is that the vehicle cannot contain a defect that poses an unreasonable risk to safety. Because ADS driving capability is not regulated under the FMVSS, and LSVs are not required to have human-operated driving and signaling controls, no regulatory barrier prevents Nuro from deploying the R2X's ADS on a fully compliant version of the vehicle. Moreover, given Nuro's track record with on-road testing of its ADS systems, NHTSA does not have a basis to believe that the R2X's ADS poses an unreasonable risk to safety.

Figure 1: Photograph of Production R1



Source: Nuro's Public Comment, Docket No. NHTSA-2019-0017-0023

Figure 2: Illustration of Prototype R2X



Source: Nuro's Petition for Exemption, Docket No. NHTSA-2019-0017-0002

IV. Notice of Receipt

NHTSA published its Notice of Receipt of Nuro's exemption petition in the **Federal Register** on March 19, 2019.[19] In addition to summarizing the petition, the Notice of Receipt posed 39 questions for the public on a variety of topics, including the appropriateness of the LEV exemption basis, the safety of the R2X, the performance of the R2X's ADS, whether an exemption would be in the public interest, and potential terms or conditions that NHTSA may impose should the agency grant the petition. Given the novel issues raised by the fact that the R2X is an occupantless ADS vehicle, NHTSA provided the public with a 60-day comment period, instead of the 30 days normally provided for an exemption petition.

In response to the Notice of Receipt, NHTSA received 24 comments from a variety of commenters, including trade associations, individual manufacturers, advocacy groups, and individuals. The trade associations that submitted comments were the Alliance of Automobile Manufacturers (the Alliance), the American Trucking Associations (ATA), the Consumer Technology Association (CTA), the Association for Global Automakers (Global), and the National Society of Professional Engineers (NSPE). NHTSA also received comments from the individual vehicle manufacturer Local Motors. The advocacy groups that submitted comments were the American Automobile Association (AAA), the American Association of Motor Vehicle Administrators (AAMVA), Advocates for Highway Safety (Advocates), Center for Auto Safety (CAS), DEVCO, and Securing America's Future Energy (SAFE). In addition, NHTSA received comments from Kroger, Inc., the Mercatus Center of George Mason University, the Center for Autonomous Vehicles and Sensor Systems, Edge Case Research, the Mayor of Scottsdale, Arizona, and the Scottsdale, Arizona Chief of Police. In addition, NHTSA received a comment from the petitioner itself. The major points raised by the commenters are briefly summarized below, and are discussed in greater detail in later sections of this document.

The principal comments made by commenters who were generally critical of Nuro's petition were:

- The LEV basis is an inappropriate basis under which to consider Nuro's petition because the purpose of that exemption basis is to encourage the development of low-emission propulsion technologies.
- The petition did not include sufficient information about the ability of the ADS to perform the driving task (especially as compared to a human driver), the R2X's Operational Design Domain (ODD), or the operational details of Nuro's remote operator system.
- The petition did not include documentation demonstrating the efficacy of some of the safety features Nuro describes in the petition, such as pedestrian ''crumple zones.''
- The petition does not sufficiently address the issue of cybersecurity.
- If NHTSA were to grant the petition, the agency should impose extensive reporting requirements on Nuro that include providing NHTSA and/or the public with information about ADS performance. These reporting requirements should last for the life of the vehicle.
- Nuro should be required to coordinate extensively with local authorities in the communities in which the R2X will operate.

The principal comments made by commenters who were generally favorable to Nuro's petition were:

- The LEV basis is an appropriate exemption basis under which to consider Nuro's petition because the R2X meets the qualifications for being an LEV, and because one benefit of vehicles like the R2X is lower overall emissions.
- The ability of the ADS to perform the driving task should not be considered as part of NHTSA's safety analysis of Nuro's petition, because the compliant version of the R2X against which NHTSA must compare an exempted R2X would also be equipped with an ADS.
- The three requirements from which Nuro sought an exemption do not serve a safety purpose on a vehicle that is operated exclusively by an ADS.
- If NHTSA were to deny the petition, this would effectively require Nuro to equip the R2X with extraneous equipment (*i.e.,* mirrors and glazing material) that could decrease the safety of the vehicle.

[19] 84 FR 10172.

• If NHTSA imposes terms that include mandatory data reporting, it should not be unreasonably broad, and should be limited to the two-year exemption period.

NHTSA also received several comments that were either general discussions of the role of exemptions in the regulation of ADS vehicles, or previously published newspaper articles or academic papers that discuss automated vehicle policy generally. While the policy considerations and issues discussed in these comments are certainly relevant to NHTSA's and the Department's Automated Vehicle policy generally, they are not directly pertinent to the findings that NHTSA must make regarding Nuro's specific petition, and thus are not extensively discussed in this document. However, we note that the agency shares some of the concerns some of the commenters raised about ADS safety, and has conditioned this exemption grant on terms that the agency believes will appropriately mitigate potential risk and ensure the agency can maintain adequate oversight of deployed R2X vehicles.

Following the publication of the Notice of Receipt, at Nuro's written request, NHTSA met with representatives of Nuro on April 11, 2019, at NHTSA headquarters.[20] Nuro stated that it requested the meeting to provide the agency with an opportunity to improve the agency's understanding of the R2X's specifications and how it would be used. Nuro offered to participate in a more technical follow-up call, which took place on July 18, 2019. Both of these meetings clarified various operational and technical details about the R2X (*e.g.,* the capacity of the vehicle's propulsion battery), as well as some details about the operation of the vehicle's ADS. The agency did not learn any new information relevant to its evaluation of Nuro's petition. Finally, NHTSA held an additional call with Nuro on August 23, 2019, to request clarification on how Nuro intended to certify that the R2X complies with the portions of FMVSS No. 111 backup camera requirements from which Nuro did not seek an exemption. As Nuro did not seek an exemption for the performance requirements discussed in this call, the information NHTSA learned in this call was not germane to the agency's decision to grant or deny the petition. NHTSA's decision to grant Nuro's petition is based entirely on public information and views provided in the petition and public comments.[21]

V. Selection of Statutory Basis for Analyzing the Merits of the Petition

NHTSA has determined that it is appropriate to consider Nuro's petition under both the ''Low-Emission Vehicle'' (LEV) and ''Equivalent overall safety'' (EOS) exemption bases, and has decided to evaluate Nuro's petition under both bases.

Nuro submitted its petition for an exemption from FMVSS No. 500 under the LEV exemption basis, which authorizes NHTSA to grant an exemption if doing so ''would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.'' [22] NHTSA also sought comment on whether it would also be appropriate to consider Nuro's petition under the ''new safety feature'' (''NSF'') [23] or ''equivalent overall safety'' (''EOS'') [24] exemption bases.[25] The key substantive difference between the LEV basis and these other two bases is that LEV basis would allow for the deployment of a vehicle that lowers safety, so long as that lowering is not unreasonable.

NHTSA received comments on the appropriateness of the LEV exemption basis from AAMVA, Advocates, Global, and SAFE. AAMVA and Advocates both argued that the LEV exemption basis may not be appropriate despite the R2X's LEV status because the specific requirements from which Nuro requested an exemption are unrelated to the R2X's electric propulsion system. According to AAMVA, the NSF basis would be preferable because the design features that are the subject of the exemption relate to the removal of the driver (although AAMVA does not explain why this makes the NSF basis preferable over EOS).[26] Advocates did not express a view on what an appropriate basis would be, but did express concern that the LEV basis would allow for lowering the level of safety of the exempted vehicle, even if NHTSA did not find such a lowering to be unreasonable.[27]

Conversely, Global [28] and SAFE [29] argued that the LEV basis is appropriate for Nuro because vehicles like the R2X could potentially reduce emissions by reducing the number of trips made in conventional (*i.e.,* internal combustion engine) vehicles, and by performing the driving task more efficiently. In addition, SAFE notes that NHTSA has previously granted petitions on the LEV basis for exemptions that are not directly related to the development of a new low-emission propulsion system, and that the petitioners in those cases argued that their primary purpose for seeking an exemption was either the development of low-emission propulsion technologies [30] or to allow a vehicle with a new low-emission propulsion technology to be brought to market more quickly or cheaply.[31]

First, NHTSA has determined that the LEV basis is appropriate for Nuro's petition. Based upon its interpretation of both the Vehicle Safety Act and part 555, and consistent with prior agency grants of exemption petitions, NHTSA has determined to grant the petition under the LEV basis. The Vehicle Safety Act requires that NHTSA find that the exemption is in the public interest and consistent with the Vehicle Safety Act and (1) that the vehicle is an LEV, (2) that an exemption would make easier the development or field evaluation of the vehicle, and (3) that an exemption would not unreasonably lower the safety of the vehicle. It does not state that NHTSA must find a nexus between the exemption and the LEV status of the exempted vehicle.[32] Further, part 555 also does not explicitly require this nexus.[33] The agency notes that not

[20] NHTSA's regulations entitle any interested person to, upon written request to the agency, appear informally before an appropriate official to discuss an exemption petition or an action taken in response to a petition. See 49 CFR 555.7(c).

[21] These discussions are described in a memorandum that can be found in the docket indicated in the header of this notice.

[22] 49 U.S.C. 30113(b)(3)(B)(iii)

[23] 49 U.S.C. 30113(b)(3)(B)(ii)

[24] 49 U.S.C. 30113(b)(3)(B)(iv)

[25] See Notice of Receipt, Question 3.

[26] See NHTSA–2019–0017–0025.

[27] See NHTSA–2019–0017–0026.

[28] See NHTSA–2019–0017–0022.

[29] See NHTSA–2019–0017–0016.

[30] *E.g.,* Toyota Motor North America, Inc.; Grant of Petition for Temporary Exemption from an Electrical Safety Requirement of FMVSS No. 305, 80 FR 101.

[31] *E.g.,* Greenkraft Inc.; Grant of Application for a Temporary Exemption from FMVSS No. 108, 80 FR 12057.

[32] We note, however, that it is within NHTSA's discretion to determine what constitutes an ''unreasonable'' lowering of vehicle safety. While NHTSA does not need to make this determination here because we have found no decrease in safety, the innovativeness and emission-reducing potential of the low emission technology in the vehicle may be a factor in considering whether any lowering of safety is reasonable or not, as a more innovative technology may have greater environmental benefits than a more established technology. On the other hand, established technologies that have been mass produced for years and have widespread availability, such as those underpinning battery electric vehicles, cannot reasonably justify much, if any, lessening of safety.

[33] The agency acknowledges that part 555.2 explains that the purpose of the exemption process is to ''provide a means by which manufacturers of motor vehicles may obtain temporary exemptions . . . on the basis of . . . facilitation of the development of . . . low-emission engine features,'' and that one of the required submissions demonstrating safety under part 555.6(2)(i) is, ''[a] detailed description of how the motor vehicle

Continued

requiring a nexus actually incentivizes that more vehicles with advanced technologies be designed with low emission technologies, even off the shelf technologies, which furthers the overarching goal of allowing more LEVs on the roads. Finally, granting an exemption under this basis is consistent with the agency's past practice in its earlier grants to both Toyota and Greenkraft, as cited by SAFE.

We also agree with AAMVA and Advocates that, since innovation related to safety and mobility is the central focus of Nuro's petition, the agency may also consider the petition under the EOS or NSF ground. Nuro, in its comments, expressed openness to being considered under the EOS basis instead of the LEV, though Nuro did not amend its application as part of these comments.[34] For these reasons, we have considered whether the petition should also be granted under the NSF or EOS bases.

As between the NSF and EOS bases, NHTSA has determined that the EOS basis is more appropriate than the NSF basis here. Although it is possible that an exemption could make easier the development or field testing of a new (*i.e.,* innovative) safety feature, either the R2X's ADS or one of the other features described in the application (*e.g.,* the pedestrian crash protection systems), those technologies are not intended to provide a level of safety equivalence compliance with FMVSS No. 500, which does not contemplate ADS driving competence or pedestrian safety. Rather, those features are intended to improve the safety of aspects of performance that are not regulated under FMVSS No. 500. Because the NSF basis limits the scope of the agency's safety analysis to how an exemption would impact safety solely in terms of performance under an individual standard, whereas the EOS basis allows NHTSA to consider aspects of a vehicle's safety performance, the EOS basis would allow the agency to weigh broader considerations of safety that may not be captured at the individual standard level.

For these reasons, NHTSA has decided to evaluate Nuro's petition under both the LEV and EOS exemption bases.

