

**Date and Time:** Monday 9 September 2024 17:19:00 CEST

**Job Number:** 233032336

**Documents (19)**

1. [*Register of Commission documents: Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 Document date: 2018-12-07 COM\_COM(2018)0817 COM documents*](https://advance.lexis.com/api/document?id=urn:contentItem:5TXB-VHB1-JDG9-Y0NJ-00000-00&idtype=PID&context=1516831)

**Client/Matter:** -None-

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| News | Timeline: 31 okt 2018 tot 31 okt 2019; Locatie: International; Plaats van publicatie: Europe; Taal: English |

2. [*Register of Commission documents: Ensuring continuity of support for EU farmers in 2019 and 2020 Document date: 2019-01-09 EPRS\_ATA(2019)630355 At a glance*](https://advance.lexis.com/api/document?id=urn:contentItem:5V66-MFG1-JDG9-Y48X-00000-00&idtype=PID&context=1516831)

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3. [*DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020; Congressional Record Vol. 165, No. 98 (House of Representatives - June 12, 2019)*](https://advance.lexis.com/api/document?id=urn:contentItem:5WBM-S431-F0YC-N1KF-00000-00&idtype=PID&context=1516831)

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4. [*Council of the European Union:ANNEXES to the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL 12th FINANCIAL REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the EUROPEAN AGRICULTURAL GUARANTEE FUND 2018 FINANCIAL YEAR PDF document ST 11628 2019 ADD 113-08-2019*](https://advance.lexis.com/api/document?id=urn:contentItem:5WTP-M081-F0YC-N4JD-00000-00&idtype=PID&context=1516831)

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5. [*Register of Commission documents: agricultural expenditure Adjustments related to the legislative proposals included in the Brexit preparedness package of 4 September 2019 Reinforcements of administrative budgets and other updates based on recent developments Adjustment to the structure of the budget and a technical correction Document date: 2019-10-15 COM\_COM(2019)0487 COM documents*](https://advance.lexis.com/api/document?id=urn:contentItem:5X98-P9N1-JDG9-Y1VR-00000-00&idtype=PID&context=1516831)

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6. [*Council of the European Union: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 PDF document PE 3 2019 INIT31-01-2019*](https://advance.lexis.com/api/document?id=urn:contentItem:5S70-NXC1-F0YC-N07P-00000-00&idtype=PID&context=1516831)

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7. [*Netherlands Government Gazette: Decree of the Minister of Agriculture, Nature and Food Quality of 30 October 2018, no. WJZ / 18268852, regarding the direct payment tariffs 2018*](https://advance.lexis.com/api/document?id=urn:contentItem:5TNR-N9V1-F0YC-N34J-00000-00&idtype=PID&context=1516831)

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8. [*Committee on Import Licensing - Replies to questionnaire on import licensing procedures - Notification under article 7.3 of the Agreement on Import Licensing[...]ures (2019) - Hong Kong , China(Doc #:19-6493)*](https://advance.lexis.com/api/document?id=urn:contentItem:5X7D-YHB1-F0YC-N4JT-00000-00&idtype=PID&context=1516831)

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9. [*Netherlands Government Gazette: Decree of the Minister for Foreign Trade and Development Cooperation of 8 January 2019, establishing policy rules and a subsidy ceiling for subsidization under the Grant Regulations Ministry of Foreign Affairs 2006 (Subsidy Program DHI 2019-2023)*](https://advance.lexis.com/api/document?id=urn:contentItem:5S3M-6NT1-F0YC-N4RP-00000-00&idtype=PID&context=1516831)

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10. [*Register of Commission documents: common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 Document date: 2019-09-27 COM\_COM(2019)0433 COM documents*](https://advance.lexis.com/api/document?id=urn:contentItem:5X5N-2DM1-F0YC-N1R9-00000-00&idtype=PID&context=1516831)

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11. [*Netherlands Government Gazette: Regulation of the Minister of Agriculture, Nature and Food Quality of 22 October 2018, no. WJZ / 18032383, concerning exemption of the phosphate rights system for young stock in suckler cows (Sufferers Regulation suckler cows)*](https://advance.lexis.com/api/document?id=urn:contentItem:5TMF-SX51-F0YC-N0P8-00000-00&idtype=PID&context=1516831)