VI. Safety Analysis

In order to make the statutorily required safety findings to grant an exemption under either the LEV or EOS basis, NHTSA must first determine whether the level of safety of an exempted vehicle would be lower than that of a compliant vehicle. If, based on this analysis, NHTSA finds that an exemption would not lower overall safety of the vehicle, NHTSA is permitted to grant the petition under both exemption bases. Thus, if NHTSA determines that an exemption would not lower the safety of the vehicle (which would obviate the need under the LEV basis to make the second finding of whether safety is unreasonably lowered), the entire safety analysis under the EOS and LEV bases would be identical. NHTSA's analysis would only diverge under the two bases if NHTSA finds that safety would be lowered, in which case the agency must deny the petition under the EOS basis, and may only grant the petition under the LEV basis upon finding that an exemption would not *unreasonably* lower the safety of the vehicle.[35]

Because the mirror, windshield, and backup camera ''Linger time'' requirements are discrete aspects of vehicle performance, we discuss them individually in separate subsections below. Note that, because NHTSA has deemed moot Nuro's request for exemptions from the backup camera ''Deactivation'' requirement, it is not included our safety analysis. Rather, the reasons we deemed this request moot are explained in a later section.

a. An Exemption From the Requirement That an LSV be Equipped With Exterior and/or Interior Mirrors Would Not Lower the Safety of the R2X

NHTSA has determined that an exemption from the requirement that LSVs be equipped with exterior and/or interior mirrors would not lower the safety of the R2X, and in fact may incrementally increase the safety of the R2X, because mirrors would not serve a safety-related purpose on an occupantless LSV operated by an ADS, and the presence of protruding exterior mirrors on such a vehicle may increase strike risk for pedestrians and other vulnerable road users.

FMVSS No. 500, S5(b)(6) requires that LSVs be equipped with an ''exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror.'' Nuro argued in its petition and its public comment that, because the safety purpose of these mirrors is to enable a human driver to observe objects to the rear of the vehicle, the mirror serves no safety function on the R2X. First, according to Nuro, the ADS uses an array of sensors to detect objects behind the vehicle. Moreover, Nuro states that mirrors serve no auxiliary safety purpose for people outside of the vehicle, and their omission reduces the risk of striking pedestrians and lowers the mass of the vehicle.

Commenters who discussed the mirror requirement agreed with Nuro that exterior mirrors did not serve a safety function on the R2X. The Alliance,[36] Local Motors,[37] and the Scottsdale, Arizona Chief of Police [38] all state that the three safety features for which Nuro has requested an exemption do not serve a functional purpose on an ADS vehicle like the R2X. CTA stated in its comment that if NHTSA were to deny Nuro's exemption, the agency would effectively require Nuro to add what CTA terms ''extraneous equipment'' that would likely raise the risk and severity of a pedestrian strike.[39]

NHTSA agrees with Nuro and the commenters that that mirrors do not serve a safety function on a vehicle with no occupants that is operated by an L4 ADS, since the ADS perceives the driving environment using a suite of sensors that do not rely on the mirrors. Further, NHTSA has concluded that the fact that the mirrors protrude from the vehicle means that they could potentially increase the risk of injury to pedestrians or cyclists, however incrementally and thus concurs with Nuro's assertion in the petition about this potential benefit.[40] Moreover, we note that ancillary benefits that mirrors provide, such as providing a warning to

equipped with the low-emission engine would, if exempted, differ from one that complies with the standard.'' NHTSA, though, does not believe that either of the provisions require a nexus, but simply reflect a general purpose of the requirement and information that should be submitted if relevant. In all events, the language of the governing statute controls, as discussed above.

[34] See NHTSA–2019–0017–0023. On page 3, Nuro states: ''We believe the information in the petition, as supplemented in these comments, supports a determination under 49 U.S.C. 30113(b)(3)(B)(iv) that R2X has an overall safety level at least equal to the overall safety level of nonexempt vehicles, and would not object if the Department chose to grant the petition on that basis.''

[35] We note that NHTSA has determined that the other two findings NHTSA must make for both bases as part of its evaluation of Nuro's petition—whether granting the exemption would be in the public interest and consistent with the Vehicle Safety Act—are identical regardless of the exemption basis. As these are not safety findings, they are not discussed in this section.

[36] See NHTSA–2019–0017–0020.

[37] See NHTSA–2019–0017–0017.

[38] See NHTSA–2019–0017–0019.

[39] See NHTSA–2019–0017–0015.

[40] Although the mirrors on LSVs are not required to meet the performance criteria in FMVSS No. 111, NHTSA implicitly acknowledges through that standard that outside mirrors do present some level of safety hazard to pedestrians, because the standard requires that outside mirrors be free of ''sharp points or edges that could contribute to pedestrian injury.'' FMVSS No. 111, S5.2.1. We see no reason why outside mirrors on LSVs would not also present a pedestrian strike risk.

vehicle occupants about hazards (such as approaching cyclists) when opening the vehicle door, are not a concern in a vehicle with no occupants. Therefore, the removal of said mirrors would, at worst, have no impact on the overall level of safety of the vehicle.

b. An Exemption From the Requirement That an LSV be Equipped With FMVSS No. 205-Compliant Windshield Would Not Lower the Safety of the R2X

NHTSA has determined that an exemption from the requirement that LSVs be equipped with a windshield constructed from FMVSS No. 205-compliant glazing materials would not lower the safety of the R2X because a compliant windshield would not serve a safety-related purpose on an occupantless LSV operated by an ADS, due to the fact that a windshield is not necessary to assure (human) driver visibility, nor is it needed to protect occupants in a crash.

FMVSS No. 500, S5(b)(8) requires that LSVs be equipped with ''a windshield that conforms to the Federal motor vehicle safety standard on glazing materials (49 CFR 571.205).'' FMVSS No. 205, ''Glazing materials,'' is an equipment standard for glazing materials (*i.e.,* glass) used in vehicles to both ensure driver visibility and to minimize the risk of occupants being ejected from the vehicle in a crash. In its petition, Nuro argued that an FMVSS No. 205-compliant windshield would not serve a safety need on the R2X because (1) the R2X would not have occupants, so there is no risk that human occupants could be injured by an impact with glazing or ejected from the R2X, and (2) the R2X uses an ADS to perform the driving task, which does not require a transparent windshield to observe the driving environment. Nuro further argued that removing the windshield would, in fact, improve the safety of the R2X because a windshield constructed out of FMVSS No. 205-compliant glazing could injure pedestrians in a collision due to its rigidity (if the glazing does not break), or due to the harm that could result should the glazing shatter. Nuro also argues that equipping the R2X with a compliant windshield would interfere with the operation of the R2X's pedestrian ''crumple zones,'' which are designed to reduce pedestrian injuries in a crash, because equipping the R2X with a compliant windshield would necessitate a more rigid design. Nuro notes that, while the R2X would not be equipped with a windshield, the front of the vehicle will be equipped with a ''plate'' that resembles the appearance of a windshield but is not constructed out of compliant glazing, and which deforms to provide pedestrian/cyclist protection in case of a crash. Nuro stated that this ''plate'' will serve the windshield ancillary safety function of providing other road users with a visual cue for the front of the vehicle (and thus, its direction of movement).

Commenters generally did not dispute Nuro's argument that an FMVSS No. 205-compliant windshield would not serve a safety purpose on a vehicle without occupants. The Alliance [41] and Local Motors [42] explicitly agreed with Nuro's analysis that a windshield would not serve a safety purpose, and CTA stated that, if NHTSA were to deny Nuro's exemption, it would effectively require Nuro to add what CTA terms ''extraneous equipment'' that would likely raise the risk and severity of a pedestrian strike.[43] While Advocates [44] and AAMVA [45] did not dispute Nuro's argument that a windshield was not necessary, they expressed concern that Nuro did not provide sufficient information to assess the effectiveness of the R2X's pedestrian ''crumple zones'' and rounded edges for mitigating pedestrian injuries (though it should be noted that FMVSS No. 500 does not contain performance requirements for pedestrian injury mitigation).[46] The Alliance noted that front-end stiffness of LSVs is not regulated under FMVSS No. 500.

In its comment, Nuro explained further why it believes that not equipping the R2X with an FMVSS No. 205-compliant windshield will increase the safety of the R2X.[47] According to Nuro, the R2X would require very sturdy A-pillars to support the weight of an FMVSS No. 205-compliant windshield, which make it necessary that the front outboard corners of the vehicle (which would support the windshield) be rigid. Thus, an R2X that complies with the windshield requirement could not incorporate the front-end pedestrian ''crumple zone'' crash mitigation feature described in its petition. Nuro states that, if exempted, the R2X's A-pillars would not need to support as much weight, so they could be designed to be deformable in a crash, which would allow the front end of the vehicle to absorb impact energy at the sides as well as in the center. In addition, Nuro states that the R2X voluntarily complies with both FMVSS No. 305, ''Electric-powered vehicles: electrolyte spillage and electrical shock protection,'' (49 CFR 571.305) [48] and the Bumper Standard (49 CFR part 581).

NHTSA has concluded that an exemption from the windshield requirement would not lower the level of safety of the R2X because the safety concerns that the windshield addresses—protecting occupants from ejection and intrusion, and ensuring occupants (particularly a human driver) can see the driving environment—are not present in the R2X, due to its lack of occupants and its operation by an ADS that relies on cameras and sensors instead of a human driver.[49] Accordingly, not equipping the R2X with a compliant windshield would, at a minimum, have no net safety impact on the R2X. We note that NHTSA's determination that an exemption from the windshield requirement would not lower the safety of the R2X does not rely on the effectiveness of its pedestrian ''crumple zones'' or other safety features because, as Advocates and others have noted, Nuro has not provided documentation to support the effectiveness of these features. While NHTSA encourages manufacturers to include additional safety features that are not required under the FMVSS, the lack of data to support the effectiveness of these features precludes the agency from considering the safety impact of these features in its safety finding.

[41] See NHTSA–2019–0017–0020.

[42] See NHTSA–2019–0017–0017.

[43] See NHTSA–2019–0017–0015.

[44] See NHTSA–2019–0017–0026.

[45] See NHTSA–2019–0017–0025.

[46] AAMVA also raised the concern that NHTSA should ensure that the material used for the front end of the R2X would keep cargo from being ejected in a crash at least as well as an FMVSS No. 205-compliant windshield. However, NHTSA notes that the R2X does not appear to be designed in such a way that a windshield would be the only, or even the primary, barrier separating the cargo compartments from the outside. See NHTSA–2019–0017–0023.

[47] See NHTSA–2019–0017–0023.

[48] FMVSS No. 305 requires that electric vehicles meet certain requirements relating to electrical safety after multiple types of barrier crashes that the standard requires to be conducted at speeds that exceed 25 mph, the maximum speed for an LSV. See, *e.g.,* FMVSS No. 305, S6.1. However, these barrier crashes are typically performed using a tow cable to propel the vehicle (as opposed to the vehicle's own propulsion system), so it would be possible to run these tests on an LSV like the R2X. We note that Nuro does not state whether ''compliance'' with FMVSS No. 305 means that the R2X would meet the standard's performance criteria after being crashed at the R2X's maximum speed of 25 mph, or after being crashed at the higher speeds articulated in the standard's test procedures.

[49] We assume that Nuro has designed the R2X so that the sensors used by the ADS are not obstructed by whatever material is used to cover the front of the vehicle in place of FMVSS No. 205-compliant glazing.

c. An Exemption From the Requirement That an LSV's Backup Camera Meet the ''Linger Time'' Requirement of FMVSS No. 111 Would Not Lower the Safety of the R2X

NHTSA has determined that an exemption from backup camera ''Linger time'' requirement (FMVSS No. 111, S6.2.4) would not lower the safety of the R2X because the safety concern underlying the linger time requirement—driver distraction—does not exist for an occupantless LSV operated by an ADS.

FMVSS No. 500, S5(b)(11) states that LSVs ''shall comply with the rear visibility requirements specified in paragraphs S6.2 of FMVSS No. 111.'' One of the requirements that falls under FMVSS No. 111, S6.2.4, limits the duration of the system's ''Linger time,'' which is the period in which a rearview image continues to be displayed by the backup camera system after the vehicle's transmission has been shifted out of reverse gear. Per S6.2.4, the rearview image produced by the backup camera system ''shall not be displayed after the backing event has ended.'' NHTSA explained in the final rule establishing the backup camera requirement that the safety justification for the linger time restriction was the possibility that a driver would be distracted by a rearview image.[50] FMVSS No. 111, S6.2.4 currently requires that the ''Linger time'' period end at the end of the ''backing event.''[51]

In its petition, Nuro argued that the ''Linger time'' requirement does not serve a safety purpose on the R2X because the safety risk it is intended to mitigate against—the possibility that a human driver would be distracted by the rear visibility image when traveling in the forward direction—is not a concern for the R2X, since the R2X uses an ADS that is not susceptible to distraction. Nuro further argues that an exemption from the ''Linger time'' requirement would, in fact, improve the safety of the R2X, as it would eliminate a condition in which the R2X's rear-facing camera and sensors shut off, which Nuro says has the effect of partially blinding the ADS.