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12. [*United Kingdom Intellectual Property Office Publishes Application for Trademark "SUPERAGER"*](https://advance.lexis.com/api/document?id=urn:contentItem:5VRC-7911-F12F-F4HG-00000-00&idtype=PID&context=1516831)

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13. [*Modifications to Fuel Regulations: Provide Flexibility for E15; Modifications to RFS RIN Market Regulations*](https://advance.lexis.com/api/document?id=urn:contentItem:5THF-77K1-F0YC-N31W-00000-00&idtype=PID&context=1516831)

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14. [*Federal Register: Regulatory Reform Agenda Pages 65926 - 65954 [FR DOC #2018-27473]*](https://advance.lexis.com/api/document?id=urn:contentItem:5S11-14M1-JDG9-Y2TW-00000-00&idtype=PID&context=1516831)

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15. [*E US Army asks for FLRAA conceptual designs The US Army is soliciting conceptual designs for its Future Long Range Assault Aircraft (FLRAA), opening the competition to replace the Sikorsky UH-60 Black Hawk.*](https://advance.lexis.com/api/document?id=urn:contentItem:5X0G-NXB1-DYX4-73PJ-00000-00&idtype=PID&context=1516831)

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16. [*Federal Register: Air Plan Approval; Ohio ; Redesignation of the Columbus , Ohio Area to Attainment of the 2015 Ozone Standard Pages 31814 - 31826 [FR DOC #2019-14154]*](https://advance.lexis.com/api/document?id=urn:contentItem:5WGW-J0J1-F0YC-N0FY-00000-00&idtype=PID&context=1516831)

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17. [*Federal Register: Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania ; Redesignation Requests and Maintenance Plans for Delaware County and Lebanon County 2012 Fine Particulate Matter Areas Pages 33886 - 33903 [FR DOC #2019-15091]*](https://advance.lexis.com/api/document?id=urn:contentItem:5WKF-MR91-JDG9-Y53D-00000-00&idtype=PID&context=1516831)

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18. [*MPs told to pass Brexit deal by next Wednesday or face long article 50 extension - as it happened MPs vote by 321 to 278 to rule out no deal despite government whipping Tory MPs against motion, following 312-308 win for Spelman amendmentFull story: May's final warning to Tory rebels: back me or lose BrexitHow did each MP vote?What were the no-deal amendments?Evening summary*](https://advance.lexis.com/api/document?id=urn:contentItem:5VMJ-SR21-F021-61S7-00000-00&idtype=PID&context=1516831)

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19. [*‘One Ton’ quadcopter to start ground tests in June E Yo Copter plans to start ground tests of its massive jet-turbine powered quadcopter as early as June.*](https://advance.lexis.com/api/document?id=urn:contentItem:5W24-15X1-JCF2-H0MG-00000-00&idtype=PID&context=1516831)

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# [***Register of Commission documents: Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 Document date: 2018-12-07 COM\_COM(2018)0817 COM documents***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5TXB-VHB1-JDG9-Y0NJ-00000-00&context=1516831)

Impact News Service

December 8, 2018 Saturday

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**Length:** 3886 words

**Body**

Brussels: Public Register European Parliament has issued the following document:

EN EN EUROPEAN COMMISSION Brussels, 7.12.2018 COM(2018) 817 final 2018/0414 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 EN 1 EN EXPLANATORY MEMORANDUM 1. CONTEXT OF THE PROPOSAL • Reasons for and objectives of the proposal This proposal aims at providing certainty and continuity in the granting of support to European farmers in the years 2019 and 2020 by adapting two legislative acts of the Common ***Agricultural*** Policy (CAP). In relation to rural development, certain amendments of Regulation (EU) No 1305/2013 (Rural Development Regulation) are needed to ensure the continuity of the policy in the final years of the programming period and a smooth passage to the next programming period. These amendments concern a new degressivity schedule for phasing out payments to areas facing natural constraints other than mountain areas (ANC) and the use of EAFRD technical assistance at the initiative of the Commission for actions preparing the implementation of the future CAP. In relation to direct payments, some of the provisions in Regulation (EU) No 1307/2013 (Direct Payment Regulation) do not cover ***calendar*** year 2020 since expenditure relating to ***calendar*** year 2020 is made in financial year 2021, which is the first year of the new Multiannual Financial Framework (MFF) 2021-2027. At the time of adoption of the Regulation, it was therefore not possible to make commitments relating to the future MFF.