NHTSA agrees with Nuro that distraction is unlikely to be a concern for the R2X's ADS, which is not a human and thus would not be susceptible to cognitive distraction.[52] And we see no reason why permitting the ADS to use an additional source of information about the driving environment would reduce the safety of the R2X.

d. An Exemption From Portions of the FMVSS No. 111 ''Field of View and Image Size Test Procedure'' and ''Image Response Time Test Procedure'' Would Not Lower the Safety of the R2X

NHTSA has determined that an exemption from the provisions in the FMVSS No. 111 ''Field of view and image size test procedure'' relating to fuel tank loading (S14.1.2.2), driver's seating position (S14.1.2.5), and steering wheel adjustment (S14.1.7); and an exemption from the provisions of the FMVSS No. 111 ''Image response time test procedure'' relating to the driver's door and activation of the starting system (S14.2(a)–(c)); would not lower the safety of the R2X because the R2X's backup camera would still be required to produce a rearview image that meets the substantive performance requirements for ''Field of view'' (S6.2.1),''Size'' (S6.2.2), and ''Response time'' (S6.2.3).

While Nuro states in its petition that the R2X meets these substantive requirements—and thus meets the minimum level of performance established by the standard—Nuro requested an exemption based on language in a 2016 Chief Counsel's interpretation letter issued to Google in 2016.[53] Nuro cited and quoted language from NHTSA's letter to Google in making this request for an exemption. Nuro stated: ''Previously, the Department has interpreted 'driver' and 'operator' in FMVSS No. 111 as referring to the self-driving system in cases of autonomous vehicles. However, in its letter to Google, the Department noted the need for a testing procedure to satisfy itself that the images provided to the self-driving system meet the requirements for field of view, image size, timing, and durability.''[54]

In its discussion of FMVSS test procedures, NHTSA's letter to Google explained: ''As self-driving technology moves beyond what was envisioned at the time when standards were issued, NHTSA may not be able to use the same kinds of test procedures for determining compliance.''[55] The letter explained that ''since the [Vehicle] Safety Act creates a self-certification system for compliance, NHTSA's verification of a manufacturer's compliance . . . is based on our established test procedures.''[56] Although the letter recognized that test procedures are for NHTSA's use in compliance testing, the letter also stated that ''in order for NHTSA to interpret a standard as allowing certification of compliance by a vehicle manufacturer, NHTSA must first have a test procedure or other means of verifying such compliance.''[57] To enable Google to certify its vehicles in the absence of appropriate test procedures, the agency suggested that Google may seek exemptions, as Nuro noted in its petition.[58]

NHTSA notes that the 2016 interpretation letter to Google diverged, without explanation, from NHTSA's longstanding position that manufacturers are not required to certify compliance based on NHTSA's FMVSS test procedures.[59] While beyond the

[50] 79 FR 19177, 19219.

[51] FMVSS No. 111 defines the ''backing event'' as an amount of time which starts when the vehicle's direction selector is placed in reverse, and ends at the manufacturer's choosing, when the vehicle forward motion reaches: (a) A speed of 10 mph, (b) a distance of 10 meters traveled, or (c) a continuous duration of 10 seconds, whichever the manufacturer chooses. FMVSS No. 111, S4.

[52] The specific distraction that we discussed in the backup camera final rule—the prolonged illumination of the required image at night—would not be an issue for the R2X, since the ADS does not rely on an illuminated display to perceive the rearview image.

[53] See Letter from P. Hemmersbaugh, NHTSA, to C. Urmson, Google (Feb. 4, 2016), *https://www.nhtsa.gov/interpretations/google-compiled-response-12-nov-15-interp-request-4-feb-16-final.*

[54] See NHTSA–2019–0017–0002, at 17 (footnote omitted).

[55] Letter from P. Hemmersbaugh, NHTSA, to C. Urmson, Google (Feb. 4, 2016), *https://www.nhtsa.gov/interpretations/google-compiled-response-12-nov-15-interp-request-4-feb-16-final.*

[56] *Id.*

[57] *Id.*

[58] See NHTSA–2019–0017–0002, at 13.

[59] NHTSA has expressed this concept in both rulemaking and letters of interpretation going back several decades. See, *e.g.,* 76 FR 15902, 15905 & 08 (Mar. 22, 2011) (explaining that ''manufacturers are not required to test their products in the manner specified in the relevant safety standard, or even to test the product at all, as their basis for certifying that the product complies with all relevant standards. A manufacturer may evaluate its products in various ways to determine whether the vehicle or equipment will comply with the safety standards and to provide a basis for its certification of compliance. Depending on the circumstances, the manufacturer may be able to base its certification on actual testing (according to the procedure specified in the standard or some other procedure), computer simulation, engineering analysis, technical judgment or other means . . . manufacturers can use their judgment, including engineering or technical judgment, to certify vehicles. Testing, as provided in the FMVSS, is not required as a matter of law to certify a vehicle. Instead, sound judgment may be used.'') (footnote omitted); 36 FR 5856 (Mar. 30, 1971) (''Manufacturers have the responsibility of ensuring, by any methods that constitute due care, that their products meet the requirements at the stated level. Normally this is done by setting their own test conditions slightly on the 'adverse side' of the stated level.''); Letter from A. Cooke, NHTSA, to K. Manke, Dakota Manufacturing (Apr. 15, 2008), *https://isearch.nhtsa.gov/files/07-005971as%20underride%20guards.htm* (''Keep in mind that the test procedures in FMVSS No. 223 describe how NHTSA will test guards for compliance with the standard's requirements, and are not binding upon guard manufacturers. A manufacturer is not required to use the standard's procedures when certifying compliance with the standard.''); Letter from E. Jones, NHTSA, to D. Cole, Nat'l Van Conversion Ass'n, Inc. (Nov. 1,

scope of this notice, NHTSA intends to clarify the application of test procedures in a subsequent notice.[60] However, prior to revisiting this issue, NHTSA is considering Nuro's request for an exemption from provisions of the test procedures on its merits.[61]

Nuro notes that the R2X is an electric vehicle and does not have a gas tank that can be fully loaded with fuel—an express requirement of the FMVSS No. 111 test procedures—and, pursuant to the Google interpretation described above, is therefore incapable of being certified as compliant with the standard.

Similarly, because of the R2X's occupantless design and exclusive ADS operation, the vehicle is not equipped with a driver's seat or a display screen, which means that NHTSA is not able to independently verify this compliance using the test procedures in FMVSS No. 111.[62] An exemption from the test procedure provisions that require manual operation by a human driver to execute would not permit Nuro to equip the R2X with a backup camera system that, if installed on a conventional vehicle, would produce a rearview image that fails to comply with FMVSS No. 111; rather, it permits Nuro to certify the R2X's rearview image, which is transmitted directly to the R2X's ADS during normal operation, would be able to meet the substantive requirements for field of view, size, and response time if it were displayed on a screen in a conventional vehicle. Put another way: An exemption from the test procedures would not, in any way, permit Nuro to equip the R2X with a subpar backup camera system; rather it enables Nuro to demonstrate that the R2X's backup camera system transmits to the ADS the visual information that would be needed to meet the minimum performance criteria in FMVSS No. 111, even if the test procedures in FMVSS No. 111 cannot be performed using the R2X.

As part of its exemption request, Nuro provided suggestions for how NHTSA could modify the FMVSS No. 111 test procedures to accommodate the R2X's unique design:

Required test condition	Reason it cannot be performed	Nuro's suggested modification
S14.1.2.2, "Fuel tank loading"	The R2X is an electric vehicle that runs on a charge in a battery, not on fuel in a fuel tank.	Conduct the test with the battery at full charge capacity.
S14.1.2.5, "Driver's seat positioning"	The R2X has no driver's seat, or designated seating position of any kind.	Treat a remote operator's seat as the driver's seating position.
S14.7, "Steering wheel adjustment"	The R2X has no steering wheel	Conduct the test with the wheels pointed in the forward direction, as would be consistent with the test state in the standard.
S14.2, "Image response time test procedure"	The R2X has no driver's door to open or close	Perform the test procedure using the cargo compartment doors, which are the primary method for accessing the interior of the R2X.

Given the design differences between the R2X and a typical LSV, NHTSA has determined that Nuro's proposed modifications to the FMVSS No. 111 test procedures are reasonable, since they would condition the R2X in the same way as would the test procedures in the standards if applied to a conventional vehicle. Most commenters did not discuss whether NHTSA should grant Nuro's request for an exemption from the FMVSS No. 111 test procedures, or their views on the adequacy of Nuro's suggested modifications. The only comment on this subject was from AAMVA, which stated that it was ''skeptical'' of what is meant by treating the remote operator seat as a driver's seating position. We think that Nuro's suggestion to use the remote operator as a stand-in for the driver, for purposes of compliance certification, is reasonable. The purpose of the FMVSS No. 111 ''Field-of-view,'' ''Size,'' and ''Response time'' requirements are to ensure that the image displayed communicates information about the area behind the vehicle to the driver in a format that the driver is able to understand from the start of the backing event. If the rearview image meets the ''Field of view,'' ''Size,'' and ''Response time'' criteria when viewed by a remote operator who is located a similar distance from the rearview image screen as would be a human driver in a conventional vehicle, NHTSA believes this would be sufficient to demonstrate that Nuro exercised reasonable care in certifying the R2X because it indicates that the ADS is receiving the same information that a human driver would receive from the backup camera system in a conventional vehicle, and that this information is being transmitted at the start of the backing event. Similarly, we believe that Nuro's suggestion that it perform test procedures with a fully charged battery in lieu of a fully-loaded gas tank, for purposes of compliance certification, is reasonable.

Advocates claimed that the act of applying a vehicle's brakes to prevent a back over crash is an integral part of the safety purpose of the backup camera, and that NHTSA should therefore incorporate into its analysis whether the R2X would appropriately brake in response to an object in the backup camera zone. We do not agree with Advocates that FMVSS No. 111 extends to how the vehicle must react in response to the presence of an object behind the vehicle. Although Congress enacted the K.T. Safety Act (the statute that mandated NHTSA to create the backup camera requirement) to reduce back over crashes, FMVSS No. 111 requires that the driver be provided with information that would *enable* the driver to take action to avoid a back over

1988), *https://isearch.nhtsa.gov/files/3140o.html* (''I would like to point out that manufacturers are not required by Standard No. 302 to test the flammability of their vehicles in only the manner specified in the standard. The standard only sets the procedure that the agency will use in its compliance testing.'').

[60] NHTSA believes that this issue is more appropriately addressed in a separate **Federal Register** notice, rather than in this notice addressing a specific petition from a specific manufacturer.

[61] NHTSA notes that under its prior, longstanding position that manufacturers are not required to certify compliance based on NHTSA's FMVSS test procedures, Nuro's request for an exemption from provisions of the test procedures would likely have been considered moot.

[62] Note that FMVSS No. 111 does not require that LSVs be equipped with a display screen; it only requires that the LSV produce a ''rearview image'' that meets the criteria of S6.2. While most conventional vehicles with human drivers comply with this requirement through the use of a screen on which the rearview image is displayed, the R2X does not have such a screen because, since it cannot be operated by a human driver, such a screen is unnecessary.

crash.[63] Specifying appropriate performance requirements for ADS brake activation would require significant research that is not feasible for purposes of this exemption, applicable to a limited number of vehicles. NHTSA notes, however, that Nuro, like all motor vehicle manufacturers, must safeguard against safety-related defects.[64] NHTSA would not hesitate to exercise its defect authority should information indicate that an ADS does not appropriately brake in response to the presence of objects in its vicinity. NHTSA also mitigates any potential risk through the limited number of vehicles that can be produced pursuant to this exemption, and through the terms and conditions described below.