In the absence of an amendment of Regulation (EU) No 1307/2013, some Member States would face disruptive financial implications as regards direct payments in ***calendar*** year 2020, going beyond those related to the new MFF (MFF 2021-2027). Those Member States would be faced with important changes in their direct payments and rural development envelopes with considerable effects on the payments to farmers under both pillars. In addition, other technical elements are added, as they would facilitate implementation of the current legislative framework. • Consistency with existing policy provisions in the policy area The proposed amendments are consistent with the Rural Development Regulation and Direct Payment Regulation, therefore the proposal is consistent with the existing policy provisions of the CAP. • Consistency with other Union policies Not applicable 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY • Legal basis Articles 42 and 43(2) of the Treaty on the Functioning of the European Union (TFEU). • Subsidiarity (for non-exclusive competence) The TFEU provides that the competence for ***agriculture*** is shared between the Union and the Member States. The Union exercises its competence through the adoption of various legislative acts, thereby defining and implementing an EU common ***agricultural*** policy as provided for in Article 38 to 44 of the Treaty on the Functioning of the European Union. Regulations (EU) No 1305/2013 and (EU) No 1307/2013 set up a system for support for rural development and for direct payments to farmers. According to Article 39 of the TFEU, a treaty objective of the CAP is inter alia to ensure a fair standard of living for farmers and the EN 2 EN proposed initiative fits within this objective. Accordingly, with the European ***Agricultural*** Guarantee Fund (EAGF), the CAP funds direct payments and Regulation EU (No) 1307/2013 regulates the payments at Union level. Rural development support is an integral part of the CAP and contributes to the CAP objectives as laid down in the Treaty on the Functioning of the European Union. The added value of the proposal is to ensure certainty and stability of direct income support for European farmers in the year 2020 and of support for rural development in the final years of the current programming period. These objectives can only be achieved through an amendment of Regulations (EU) No 1305/2013 and (EU) No 1307/2013 by the EU co-legislators. • Proportionality The proposal does not entail any new policy developments compared to the legislative acts it intends to amend. The proposal modifies the existing Regulations only to the extent necessary to achieve the objectives outlined above. • Choice of the instrument Since the original legislative acts are regulations of the European Parliament and the Council, the amendments must also be introduced as a European Parliament and Council regulation by means of the ordinary legislative procedure. 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS The proposal deviates from standard practice as set out in the Better Regulation guidelines and in the Toolbox. A derogation to the standard practice is necessary for the following reasons: - the proposal is highly technical in its scope; - the initiative is confined to the final years of the current programming period; - it does not introduce new political commitments. An impact assessment, public consultation and a roadmap are therefore not suitable for this proposal. Moreover, as the legislation needs to be in place in 2019, adoption by the co-legislators is urgent. • Ex-post evaluations/fitness checks of existing legislation Not applicable • Stakeholder consultations Not applicable • Collection and use of expertise Not applicable • Impact assessment Not applicable EN 3 EN • Regulatory fitness and simplification Not applicable • Fundamental rights The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. 4. BUDGETARY IMPLICATIONS The proposed option for Member States to continue the current flexibility between direct payments and rural development in ***calendar*** year 2020 (financial year 2021), and the ***transfer*** of the estimated product of reduction from direct payments to rural development in that year, may, subject to Member States’ decisions, affect the allocation between direct payments and rural development. However, any such ***transfer*** will be neutral in terms of overall budgetary commitments. Further details on the financial implications of the present proposal are provided in the financial statement attached to the proposal. 5. OTHER ELEMENTS • Implementation plans and monitoring, evaluation and reporting arrangements Not applicable • Explanatory documents (for directives) Not applicable • Detailed explanation of the specific provisions of the proposal  Rural development The proposal makes it possible for the Member States to modify the degressivity schedule for payments to areas, which had received such payments in the previous programming period, while in the ongoing period, not being classified anymore as areas facing natural constraints other than mountain areas pursuant to Article 31(5) of Rural Development Regulation. This modification follows the extension of the deadline for the new delimitation of such areas to 2019 introduced by Regulation (EU) 2017/2393, which implies, by the end of the ongoing programming period, a shorter adaptation period for farmers who are no longer eligible for these payments. This modification would allow calculating transitional payments for the years 2019 and 2020 based on payment levels of the 2014-2020 period. Furthermore, the degressivity of the transitional payments shall be less steep as it shall be established by MS so that the end level is half of the starting level. The proposal extends the use of the technical assistance at the initiative of the Commission funded by the European ***Agricultural*** Fund for Rural Development (EAFRD) to actions related to the preparation of the future CAP. The proposal concerns exclusively the scope of technical assistance without modifying the financial support.  