VII. Nuro's Requests for Exemptions From the LSV Mirror, Windshield, and Backup Camera ''Linger Time'' Requirements Are Granted Under Both the ''Low-Emission Vehicle'' (LEV) and ''Equivalent Overall Safety'' (EOS) Exemption Bases

Based on the contents of Nuro's public petition and the comments received in response to the Notice of Receipt, NHTSA has made the findings required to grant Nuro's petition for an exemption from the mirror, windshield, and backup camera ''Linger time'' requirements under both the Low-Emission Vehicle basis and the Equivalent Overall Safety basis.

a. Findings Specific to the LEV basis

i. The R2X Is a Low-Emission Vehicle

A vehicle is considered a low-emission vehicle for the purposes of § 30113 of the Vehicle Safety Act if it emits air pollutants significantly below the standards for new vehicles applicable to the vehicle set under § 202 of the Clean Air Act. Since the R2X is an electric vehicle and would not emit any such pollutants, it is a low-emission vehicle under § 30113. This issue was not contested in the public comments. Further, as discussed above, there is no need for the agency to find a nexus between the fact that the vehicle is an LEV and the reason the vehicle is non-compliant.

ii. An Exemption From the Mirror, Windshield, Backup Camera ''Linger Time'' Requirements, and Portions of the Backup Camera Test Procedures Relating to Rearview Image FOV, Size, and Response Time, Would Not Unreasonably Lower the Safety Level of the R2X

Given that an exemption from the mirror, windshield, and backup camera ''Linger time'' requirements would not lower the level of safety of the R2X, NHTSA finds that an exemption would not unreasonably lower the safety of the R2X as compared to that of a compliant R2X. In addition, NHTSA finds that, because an exemption from the FMVSS No. 111 test procedure provisions relating to fuel tank loading (S14.1.2.2), driver's seating position (S14.1.2.5), steering wheel adjustment (S14.1.7), and the opening of the driver's door and activation of the starting system (S14.2(a)–(c)) would not affect whether the R2X's backup camera system meets the substantive requirements for ''Field of view'' (S6.2.1), ''Size'' (S6.2.2), and ''Response time'' (S6.2.3), an R2X exempted from these test procedure provisions would not lower the safety of the vehicle. Because NHTSA finds that safety would not be lowered, NHTSA does not reach the question of whether safety would be unreasonably lowered.

iii. An Exemption From the Mirror, Windshield, and Backup Camera ''Linger Time'' Requirements Would Make Easier the Development or Field Evaluation of the R2X

An exemption from the mirror, windshield, and backup camera ''Linger time'' requirements would make easier the development or field evaluation of the R2X because it will permit Nuro to deploy the R2X without equipping the vehicle with extraneous safety features that, as noted earlier, NHTSA has found to not serve a safety function on an occupantless low-speed ADS vehicle.

Nuro argues in its petition that compliance with these requirements potentially imposes costs on Nuro and make it more difficult to field test the R2X because compliance ''increases pedestrian strike risk, adds mass, and worsens the impact of collisions.'' NHTSA agrees that, because compliance would require the R2X to be equipped with additional equipment, compliance with the standard would increase the cost of performing field evaluations of the R2X due to higher manufacturing costs and design restrictions. NHTSA also agrees that increased weight would make field evaluation of the vehicle harder by limiting the utility of the R2X as a delivery vehicle, because extra equipment may increase the curb weight of the vehicle, which could decrease the amount of cargo it can carry. (LSVs are required to have a GVWR of 3,000 pounds or below, regardless of the curb weight of the vehicle.)[65]

While the exemption from the backup camera linger time requirement would not impact the manufacturing cost or weight of the vehicle, NHTSA finds that granting an exemption from that requirement would also make easier the field evaluation of the R2X because it would allow the R2X's ADS to operate continuously with full sensor input at all times, which would aid with Nuro's evaluation of the ADS's performance.

b. Findings Specific to the EOS Basis

i. An R2X Exempt From the Mirror, Windshield, Backup Camera ''Linger Time'' Requirements, and Portions of the Backup Camera Test Procedures Relating to Rearview Image FOV, Size, and Response Time, Would Have an Overall Level of Safety Equivalent to That of a Nonexempt Vehicle

Because an exemption from the mirror, windshield, and backup camera ''Linger time'' requirements would not lower the level of safety of the R2X, NHTSA finds that an R2X exempted from these requirements would have a level of safety at least equal to that of a compliant version of their R2X. In addition, NHTSA finds that because an exemption from the FMVSS No. 111 test procedures relating to fuel tank loading (S14.1.2.2), driver's seating position (S14.1.2.5), steering wheel adjustment (S14.1.7), and the opening of the driver's door and activation of the starting system (S14.2(a)–(c)) would affect whether the R2X's rearview image meets the substantive ''Field of view'' (S6.2.1), ''Size'' (S6.2.2), and ''Response time'' (S6.2.3) requirements, an R2X exempted from these test procedure provisions would provide a level of safety equivalent to a vehicle tested in accordance with the FMVSS No. 111 test procedures.

ii. Compliance With FMVSS No. 500 Would Prevent Nuro From Selling the R2X

Compliance with FMVSS No. 500 would prevent Nuro from commercially deploying the R2X because it requires the R2X to be equipped with the three additional features that are the subject of this exemption (exterior and/or interior mirrors, a windshield

[63] NHTSA considered this technology as part of the rulemaking that established the backup camera requirement. In the Final Rule on the subject, NHTSA acknowledged that ''it may be possible that automatic braking or other future systems offer comparable or greater protection to the public without the use of a rearview image,'' but noted that the agency was ''not currently aware of any established, objective, and practicable way of testing such systems to ensure that they offer a minimum level of protection to the public.'' 79 FR 19178, 19203 (Apr. 7, 2014). NHTSA has not yet taken action to add an automatic braking element to the backup camera requirements in FMVSS No. 111.

[64] See 49 U.S.C. 30112(a)(3), 30118–20.

[65] See 49 CFR 571.3

constructed from FMVSS No. 205-compliant glazing materials, and a backup camera that meets the ''Linger time'' requirement of FMVSS No. 111).

We note that, while the statutory language for the EOS states that NHTSA must find that compliance with the FMVSS would prevent Nuro from ''selling'' the R2X, this language does not limit the application of the statutory basis to only vehicles that will be offered for sale (which Nuro states the R2X will not). Rather, to grant an exemption under the EOS basis, NHTSA must find that compliance with the standard would prevent Nuro from selling the R2X *regardless* of whether Nuro actually intends to sell the R2X. Section 30113 of the Vehicle Safety Act does not require that a vehicle exempted under the EOS basis enter into interstate commerce only through a sale, and NHTSA can think of no reasonable safety-related policy justification for reading such a requirement into the statute. Accordingly, we have determined that Nuro may introduce the R2X into interstate commerce by means other than selling, even if the vehicle is exempted under the EOS basis.

c. Granting Nuro's Petition Is Consistent With the Public Interest and the Vehicle Safety Act

As discussed above, the Vehicle Safety Act and its implementing regulations provide the Secretary and, by delegation, NHTSA with broad authority and discretion in determining whether granting the petition is consistent with the public interest and Vehicle Safety Act. Here, NHTSA finds that granting Nuro's petition is consistent with the public interest and 49 U.S.C. Chapter 301 because an exemption would enable a limited-risk deployment [66] of an occupant-less ADS-equipped vehicle that has been designed without any residual consideration of human occupants that are not actually able to be inside the vehicle. Further, granting the petition will provide the agency with valuable information that can facilitate its knowledge of ADS functionality to advance future policy and regulatory decisions. Given the agency's above determination in the safety findings that the exemption will not lower the safety of the R2X as compared to a compliant version of the vehicle, and could instead provide incremental benefits to vehicle safety due to certain design changes, the agency believes that these reasons are more than sufficient to justify this finding.

More specifically, allowing for the introduction of the R2X as it has been designed by Nuro to optimize its performance as an occupant-less vehicle could further the development of new and innovative vehicle automation technologies, which may in turn lead to future benefits for vehicle safety, the environment, and the economy. While the extent of the anticipated benefits of ADS vehicles like the R2X are uncertain, commenters Local Motors and SAFE suggested that these vehicles could provide a variety of benefits, including increased safety (because ADS vehicles may reduce the number of crashes caused by human error), decreased emissions (because ADS vehicles could perform the driving task more efficiently and, in the case of the R2X, efficiently combine trips), and socioeconomic benefits (because ADS vehicles could provide expanded goods delivery services to poor and/or underserved communities).

While NHTSA cannot fully predict the extent to which these benefits will materialize in the future and, more specifically, the effect that granting this petition would have on those benefits, the agency understands that development of the ADS technology necessary to make these potential benefits possible requires the technology be used on vehicles that are designed from the ground-up to be automated and in real-world (non-simulated) environments, both to validate the safety of the current ADS technologies and to expose those technologies to new situations in which ''machine learning'' capabilities can be used to improve performance.[67] In all events, the exemption request must be considered based upon the information available to the agency at this time, and NHTSA may revisit the issues here in the future as circumstances warrant. By virtue of filing this petition, Nuro believes that this exemption would better facilitate their development of this technology. Given that the R2X has a much lower top speed and lower weight than a typical passenger motor vehicle, and that the R2X will not have occupants, NHTSA believes that LSV-based ADS vehicles like the R2X provide a low-risk platform for validating and improving ADS technologies.[68]

Finally, granting this exemption is in the public interest and consistent with the Vehicle Safety Act because it would encourage the development of new safety and automated technologies, like ADS, with an eye toward future regulatory changes. To this end, NHTSA believes that both the public interest and the goals of the Vehicle Safety Act would be best served if NHTSA were able to maintain a dialogue with Nuro about its experience operating the R2X, which may help inform the agency's future policy decisions towards ADS technologies. Accordingly, NHTSA has decided to condition the grant of an exemption on Nuro providing the agency with specified periodic and incident-based reporting of information about the R2X's ADS, notwithstanding that the driving capability of the ADS is not relevant to the requisite safety findings.

VIII. Nuro's Request for an Exemption From the Backup Camera ''Deactivation'' Requirement Is Moot

NHTSA has deemed moot Nuro's request for an exemption from the backup camera ''Deactivation'' requirement (FMVSS No. 111, S6.2.5) because the requirement does not mandate that the backup camera deactivate when the vehicle shifts out of reverse, as Nuro assumed in its petition. Accordingly, an exemption from the ''Deactivation requirement'' is not necessary for Nuro to design the R2X to operate with the backup camera activated at all times, which was Nuro's stated purpose of requesting an exemption.

The deactivation requirement specifies the circumstances in which the backup camera image may be deactivated, *i.e.,* when ''the driver modifies the view, or the vehicle direction selector is removed from the reverse position.'' Contrary to Nuro's understanding, S6.2.5 does not require the backup camera to deactivate; rather, the requirement prohibits the backup camera from being deactivated prior to either of the two specified conditions being met. That is, S6.2.5 requires that

[66] In terms of vehicle size, weight, and speed, as well as limited operational design domain and fleet size.

[67] We note that the FAST Act (Pub. L. 114–94, 129 Stat. 1312 (Dec. 4, 2015) amended the Vehicle Safety Act to permit vehicle manufacturers that existed before December 2015 to operate uncertified vehicles on public roads for purposes of testing and evaluation. See 49 U.S.C. 30112(b)(10). As Nuro has only been a manufacturer since 2018 (see *https://vpic.nhtsa.dot.gov/mid/manufacturer/details/18808*), Nuro does not qualify for this exclusion and so must certify its vehicles as FMVSS-compliant, or obtain a temporary exemption, before deploying them in any capacity on public roads.

[68] We note that our determination that the R2X is a lower-risk platform for testing ADS technologies is, in part, premised on Nuro taking its responsibility for the safety of its vehicles seriously, which includes compliance with the terms set out at the end of this notice. If NHTSA determines that Nuro has violated the terms laid out at the end of this notice, NHTSA may determine at that time that the exemption is no longer in the public interest, and may withdraw the exemption. See 49 CFR 555.8(d)(1).

the rearview image be displayed prior to either the driver manually modifying the view or the gear selector being taken out of reverse. The requirement does not mandate that the image shall cease to be visible when one of these conditions is met. Thus, assuming the driver has not manually modified the rearview image, S6.2.5 would permit the rearview image to be displayed even after the gear selector had been taken out of reverse;[69] but, per S6.2.4, it may not be displayed after the end of the backing event, as that term is defined in S4.

Since the deactivation requirement in S6.2.5 permits, but does not require, deactivation of the rearview image when the vehicles is taken out of reverse, Nuro's request for exemption from the requirement is moot.