Flexibility between pillars in year 2020 and ***transfer*** of the product of reduction of direct payments to Rural development EN 4 EN The proposal includes provisions regarding the possibility for Member States to ***transfer*** funds between pillars in ***calendar*** year 2020 (corresponding to financial year 2021). For the period 2015-2019, Member States had the possibility to ***transfer*** amounts from direct payments to rural development and vice versa. Such flexibility for ***calendar*** year 2020/financial year 2021 is not laid out under the rules in force. This financial mechanism is an important mechanism for providing Member States with flexibility in managing their financial envelopes, and optimizing the use of available funds. Experience shows this mechanism has proven an effective tool for Member States and therefore certain Member States ***transfer*** a significant amount between the two pillars. An absence of flexibility between pillars in ***calendar*** year 2020/financial year 2021 would likely create serious financial disruptions for farmers in some Member States, as the effect on their envelopes could be significant. Accordingly, the proposal calls for a ***transfer*** between pillars to remain possible in ***calendar*** year 2020 under the same conditions as currently standing and that the estimated product of reduction continues to be ***transferred*** from direct payments to rural development. EN 5 EN 2018/0414 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42 and Article 43(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee1, Acting in accordance with the ordinary legislative procedure, Whereas: (1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council2 is the current legal framework for the support for rural development. It provides for support to areas facing natural constraints other than mountain areas. Taking into account the extension to 2019 of the deadline for the new delimitation of areas facing natural constraints other than mountain areas through Regulation (EU) 2017/2393 of the European Parliament and of the Council3 and the shorter adaptation period for farmers who will no longer be eligible for payments, degressive transitional payments that only start in 2019 should start at no more than 80% of the average payments fixed in the 2014-2020 programming period. The payment level should be established in such a way that the end level in 2020 is half of the starting level. (2) In order to provide assistance to Member States and stakeholders for the timely preparation of the future Common ***Agricultural*** Policy (CAP) and to ensure a smooth passage to the next programming period, it should be clarified that it is possible to finance activities linked to the preparation of the future CAP through technical assistance at the initiative of the Commission. 1 OJ C , , p. . 2 Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487). 3 Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD), (EU) 1306/2013 on the financing, management and monitoring of the common ***agricultural*** policy, (EU) 1307/2013 establishing rules for direct payment to farmers under support schemes within the framework of the common ***agricultural*** policy, (EU) No 1308/2013 establishing a common organisation of the markets in ***agricultural*** products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ L 350, 29.12.2017, p. 15). EN 6 EN (3) Regulation (EU) No 1307/2013 of the European Parliament and of the Council4 is the current legal framework for direct payments. While most of its provisions can apply as long as that Regulation remains in force, other provisions explicitly refer to ***calendar*** years 2015 to 2019 covered by the Multiannual Financial Framework 2014-2020. For some other provisions, their applicability beyond ***calendar*** year 2019 was not explicitly envisaged. In June 2018, the Commission has submitted a proposal for a new Regulation aiming to replace Regulation (EU) No 1307/2013, but only from 1 January 2021. Therefore, it is appropriate to proceed to some technical adjustments of Regulation (EU) No 1307/2013 so that it can be smoothly applied in ***calendar*** year 2020. (4) The obligation set out in Article 11 of Regulation (EU) No 1307/2013 to reduce the part of the amount of direct payments to be granted to a farmer for a given ***calendar*** year exceeding EUR 150 000 continues to apply as long as that Regulation is in force. However, currently, that Article only provides a ***notification*** obligation for Member States as regards their decisions and the estimated product of this reduction for years 2015 to 2019. With a view to ensuring a continuation of the existing system, it