IX. Other Issues Raised by Commenters

a. Relevance of the Driving Capability of the R2X's ADS

Several commenters raised the issue of whether, and the extent to which, the driving ability of the R2X's ADS was relevant to the safety findings NHTSA must make to grant an exemption under § 30113, under any basis. Advocacy groups, including AAMVA,[70] Advocates,[71] and NSPE,[72] assumed, without providing a legal basis for their assumption, that the ability of the R2X's ADS to perform the driving task must be a major factor for NHTSA to consider in its evaluation of Nuro's petition. These groups argued that Nuro's petition did not include sufficient information about the ADS for NHTSA to grant an exemption because Nuro did not include documentation of the various testing it had done in developing its ADS, though these groups generally did not specify in detail what data they believed Nuro should have provided. However, one safety advocate, CAS, did include a discussion of why it believed the driving ability of the R2X's ADS should be an element of NHTSA's in its safety findings.[73]

According to CAS, the driving ability of the R2X's ADS is relevant because the FMVSS often have ''an implicit human operator bias.'' Accordingly, CAS argues that manufacturers of ADS vehicles must be required to demonstrate that the manufactures ''have successfully replicated in their automatic systems the human sensory capability, responses, and judgement implicit in the specific FMVSS for which an exemption is sought.'' Using the mirror requirement as an example, CAS argues that, for Nuro to be exempted from the LSV mirror requirement, its petition must demonstrate that the R2X's ADS will respond as a human using mirrors would in a potential crash scenario. However, CAS does not cite a legal basis for reading into the FMVSS a requirement that the ADS must react in a certain way in these driving scenarios. While other comments from advocacy groups were not as thorough as CAS in their discussion of the relevance of the ADS, they all roundly criticized Nuro's petition for a perceived lack of information about the ADS and other related subjects (such as the ODD and remote operator system) they claim are relevant to the safety findings NHTSA must make.

On the other side, SAFE, Local Motors, and the Alliance, argued in their comments that the driving capability of the R2X's ADS is not relevant to the safety findings NHTSA must make to grant an exemption. According to SAFE, the R2X's ADS is not relevant to NHTSA's safety findings because the exemption statute requires NHTSA to determine how the safety level of the non-compliant R2X would differ from that of a compliant vehicle, which in this case, would be a compliant occupantless, low-speed ADS vehicle.[74] Thus, based on SAFE's logic, NHTSA's findings must focus on the safety implication of non-compliance as it relates to the specific standards from which an exemption is sought, not on how safe an exempted vehicle would be generally.[75] Using similar logic, Local Motors argued that ''ADS performance measurement is less meaningful to the specific features being omitted,'' although Local Motors did encourage NHTSA to require some information reporting to maintain oversight of the vehicles.[76] The Alliance argued for the same outcome—that the R2X's ADS should not be considered in NHTSA's safety findings—but justified its argument on the grounds that ADS competency should not be considered because it is already ''addressed'' through the Voluntary Safety Self-Assessment (VSSA) criteria and the Department's ADS 2.0 and AV 3.0 guidance.[77]

NHTSA agrees with SAFE and Local Motors that the ADS does not factor into the comparative safety findings NHTSA must make to grant an exemption under either the EOS or LEV bases in this instance. As we briefly explained at the start of the ''Safety Analysis'' section, neither the statute nor regulations call upon NHTSA to assess the absolute level of safety of the exempted vehicle in question and find whether the vehicle's safety exceeds some minimum threshold that exists in the abstract. Instead, the agency is tasked with making a judgment about relative safety, *i.e.,* whether an exempted, noncompliant version of a highly automated R2X would have a level of safety equivalent to that of a nonexempt, compliant version of a highly automated R2X. As we noted, Nuro has stated that an R2X that is exempted from the requirements of FMVSS No. 500 would use the same ADS as an R2X that is fully compliant, which would rely on the same sensors and would perform the same classifying, decision making and executing functions. Thus, because a compliant version of the R2X would also operate using an ADS, there is no meaningful difference in the safety impact of the ADS between a compliant and non-compliant R2X.[78]

While we agree with the Alliance that the driving performance of the ADS is not germane to the safety findings NHTSA must make to grant Nuro's petition, we do not agree with the Alliance that the VSSA process is the appropriate framework NHTSA should use to exercise oversight of ADS vehicles that are produced subject to an exemption. First, as stated in NHTSA's ADS 2.0 guidance, and reemphasized in the Department's AV 3.0 and other statements, VSSAs are completely voluntary and the agency has no mechanism with which to compel their submission. VSSAs are intended to be documents by which ADS developers convey to the public information about how safety is factored into the development of the ADS in several specific critical areas and, thus, are not intended to be tools of regulatory oversight. Further, the agency is not, in this notice, foreclosing the possibility that, in considering whether to grant an ADS-related exemption petition for a vehicle that is requesting exemption

[69] The only restriction on when the rearview image must be deactivated is the linger time requirement (S6.2.4), from which we have decided to grant Nuro an exemption, as is explained in the previous section.

[70] See NHTSA–2019–0017–0025.

[71] See NHTSA–2019–0017–0026.

[72] See NHTSA–2019–0017–0011.

[73] See NHTSA–2019–0017–0024.

[74] See NHTSA–2019–0017–0016.

[75] We note that SAFE discusses only the LEV and NSF bases, but its point could be applicable to the EOS basis as well.

[76] See NHTSA–2019–0017–0017.

[77] See NHTSA–2019–0017–0020.

[78] As noted earlier, the Vehicle Safety Act permits manufacturers to include any design feature they want on a vehicle so long as the vehicle conforms to the FMVSS, and the vehicle does not contain a defect that poses an unreasonable risk to safety. Thus, the ADS would be subject to NHTSA's defects authority, and some aspects of its competence may be appropriately considered in a defect investigation of the R2X by NHTSA.

from many more FMVSS requirements than Nuro, NHTSA would determine that the competency of the ADS is relevant to making the requisite safety finding. Rather, the agency has simply determined that such an analysis is not necessary here.

It is important to note that, while the driving capability of the R2X's ADS was not a factor in NHTSA's findings concerning whether the agency should grant Nuro's petition, as described above, nothing in this decision precludes NHTSA from seeking information about the ADS as part of a defect investigation, just as the agency would be able to seek information about the ADS in an investigation of a FMVSS compliant ADS-equipped vehicle. Neither this decision nor the Vehicle Safety Act prohibits NHTSA from mitigating ADS-related risks in determining the number of vehicles to exempt or the terms that apply to the exemption. Accordingly, NHTSA has conditioned this exemption grant on terms that the agency believes will mitigate risk and ensure the agency can maintain adequate oversight of deployed R2X vehicles. The agency has included several terms that require Nuro to report both general and incident-related information to NHTSA, including certain data about the operation of the R2X and its ADS. As described above, NHTSA believes granting this petition is in the public interest in part because this data will assist the agency both with its oversight of the R2X, and with developing regulatory changes to facilitate the safe introduction of fully compliant ADS vehicles.

b. ADS-Related Data Reporting

Several commenters also raised the issue of whether, and to what extent, NHTSA should require Nuro to report data about the operation of the R2X to the agency. While most commenters agreed that some required post-grant data reporting requirement would be appropriate, the commenters disagreed on whether this reporting should include information about the operation of the R2X using the ADS.

The commenters in favor of broad reporting requirements that cover information about the operation of the R2X and/or its ADS included advocacy groups like Advocates, CAS, and AAMVA, as well as the manufacturer Local Motors. Advocates argued that NHTSA should use the exemption process to increase the agency's understanding of ADS technologies through ''required data sharing,'' though it did not provide detail as to what data it believed would be useful for NHTSA to collect, nor what exactly is meant by ''sharing.'' [79] Both CAS [80] and AAMVA [81] suggest that NHTSA should ''monitor'' and require periodic reporting from Nuro, though they do not specify details of the scope or frequency of this monitoring and reporting. Local Motors suggested that NHTSA could require reporting of information related to route hazards, near misses, collision incidents, injuries, and disengagements of the ADS.[82] Regardless of what is reported, both AAMVA and Advocates argue that, because the R2X could potentially operate beyond the two-year exemption period, and could develop over time through software changes, any reporting requirements should last for the entirety of the R2Xs' useful life.

Commenters who argued against significant reporting requirements included the Alliance and Nuro itself. The Alliance argued that data reporting on the operation of the R2X and/or its ADS should not be required, both because of what it refers to as the ''limited'' nature of Nuro's exemption request, and because NHTSA has the VSSA process to obtain this information.[83] The Alliance argues that if NHTSA does impose any reporting requirements, such requirements should be limited to the specific exemptions from the FMVSS requirements at issue in the petition, and that information about the ADS should be pursued in other ways, such as through a pilot program. In addition, the Alliance argues that, if there are any reporting requirements, they should not extend beyond the two-year exemption period. While Nuro did not object to reporting generally, it did suggest that NHTSA should only require reporting of information relating to a small subset of potential crash events, or narrowly tailored to the discrete aspects of vehicle performance affected by individual exemptions (which would omit reporting of any information about the operation of the R2X or its ADS).[84]

NHTSA has determined that limiting reporting requirements in the way suggested by the Alliance and Nuro would not be appropriate, because it could harm the public interest both by hindering NHTSA's oversight of the R2X and limiting NHTSA's ability to learn from information from Nuro to potentially inform future activities. Accordingly, NHTSA has decided to include terms that would require both crash-related information that is sent to the agency very soon after any crash, and periodic reporting of general information about the operation of the R2X, and that this reporting should extend throughout the useful life of the vehicles produced pursuant to the exemption.

c. Compliance With FMVSS Requirements Not Applicable to the R2X

AAMVA argues in its comment that Nuro should be required to apply for an exemption from the requirement that LSVs come equipped with an FMVSS No. 209-compliant seat belt, despite the vehicle's lack of designated seating positions, because AAMVA is concerned that allowing this would set a precedent that manufacturers could simply decide that certain FMVSS requirements do not apply to their vehicles.[85] NHTSA does not agree with AAMVA's assertion that Nuro is free to choose which FMVSS apply. FMVSS No. 500 is quite clear as to the seat belt requirement. It is written as an ''if-equipped'' requirement; that is, it requires that an LSV have an FMVSS No. 209-compliant seat belt at each designated seating position (DSP). Since the R2X does not have any DSPs, it is not required to have any seat belts. All LSVs with DSPs are subject to the requirements of FMVSS No. 209.

Similarly, CAS argues that NHTSA should require that the R2X be equipped with an FMVSS No. 401-compliant trunk release in its cargo compartments as a term of granting the petition.[86] Although NHTSA encourages Nuro to make its vehicles as safe as possible, and to consider installing trunk releases, FMVSS No. 401 does not apply to LSVs. Under section 30113 and Part 555, the question that Nuro's petition puts before NHTSA is whether Nuro should be exempted from three of the requirements to which its vehicle is subject under FMVSS No. 500.

The question of whether LSVs should be subject to additional performance requirements is outside the scope of this proceeding, and the agency does not have a legal basis to impose additional FMVSS requirements on the R2X, either as a pre-condition of granting an exemption, or as a term for maintaining an exemption grant. However, the agency may consider whether to include a trunk release requirement should we decide in the future to amend the FMVSS to specifically regulate occupantless delivery vehicles, as described in the Notice of Receipt for this petition.

[79] See NHTSA–2019–0017–0026.
[80] See NHTSA–2019–0017–0024.
[81] See NHTSA–2019–0017–0025.
[82] See NHTSA–2019–0017–0017.
[83] See NHTSA–2019–0017–0020.
[84] See NHTSA–2019–0017–0023.
[85] See NHTSA–2019–0017–0025.
[86] See NHTSA–2019–0017–0024.

d. Cybersecurity

Three commenters—CAS, NSPE, and Patrick Coyle—all raised cybersecurity concerns as well. CAS states that ''end-to-end encryption,'' which Nuro states the R2X's communications will have, is insufficient to assure cybersecurity alone.[87] CAS also commented that safety-critical cybersecurity issues should be covered by Nuro's safety plan and that there should be ongoing assessments of Nuro's compliance with this plan. Similarly, NSPE states that the cybersecurity measures Nuro describes in its petition are insufficient, given the dangers an ADS vehicle could pose if hacked, and says that NHTSA should withhold approval until Nuro submits a detailed cybersecurity plan.[88] Mr. Coyle, a private individual, also states that Nuro's petition does not contain an adequate discussion of cybersecurity.[89]

Although the agency has no reason to believe that the cybersecurity risk between the R2X and a hypothetical compliant version of the R2X are any different, given the critical importance of cybersecurity, we have decided it would be in the public interest to include terms requiring Nuro to report any cybersecurity incidents and safety-critical cybersecurity vulnerabilities, and cease operation of all R2X vehicles if a cybersecurity incident that has an effect on safety occurs until the incident has been remedied.

e. Engagement With Local Authorities

Both AAMVA and AAA argue in their comments that community engagement would be important to ensuring the safe operation of the exempted vehicles and to gaining consumer acceptance. AAMVA stated that NHTSA should carefully consider how state and local authorities would be affected by the presence of exempted vehicles, and suggested that the acceptability of features like remote operation as a risk mitigation strategy should be up to State and local authorities.[90] AAA also stated that petitioners should describe outreach efforts in their petition.[91]

Although the question of whether Nuro adequately engaged with the local communities in which it is deploying the R2X is not a factor in the safety findings NHTSA must make to grant Nuro's petition, NHTSA agrees that community outreach and compliance with local regulation is important for both the safe operation of the R2X within the community (*e.g.,* safely interacting with first responders in an emergency) and social acceptance of the vehicles. For this reason, NHTSA has determined it is in the public interest to include terms that require Nuro to certify that it has engaged with and gained any legally necessary approval of all State and local authorities in the communities in which the R2X will be deployed.

[87] See NHTSA–2019–0017–0024.

[88] See NHTSA–2019–0017–0011.

[89] See NHTSA–2019–0017–0004.

[90] See NHTSA–2019–0017–0025.

[91] See NHTSA–2019–0017–0021.

X. Number of Vehicles

The Vehicle Safety Act provides that NHTSA may grant an exemption under the LEV and EOS bases for the production of a maximum of 2,500 vehicles during any 12-month period.[92] Nuro is permitted to produce up to 2,500 exempted R2X vehicles during any 12-month period of the exemption, or a maximum of 5,000 exempted vehicles over the full two-year exemption period.

XI. Terms

The Vehicle Safety Act grants the Secretary, as delegated to NHTSA significant discretion to condition the grant of an exemption ''on terms [NHTSA] considers appropriate.'' 49 U.S.C. 30113(b)(1) (delegation of authority at 49 CFR 1.95). Pursuant to this authority, NHTSA's grant of an exemption is subject to the terms set out in the Appendix following the preamble. Although, as we have noted, the performance of the R2X's ADS need not be addressed for this exemption, the Vehicle Safety Act does not limit the agency's authority solely to terms and conditions directly relevant to its specific determination. This is particularly true in instances, such as here, where the agency has considered the potential benefits of automation in its public interest finding, and where the party seeking the exemption is using a novel form of technology.

The exemption Nuro is receiving today is the first exemption NHTSA has granted under section 30113 to permit the deployment of an ADS vehicle that will be used for commercial purposes. As such, NHTSA appreciates that there will likely be heightened public interest about the vehicles allowed under this exemption petition, as evidenced by the public comments, and, the agency has decided to include provisions concerning the performance of the ADS in the terms for this exemption. NHTSA notes that violation of these terms may lead NHTSA to determine that the exemption is no longer in the public interest, which is a ground for the agency to terminate the exemption under 49 CFR 555.8(d). NHTSA may also take other appropriate enforcement action.

The terms NHTSA has chosen are designed to enhance the public interest and include post-crash reporting, periodic reporting, particular terms concerning cybersecurity, and certain general requirements. The post-crash reporting requirements would provide NHTSA with information necessary to understand the cause of the crash (including any role the ADS may have played), so the agency can take appropriate remedial action—up to and including requiring a recall, or even terminating the exemption and include the type of information the agency may request as a matter of course in any safety defect investigation involving an ADS-equipped vehicle. The periodic reporting requirements are intended to provide NHTSA with information about the operation of the R2X on public roads to facilitate improved safety oversight. NHTSA has also included restrictions on Nuro to ensure that the company is in a position to learn of and quickly resolve cybersecurity incidents related to safety. The general requirements are intended to ensure that Nuro removes from operation any vehicle determined not to be safe, Nuro comply with all relevant State and local laws, retain ownership of the vehicles, and provide a hotline for safety concerns.

We note that the terms we have included in this notice are similar to terms NHTSA has previously imposed on the importation of noncompliant ADS vehicles under 49 CFR part 591, though, consistent with the differing requirements of part 591, Nuro's exemption will allow for commercial deployment, rather than simply testing and demonstration. Finally, though not included in the terms below, Nuro must also comply, as a matter of law, with the requirements for a label that must be affixed to its exempted vehicles under part 555.9.

XII. Conclusion

In accordance with 49 U.S.C. 30113(b)(3)(B)(iii) and (iv), the agency is granting Nuro NHTSA Temporary Exemption No. EX 20–01 from paragraphs S5(b)(6) and S5(b)(8) of FMVSS No. 500; and paragraphs S6.2.4, S14.1.2.2, S14.1.2.5, S14.1.7, and S14.2(a)–(c) of FMVSS No. 111; provided that Nuro complies with the terms and conditions described in the Appendix to this document. The exemption shall be effective from February 11, 2020 to February 10, 2022.

[92] 49 U.S.C. 30113(d).

Appendix: Terms

1. Reporting Following a Crash

As soon as practicable, but no later than 24 hours after the R2X is involved in any crash in which either (1) the R2X is in motion, or (2) the R2X is struck by another motor vehicle, Nuro must inform NHTSA's Office of Vehicle Safety Compliance (OVSC) that the crash took place.

As soon as practicable, but no later than 7 calendar days after Nuro informs OVSC of a crash, Nuro must report to NHTSA the data elements specified in Table I.[93]

TABLE I—REPORTED DATA ELEMENTS

Data element	Recording interval/time (relative to time zero)	Data sample rate (samples per second)
Delta-V, longitudinal	0 to 250 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	100.
Maximum delta-V, longitudinal	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	N/A.
Time, maximum delta-V	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	N/A.
Delta-V, lateral	0–250 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	100.
Maximum delta-V, lateral	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	N/A.
Time, maximum delta-V, lateral	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	N/A.
Time, maximum delta-V, resultant	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter	N/A.
Lateral acceleration	N/A	N/A.
Longitudinal acceleration	N/A	N/A.
Normal acceleration	N/A	N/A.
Speed, vehicle indicated	−5.0 to 0 sec	2.
Engine throttle, % full	−5.0 to 0 sec	2.
Service brake, on/off	−5.0 to 0 sec	2.
Ignition cycle, crash	−1.0 sec	N/A.
Ignition cycle, download	At time of download	N/A.

The data elements specified in Table I must be reported in accordance with the range, accuracy, and resolution specified in Table II.

TABLE II—REPORTED DATA ELEMENT FORMAT

Data element	Minimum range	Accuracy	Resolution
Lateral, Longitudinal and normal acceleration	At option of manufacturer	At option of manufacturer.	At option of manufacturer.
Longitudinal, Longitudinal Maximum, Lateral, Lateral Maximum delta-V.	−100 km/h to + 100 km/h	±10%	1 km/h.
Time, maximum delta-V, longitudinal and lateral.	0–300 ms, or 0—End of Event Time plus 30 ms, whichever is shorter.	±3 ms	2.5 ms.
Time, maximum delta-V, resultant	0–300 ms, or 0—End of Event Time plus 30 ms, whichever is shorter.	±3 ms	2.5 ms.
Speed, vehicle indicated	0 km/h to 200 km/h	±1 km/h	1 km/h.
Engine throttle, percent full	0 to 100%	±5%	1%.
Ignition cycle, crash and download	0 to 60,000	±1 cycle	1 cycle.

In addition, Nuro must provide NHTSA's OVSC with the following information about the status of the ADS and/or remote operator before and during the crash event:

- If the ADS was in control of the vehicle during the event, a detailed timeline of the 30 seconds leading up to the crash, including a detailed read-out and interpretation of all sensors in operation during that time period, the ADS's object detection and classification output, and the vehicle actions taken (*i.e.,* commands for braking, throttle, steering, etc.).
- If a remote operator took over control of the vehicle prior to the event, a detailed timeline of the 30 seconds leading up to the remote operator taking over control, including a detailed read-out and interpretation of all ADS sensors in operation during that time period, the ADS's object detection and classification output, and the vehicle actions taken (*i.e.,* commands for braking, throttle, steering, etc.).
- If a remote operator was in control of the R2X at any point during or up to 30 seconds before the event, Nuro must provide a detailed timeline of any actions the remote operator took that affected the crash event, as well as any technical problems that could have contributed to the crash (signal latency, poor field of view, etc.).

Finally, Nuro must provide NHTSA with any additional information about the event that NHTSA deems pertinent for determining either crash or injury causation, including additional information related to the ADS or remote operator system.

2. Periodic Reporting

Beginning 90 days after the date of the exemption grant, and at an interval of every 90 days thereafter, Nuro must submit to NHTSA's OVSC a report detailing the operation of each R2X vehicle in operation during that time period. This report may provide this information either in aggregate or on a per-vehicle basis, but it must include the following:

- A calculation of the total miles the vehicle has traveled using the ADS during the report period, and heat maps of the geofenced area in which the vehicle operates to illustrate travel density. Nuro must provide the same information for miles traveled using a remote operator.
- Detailed descriptions of any material changes made to the R2X's Operational Design Domain (ODD) or ADS software during the reporting period.
- Detailed descriptions of any incidents in which the R2X has violated any local or state traffic law, whether operating using the ADS or under remote operation.
- Detailed descriptions of any incidents in which the R2X has experienced a sustained

[93] These data elements are based on the requirements in 49 CFR part 563, Event Data Recorders, with data elements related to occupant protection systems omitted. For purposes of reporting the data elements in this table, ''End of Event Time'' means the moment at which the vehicle's cumulative delta-V within a 20 ms time period becomes 0.8 km/h (0.5 mph) or less.

acceleration of at least 0.7g on any axis for at least 150 ms, or of any incidents in which the vehicle has an unexpected interaction with humans or other objects (other than crashes that require immediate reporting).

• Detailed descriptions of all instances in which a public safety official, including law enforcement, has attempted to interact with an R2X, such as to pull it over, or has contacted Nuro regarding an attempted interaction with the R2X.

• Detailed descriptions of any ''minimal risk condition fallback'' [94] or ''remote operator takeover'' [95] events that have occurred, even if no crash has occurred. If the event has occurred because the vehicle self-diagnosed a malfunction of a vehicle system, the report must include a detailed description of the cause and nature of the malfunction, and what remedial steps were taken. If the event was caused by the vehicle encountering a complex or unexpected driving situation, the report must include a detailed timeline of the ADS's decision-making process that led to the event, including any difficulties the ADS had in detecting and classifying objects. For any remote operator takeover event, Nuro must provide information about any technical issues encountered, such as signal latency.

In addition, Nuro must make necessary staff available to meet with NHTSA staff quarterly to discuss the status of its deployment program.

3. Cybersecurity

• Nuro must have a documented cybersecurity incident response plan that includes its risk mitigation strategies and the incident notification requirements listed below.

• Nuro must cease operations of all R2X vehicles immediately upon becoming aware of any cybersecurity incident [96] involving the R2X and any systems connected to the R2X that has the potential to impact the safety of the R2X.

• No later than 24 hours after being made aware of a cybersecurity incident, Nuro must inform NHTSA's Office of Defects Investigations (ODI) of the incident. Nuro must also respond to any additional requests for information from NHTSA on the cybersecurity incident.

• Prior to resuming its operation of R2X vehicles following the discovery of a cybersecurity incident, Nuro must inform NHTSA of the steps it has taken to patch the vulnerability and mitigate the risks associated with the incident, and receive NHTSA approval to resume operation.

4. Other Conditions

• Nuro must be capable of issuing a ''stop order'' that causes all deployed R2X vehicles to, as quickly as possible, cease operations in a safe manner, in the event that NHTSA or Nuro determines that the exempted vehicles present an unreasonable or unforeseen risk to safety.

• Nuro must coordinate any planned deployment of the R2X or change to the ADS/ODD with state and local authorities with jurisdiction over the operation of the vehicle as required by the laws or regulations of that jurisdiction.

• The R2X must comply with all state and local laws and requirements at all times while in operation. Each vehicle must be duly permitted, if applicable, and authorized to operate within all properties and upon all roadways traversed.

• Nuro must maintain ownership and operational control over the R2Xs that are built pursuant to this exemption for the life of the vehicles.

• Nuro must create and maintain a hotline or other method of communication for the public and Nuro employees to directly communicate feedback or potential safety concerns about the R2X to the company.

Authority: 49 U.S.C. 30113 and 49 U.S.C. 30166; delegations of authority at 49 CFR 1.95 and 49 CFR 501.4.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.4.

James C. Owens,

Acting Administrator.

[FR Doc. 2020–02668 Filed 2–10–20; 8:45 am]

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[94] The term ''minimal risk condition fallback'' refers to a situation in which the ADS pulls over using a ''failsafe trajectory,'' as described on page 21 of Nuro's VSSA, which Nuro submitted as an attachment to its comment. See Docket No. NHTSA–2019–0017–0023.

[95] The term ''remote operator takeover'' refers to a situation in which a remote operator takes control of a vehicle either because the ADS recommends remote operation, or because the remote operator deems it appropriate without being prompted by the ADS.

[96] As used in these terms, ''incident'' is defined as an occurrence that jeopardizes the functionality, confidentiality, integrity, or availability of a vehicle computing platform through the potential use of an exploit. ''Exploit'' refers to an action that takes advantage of a vulnerability to cause unintended or unanticipated behavior to occur on computer software and/or hardware.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modifications to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 26, 2020.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 3, 2020.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		Special Permits Data	
14951–M	Hexagon Lincoln, LLC	173.301(f), 173.302(a)	To modify the special permit to authorize permitted cylinders to have an ''in-service date'' on their labels. This date would be the date in which the cylinder was released from the Hexagon inventory and placed in the possession of the end user. (modes 1, 2, 3).
15347–M	Raytheon Missile Systems Co	173.301, 173.302a	To modify the special permit to authorize passenger carrying aircraft as a mode of transportation. (modes 1, 2, 3, 4, 5).
16560–M	Lightstore, Inc	173.302(a)	To modify the special permit to authorize additional 2.1 and 2.2 hazmat and to authorize an increase in the allowable maximum working pressure of certain cylinders. (modes 1, 2, 3).
20324–M	General Dynamics Mission Systems, Inc.	172.101(j), 173.185(a)(1)(i)	To modify the special permit to authorize the transportation in commerce of slightly modified designs of approved batteries and cells. (mode 4).
20474–M	Space Exploration Technologies Corp.	172.300, 172.400, 173.1	To modify the special permit to authorize an increase in tank pressure for certain propellant tanks. (modes 1, 3).
20861–M	Ayalytical Instruments Inc	173.120(c)	To modify the special permit to authorize an additional ASTM Standard Test Method D6450. (modes 1, 2, 3, 4, 5).
20902–M	Eastern Upper Peninsula Transportation Authority.	176.164(e)	To modify the special permit to authorize additional hazmat. (mode 3).

[FR Doc. 2020–02702 Filed 2–10–20; 8:45 am]

BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 6, 2020.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		Special Permits Data—Granted	
15279–M	University of Colorado At Boulder, EHS.	172.301(a), 172.301(b), 172.301(c), 173.199(a)(3), 173.199(a)(4), 173.199(a)(5), 178.609.	To modify the special permit to authorize new destinations due to lab increasing in size and moving.
16011–M	Americase, LLC	172.200, 172.300, 172.500, 172.400, 172.600, 172.700(a), 173.185(c), 173.185(f).	To modify the special permit to authorize an additional package.
16061–M	Battery Solutions, LLC	172.200, 172.300, 172.400, 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to authorize additional Class 8 and 9 hazmat, to remove the UN packaging code from the permit, to clarify the term operator and to increase the maximum gross mass of CellBlockEX material per package to 400kg.
20352–M	Schlumberger Technology Corp.	173.301(f), 173.302(a), 173.304(a), 173.304(d), 178.36(f).	To modify the special permit to authorize a thinner cylinder wall thickness of the cylinder.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20549–M	Cellblock FCS, LLC	172.400, 172.700(a), 172.102(c)(1), 172.200, 172.300.	To modify the special permit to authorize rail as an approved mode of transport.
20710–M	Kerr Corporation	173.4a(c)(2), 173.4a(e)(2)	To modify the special permit to authorize an alternative package marking (QR Code) in lieu of requiring a copy of the special permit to accompany each shipment.
20896–N	Applied Energy Systems, Inc	172.101(j), 173.187, 173.212, 173.240, 173.242, 176.83.	To authorizes the transportation in commerce of a gas purification apparatus containing certain Division 4.2 (spontaneously combustible solids) in non-DOT specification stainless steel pressure vessels.
20910–M	Cellblock Fcs, LLC	172.200, 172.300, 172.500, 172.400, 172.700(a).	To modify the special permit to authorize rail transportation.
20926–N	Cold Box Express, Inc	172.200, 172.600, 172.700(a)	To authorize the use of certain temperature-controlled shipping containers containing lithium ion batteries as not subject to certain shipping paper, training, and emergency response requirements.
20935–N	Daicel Safety Systems Americas, Inc.	172.320, 173.54(a), 173.56(b), 173.57, 173.58, 173.60.	To authorize the transportation in commerce of explosive articles classed as Division 1.4S, when packed in a special shipping container without being approved in accordance with 173.56.
20949–N	Sigma-Aldrich, Inc	178.601(k)	To authorize the testing of UN 4G combination packagings for the transportation in commerce of hazardous materials in which the inner packagings have been used multiple times to complete the tests in §§ 178.603, 178.606, and 178.608.
20952–N	Capella Space Corp	173.185(a)	To authorize the transportation in commerce of low production lithium ion batteries contained in equipment by cargo-only aircraft.
20958–N	University Of Colorado	173.301(g), 173.24(b), 173.24(f), 173.24(g), 175.30(c)(1).	To authorize the transportation in commerce of compressed air in Specification DOT 3AA cylinders, which are used to purge sensitive equipment.
20977–N	Rocket Lab Limited	173.185(a), 173.185(b)(4)	To authorize the transportation in commerce of low production lithium ion batteries contained in equipment (launch vehicle) in non-DOT specification packagings.
20979–N	Atk Space Systems Inc		To authorize the transportation in commerce of hazardous materials over 422 feet of public roadways without being subject to the HMR.
		Special Permits Data—Denied	
20879–N	Aviall Services, Inc	172.200, 172.300, 172.400, 173.159(j), 173.159(j)(3), 173.159(j)(4).	To authorize the transportation in commerce of nickel-cadmium batteries as not subject to the requirements of the HMR.
20943–N	Zhejiang Meenyu Can Industry Co., Ltd.	173.304(a), 173.304(d)	To authorize the manufacture, mark, sale, and use of non-DOT specification receptacles.
20956–N	Valtris Specialty Chemicals	171.8, 171.4, 172.203(l), 172.322, 176.70.	To authorize the transportation in commerce of two materials as not meeting the § 171.8 definition of a marine pollutant.
13179–M	Recycle Aerosol, LLC	173.21(i)	To modify the special permit to authorize recycling or reclamation as well as disposal of waste hazmat. (modes 1, 2, 3)
20893–M	Daimler Ag	172.301(c), 173.185(a)	To modify the special permit to authorize the transportation in commerce of untested pre-production lithium ion batteries contained in a flammable liquid powered vehicle. (mode 4)
20945–N	Air Medical Resource Group, Inc.	172.101(j), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of limited quantities of hazardous materials that exceed quantity limitations by air.
20946–N	Volkswagen Ag	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg net weight by cargo-only aircraft.
20981–N	Republic Helicopters, Inc	172.200, 172.300, 172.400, 173.27, 175.30, 175.33.	To authorize the transportation in commerce of refrigerating units via rotocraft external loads.
20987–N	Aji Bio-Pharma	172.200, 172.400	To authorize the transportation in commerce of certain Division 6.1 hazardous materials without shipping papers and labels.

[FR Doc. 2020–02703 Filed 2–10–20; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 12, 2020.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 6, 2020.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20989–N	Argotec Srl	173.185(e)(5)	To authorize the transportation in commerce of lithium ion batteries which have not been tested. (modes 1, 4).
20993–N	United States Dept. Of Energy.	173.467	To authorize the transportation in commerce of class 7 material in alternative packaging.
20994–N	Sk Innovation Co. Ltd	172.101(j)	To authorize the transportation in commerce of lithium ion batteries that exceed 35 kg by cargo-only aircraft. (mode 4).
20996–N	Norfolk Southern Railway Company.	174.85(a)	To authorize the transportation in commerce of hazardous materials by rail without buffer cars between placarded cars and engines. (mode 2).
20998–N	Daicel Safety Systems Americas, Inc.	173.301(a)(1), 173.302(a), 178.65(c)(3).	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders for use as components of automobile safety systems. (modes 1, 2, 3, 4, 5).
20999–N	U.S. Cryogenics, Inc	172.203(a), 172.301(c), 180.211(c)(2)(i).	To authorized the transportation in commerce of repaired pressure receptacles that have not been pressure tested in accordance with the specifications under which they were originally manufactured. (modes 1, 2, 3, 4, 5).

[FR Doc. 2020–02701 Filed 2–10–20; 8:45 am]
BILLING CODE 49090–60–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection: Activity under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT requiring U.S. and foreign air carriers to file traffic and capacity data pursuant to 14 CFR 241.19 and Part 217, respectively. These reports are used to measure air transportation activity to, from, and within the United States.

DATES: Written comments should be submitted by April 13, 2020.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

Electronic Access

You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

FOR FURTHER INFORMATION CONTACT: Jennifer Rodes, Office of Airline Information, RTS–42, Room E34–420, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or EMAIL *jennifer.rodes@dot.gov.*

SUPPLEMENTARY INFORMATION:

Comments: Comments should identify the associated OMB approval # 2138–0040 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0040, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

OMB Approval No. 2138–0040.

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedules T–100 and T–100(f).

Type Of Review: Extension of a currently approved collection.

Respondents: Certificated, commuter and foreign air carriers that operate to, from or within the United States.

T100 Form:

Number of Respondents: 119.

Number of Annual responses 1,428.

Total Burden Per Response: 6 hours.

Total Annual Burden: 8,568 hours.

T100F Form:

Number of Respondents: 190.

Number of Annual responses 2,280.

Total Burden Per Response: 2 hours.

Total Annual Burden: 4,560 hours.

Needs and Uses:

Airport Improvement

The Federal Aviation Administration uses enplanement data for U.S. airports to distribute the annual Airport Improvement Program (AIP) entitlement funds to eligible primary airports, *i.e.,* airports which account for more than 0.01 percent of the total passengers enplaned at U.S. airports. Enplanement data contained in Schedule T–100/T–100(f) are the sole data base used by the FAA in determining airport funding. U.S. airports receiving significant service from foreign air carriers operating small aircraft could be receiving less than their fair share of AIP entitlement funds. Collecting Schedule T–100(f) data for small aircraft operations will enable the FAA to more fairly distribute these funds.

Air Carrier Safety

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies. The FAA monitors changes in the number of air carrier operations as a way to allocate inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the FAA to develop airport profiles and establish priorities for airport inspections.

Acquisitions and Mergers

While the Justice Department has the primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved to determine if they would substantially reduce competition, or determine if the transaction would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger. The Justice Department uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Traffic Forecasting

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts. These forecast as used by the FAA, airport managers, the airlines and others in the air travel industry as planning and budgeting tools.

Airport Capacity Analysis

The mix of aircraft type are used in determining the practical annual capacity (PANCAP) at airports as prescribed in the FAA Advisory Circular *Airport Capacity Criteria Used in Preparing the National Airport Plan.* The PANCAP is a safety-related measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansions or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, the FAA develops ways of increasing airport capacity at congested airports.

Airline Industry Status Evaluations

The Department apprizes Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely and inclusive to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Mail Rates

The Department is responsible for establishing international and intra-Alaska mail rates. International mail rates are set based on scheduled operations in four geographic areas: Trans-border, Latin America, operations over the Atlantic Ocean and operations over the Pacific Ocean. Separate rates are set for mainline and bush Alaskan operations. The rates are updated every six months to reflect changes in unit costs in each rate-making entity. Traffic and capacity data are used in conjunction with cost data to develop the required unit cost data.

Essential Air Service

The Department reassesses service levels at small domestic communities to assure that capacity levels are adequate to accommodate current demand.

System Planning at Airports

The FAA is charged with administering a series of grants that are

designed to accomplish the necessary airport planning for future development and growth. These grants are made to state metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data, and service segment data are used to prepare airport activity level forecasts.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements that relate to fares, rates, and rules for international air transportation to ensure that the agreements meet the public interest criteria. Current and historic summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by aircraft type, type of service, and length of haul are needed to conduct these analyses: To (1) develop the volume elements for passenger/cargo cost allocations, (2) evaluate fluctuations in volume of scheduled and charter services, (3) assess the competitive impact of different operations such as charter versus scheduled, (4) calculate load factors by aircraft type, and (5) monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit applications for authority to operate to the United States. In reviewing these applications the Department must find that the requested authority is encompassed in a bilateral agreement, other intergovernmental understanding, or that granting the application is in the public interest. In the latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their U.S. operations. These benefits are compared and balanced against the benefits U.S. carriers receive from their operations to the applicant's homeland.

Air Carrier Fitness

The Department determines whether U.S. air carriers are and continue to be fit, willing and able to conduct air service operations without undue risk to passengers and shippers. The Department monitors a carrier's load factor, operational, and enplanement data to compare with other carriers with similar operating characteristics. Carriers that expand operations at a high rate are monitored more closely for safety reasons.

International Civil Aviation Organization

Pursuant to an international agreement, the United States is obligated to report certain air carrier data to the International Civil Aviation Organization (ICAO). The traffic data supplied to ICAO are extracted from the U.S. air carriers' Schedule T–100 submissions.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on February 5, 2020.

William Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2020–02706 Filed 2–10–20; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Renewal of the Art Advisory Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of renewal of the Art Advisory Panel of the Commissioner of Internal Revenue.

SUMMARY: The charter for the Art Advisory Panel has been renewed for a two-year period beginning January 30, 2020.

FOR FURTHER INFORMATION CONTACT: Maricarmen R. Cuello, C:AP:SEPR:AAS, 51 SW 1st Avenue, Miami, FL 33130, Telephone No. (305) 982–5364 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), that the Art Advisory Panel of the Commissioner of Internal Revenue, a necessary committee that is in the public interest, has been renewed for an additional two years beginning on January 30, 2020.

The Panel helps the Internal Revenue Service review and evaluate the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1986, as amended.

For the Panel to perform this function, Panel records and discussions must include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of the Internal Revenue Code.

Charles P. Rettig,

Commissioner of Internal Revenue.

[FR Doc. 2020–02630 Filed 2–10–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending December 31, 2019. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/initials
ABHAR WUENSCH	CHRISTA	
ANDO	MASAHIRO	

Last name	First name	Middle name/initials
ANDREASYAN	ARTHUR	
ANKER	ANNE-MARIE	
APPLEGATE	LEE	ANN
ARMSTRONG	MAURICE	RICHARD
ARNOLD	ANTOINE	JUNE MECHTHILD
ARTHUR	RICHARD	T.W.
AWFORD	NICOLA	LOUISE
BAER	PATRICK	MICHAEL
BALAM	ESENC	MERIC
BALDWIN	EDITH	LYNN
BALTES	MONIKA	
BARLETT	ROBERT	PAUL
BATES	JILLIAN	M.
BAUER	CAROL	HELEN
BAUMANN	ALEX	
BECKET	SANDRA	MARISOL
BENNETT	MOTOKO	
BENSON	LESLEY	JANE
BESKOW	ANNA	MARIE
BI	MINGQIANG	
BOCCHI	LAURA	MARIA
BODDAERT	CHRISTIAN	
BONINI	BETH	BROWN
BOSWELL	JIMMIE	DALE
BOULEVARD	HARRY	ANDREW
BOYER	FREDERIQUE	SIMONE CHRISTIANE
BRANDON	KATHERINE	ANNE
BREWER	RENE	ELAINE
BRIND'AMOUR RIFFOU	GABRIEL	LIAM
BROADBENT	OAN	
BROOKS	NEIL	EDWARD
BUCHEGGER	ZYANYA	SILIA
BULLEN	ROBERT	
BUSER	SELINA	BARBARA
CAMERON	STUART	K.
CAMPBELL	SHIRLEY	MURRAY
CAMPBELL-WESTLIND	ERIC	MAGNUS MICHAEL
CECIL	MICHAEL	
CHALERMKITTCHAI	PONGTAWAT	
CHAN	WILSON	
CHEN	AILENE	CHEUNG
CHEN	KUEI-HO	
CHENG	CANDICE	
CHEUNG	ANDREW	MAN CHIU
CIUMMO	BARBARA	
CIUMMO	VINCENZO	RICCIOTTI JOHN
CLARK II	JONH	MAURICE
CLOUSTON	PERRY	LOU
COBB	LAURA	MARIE
COHN	DAVID	MARTIN
COOKE BARNETT	SUSAN	PATRICIA
CUNHA	FERNANDO	BRANDAO LOBATO
DALAL	AADIT	HARSHAD
D'AMBROSIO	LOREN	AZRAEL
DAMSLETH	NICHOLAS	KAI
DAWE	MARY	JOSEPHINE
DE MESTRAL	SOPHIE	AIMEE
DE VRIES	DANIEL	M.
DEMBINSKI	MIGUEL	M.
DIDAOUI	TAREK	
DIL	NICO	PAUL
DIXON	MARCHANT	
DOLSKI	DIANE	G.
DOLSKI	GARY	L.
DRAPER	ANTHONY	J.
DUFF HORLICK	GEORGE	SIMON
EDWARD	CHRISTY	
EDWARD	MARY	LEELA
EUGSTER-BELLWALD	BARBARA	KRISTINA
EVANS	ALFRED	HENRY
FARNWORTH	NIGEL	
FIFE	SARAH	RODMAN
FLEET	GILLIAN	J.
FLEET	NEVILLE	J.

Last name	First name	Middle name/initials
FOLZ	KELLY	ANNE
FRANKLE	ROBERT	ETHAN
FURUYA	RUMIKO	
GAA	MARIYLN	ANNE
GAIFFI	ELISSA	JESSICA
GARTY	JOHN	PATRICK
GAUKRODGER	ELSPETH	JANE
GAUTHIER	VINCENT	
GERMAN	VERNA	
GRANT	MOIRA	ALEXANDRA
GRANT	STUART	SPENCER
GREEN	NAOMI	JOYCE
GREENBERG	KENNETH	JOSEPH
GREENFIELD	SABINE	ELISABETH
GREER BUTLER	EDWARD	JACK
GUSTAVSSON ATASEL	DENIZ	HJORDIS
HALFORD	ROBERTA	SUE
HARDMAN	NADEGE	MARTHA
HARNISCHBERG	SONJA	
HARPER	IAN	MICHAEL
HEINI	BRENDA	ANA
HELMICK	DORA	
HEMPHILL WITSCHI	ELSBETH	SUSANNA
HERTACH	INGRID	
HIGA	FUMI	
HIGA	YOSHIMITSU	
HIRATO	AKIO	
HIRATO	TERUKO	
HOFF	RUTH	ELSEBETH
HOLM	PAMELA	JEAN
HOLSTI	LIISA	
HONG	HEA	RA
HOWE	MARALYN	N.
HWANG	PI LON	LIN
ILS	CHRISTOPH	
IMMER	HEIDI	CHRISTINE
JACKSON CANFIL	STANLEY	ARTHUR
JACOBSON-PETROV	JOHANNA	RUTH
JANSEN	DAVID	PATRICK
JANSEN	TIMOTHY	VINCENT
JERROLD	YVONNE	
JEWELL	CHRISTINE	MARIE
JHALA	PRADHUMAN	
JOHNSON	EDWARD	JOSEPH
JONES	LOREEN	EVELYN
JONES	MARGARET	MARY
JONES	OLIVER	ALAN SOMERSET
JORDAN	OLIVIA	MICHELLE
JUDGE III	THOMAS	ATCHISON
KALYN	ANGELA	KARIN
KANG	DAE	JIN
KANOST	HEATHER	HERMINA
KIRKPATRICK	TOMOKO	U.
KISSOON	NIRANJAN	
KITAMURA	SAKAE	
KLASSEN	ALICE	ANN
KOENIG	WILLIAM	RUDOLPH
KRAMER	NANCY	GAIL
KRAUTHAMMER	MICHAEL	O.
KUBIN-CLANIN	ERNA	ROSEMARIE
KUCHER	TRENT	S.
KWAS-CAMS	MICHELE	JULIE
LAMONT	LINDA	BURNHAM
LANDER	SLADE	HALL
LAPLANE ZARROUATI	SABIN	ELISABETH
LAURENT	ELENIE	ANN
LEE	VINCENT	WEI-WEN
LEEMANN	LUCAS	THOMAS
LEHNIS	JANICE	KATHRYN
LEMOINE	ALIX	RENATA MARIE
LENZLINGER	DARIUS	IRAJ
LEVA	LINDA	MARIE
LI	XING	
LIEB	CHRISTOPHER	E.

Last name	First name	Middle name/initials
LITTLE	ROBERT	B.
LOCHER-DWORKIN	ROBERTA	MARIE
LUDER	PASCAL	MATTHIAS
LUNA	ENRIQUE	ANTONIO
MACHT	ALYSSA	ERIKA
MADER	NINA	CAROL
MARCHAL	RUTA	MEDENIS
MARQUIS	ELIZABETH	FAYE
MARRIS	MARTIN	D.
MARTIN	JOANNA	ELIZABETH
MASSAGUE	GERARD	
MAYBUD	SUSAN	JOAN
MC ARDELL	ERIC	PETER
MCCONNELL	JEFFREY	BRUCE
MCKEEVER	UNA	
MERCURY	NANCY	
MILLER	KENNETH	JAMES
MILLS	CONSTANCE	ANN
MINKOWITZ	CYDNEY	J.
MONGEON-BUDHRAM	DIANNE	LYNN
MORANTZ	ALAN	HOWARD
MORLINI	VINCENZO	
MORRIS	MARGARET	DAVEY
MUTZKE	ANNE-CATHERINE	
MYERS	SHARON	
NAKAJIMA	JUNKO	
NATHANSON	BARBARA	ARLENE
NORDBORG	INGMAR	STEN ANDRA'S
NOYES	CYNTHIA	ANN
O'DONNELL	MARGARET	MARY
OHLER	UWE	
OIEN	NANCY	C.
OLESEN	MARYAM	NATHALIE KADJAR
ONO	NORIKO	
OPENSHAW	CHARLES	ANDERSON
PAKOWSKI	ISABEL	JOHANNA
PARK	SANG	M.
PASZTORY	BALAZS	GABOR ANDRAS
PATEL	TARA	
PAULEY	ROYCE	ANTHONY
PERKINS	JAMES	HENRY
PETRUS	JEREMY	WAYNE
PHILLIPS	CONSTANCE	MARY
PLASCENCIA	JUAN	J.
PONTIN ADLER	JOAN	MARSHA
RAMPA ATTINGER	TAMARA	DANIELA
REISSENBERGER	TIM	
REVELL	SARAH	JANE
ROBERTSON	DAVID	C.
ROIZEN	JACQUES	
ROSALES DANUSER	PAULA	ANDREA
RUSH III	JOHN	VICTOR
SADEGHI	ALEXANDRE	ROGER CHARLES
SALLMANN	KAREN	CZUCHRY
SANGER	SYLVIA	A.
SBROCCHI	STEPHANIE	CLARE
SCHLOSSER	CHRISTOPHER	ROBERT
SCHMID	RAOUL	MANFRED
SCHRYVER	PATRICK	CLINTON
SCHWARZ	HERBERT	ERICH
SENGER-WEISS	VIVIENNA	CHRISTINE
SEO	HYE-REE	SOPHIA
SHAAR	RAMI	ADNAN
SIDHU	JAGMIT	K.
SINERIUS	HENDRIK	
SKENE	ZOE	J.
SMITH	JEAN	E.
SMITH	RHODA	J.
SONG	YUN	YING
SPENCER	JAN BRYON	C.
SPENCER	MIRIAM	
STEWARD	ROBERT	EDWARD
SURCHAT	CAROLINE	MELANIE
TAGAWA	KAZUE	

Last name	First name	Middle name/initials
TAGAWA	KOKICHI	
THAM	MAY YEE	A.
THOM	KELLY	ANN
THOMMEN	YANNICK	MARC
THOMPSON	VICKI	J.
TOSE	MICHAEL	BERNARD LEIGH
TRUMPLER	DANIEL	JAMES
TWELKER	SUNNY	SONYA
ULRICH	MICAELA	KREISBERG
VAN ZEVEREN	LAURENCE	INGRID JEANNE
VIGUS	BRIAN	
VIGUS	GERALDINE	G.
VIGUS	MICHAEL	B.
VOGEL	TOMOKO	
VOISIN	CATHERINE	J.
VOISIN	FABRICE	
WAGNER	CHERYL	ANN
WALKER	SCOTT	POLMANTEER
WALTHER	LAURA	J.
WASER	ANDREAS	RUDOLF
WENNIGES	JORG	WILHELM
WHITE	ROSIE	JEAN
WHITFIELD	CHARLES	P.
WIEDERKEHR	PETER	JAMES
WILES	OLIVER	JULIAN
WILLIAMS	ERIC	HENRY AVELANGE
WILLMS	ANNA	SOPHIA GEORGINA ELISABETH
WITTEK	JANINE	
WONG	DICKSON	
WUENSCHE	SEBASTIAN	BENJAMIN
YING TIN	JEFFREY	SHAW
YU	JIANYING	
ZANOTTA	DENA	CARMEN
ZEHNDER	LEXIA	ROSE
ZEUS	GABRIELE	G.
ZIJLSTRA	NICO	CHRISTIAAN
ZIMMERMANN	JENNY	MARIE

Dated: January 27, 2020.

Pamela Ross,

Manager Classification Team 82413, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2020–02632 Filed 2–10–20; 8:45 am]

BILLING CODE 4830–01–P

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Federal Register

Vol. 85, No. 28

Tuesday, February 11, 2020

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LIST OF PUBLIC LAWS

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