should be set out that Member States are also to ***notify*** their decisions concerning year 2020 and the estimated product of reduction for that year. (5) Flexibility between pillars is an optional ***transfer*** of funds between direct payments and rural development. Under current Article 14 of Regulation (EU) No 1307/2013, Member States may make use of this flexibility as regards ***calendar*** years 2014 to 2019. In order to ensure that Member States may keep their own strategy, the flexibility between pillars should be made available also for ***calendar*** year 2020, corresponding to financial year 2021. (6) As a consequence of the amendment of Article 14 of Regulation (EU) No 1307/2013 in respect of ***calendar*** year 2020, it is appropriate to adjust the references to that Article in the context of the obligation of the Member States to linearly reduce or increase the value of the payment entitlements due to fluctuations in the annual national ***ceiling*** resulting from their ***notifications*** of the application of flexibility between pillars. (7) Regulations (EU) No 1305/2013 and (EU) No 1307/2013 should therefore be amended accordingly. (8) In order to promptly provide the necessary flexibility to the Member States and to ensure the continuity of the rural development policy in the final years of the 2014-2020 programming period, this Regulation should apply from 1 March 2019, HAVE ADOPTED THIS REGULATION: Article 1 Amendments to Regulation (EU) No 1305/2013 Regulation (EU) No 1305/2013 is amended as follows: (1) in Article 31(5), the following second subparagraph is inserted: 4 Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608). EN 7 EN ‘By way of derogation from the first subparagraph, where degressive payments start only in the year 2019, those payments shall start at no more than 80% of the average payment fixed in the 2014-2020 programming period. The payment level shall be established in such a way that the end level in 2020 is half of the starting level.’; (2) in Article 51(1), the following second subparagraph is inserted: ‘The EAFRD may finance activities preparing the implementation of the CAP in the subsequent programming period.’. Article 2 Amendments to Regulation (EU) No 1307/2013 Regulation (EU) No 1307/2013 is amended as follows: (1) in Article 7, paragraph 2 is replaced by the following: ‘2. For each Member State and for each ***calendar*** year, the estimated product of the reduction of payments referred to in Article 11 (which is reflected by the difference between the national ***ceiling*** set out in Annex II, to which is added the amount available in accordance with Article 58, and the net ***ceiling*** set out in Annex III) shall be made available as Union support financed under the European ***Agricultural*** Fund for Rural Development (EAFRD).’; (2) in Article 11(6), the following third subparagraph is added: ‘For the year 2020, Member States shall ***notify*** the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions by 31 December 2019.’; (3) Article 14 is amended as follows: (a) in paragraph 1, the following sixth subparagraph is added: ‘By 31 December 2019, Member States may decide to make available, as additional support financed under the EAFRD in financial year 2021, up to 15 % of their annual national ***ceilings*** for ***calendar*** year 2020 set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments. This decision shall be ***notified*** to the Commission by 31 December 2019 and shall set out the percentage chosen.’; (b) in paragraph 2, the following sixth subparagraph is added: ‘By 31 December 2019, Member States may decide to make available as direct payments up to 15 % or, in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland and Sweden up to 25 % of the amount allocated to support financed under the EAFRD in financial year 2021 by Union legislation adopted following the Regulation adopted by the Council pursuant to EN 8 EN Article 312(2) of the Treaty on the Functioning of the European Union. As a result, the corresponding amount shall no longer be available for support financed under the EAFRD. This decision shall be ***notified*** to the Commission by 31 December 2019 and shall set out the percentage chosen.’; (4) in Article 22, paragraph 5 is replaced by the following: ‘5. If the ***ceiling*** for a Member State set by the Commission pursuant to paragraph 1 is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, Article 14(1) or(2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.’. Article 3 Entry into force and application This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union. It shall apply from 1 March 2019. This Regulation shall be binding in its entirety and directly applicable in all Member States. Done at Brussels, For the European Parliament For the Council The President The President EN 9 EN LEGISLATIVE FINANCIAL STATEMENT FINANCIAL STATEMENT FS/18/CS/pl 5249450 6.15.2018.1 DATE: 13/09/2018 1. BUDGET HEADING: current MFF: Heading 2, proposal for the MFF 2021 – 2027: heading 3 Draft Budget 2019: 05 03 Direct payments after financial ***discipline***: 05 04 60 European ***Agricultural*** Fund for Rural development (EAFRD) (2014 – 2020) APPROPRIATIONS: in EUR million 40 981.6 14 673.6 2. TITLE: Proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards the application of direct payments and support for rural development in respect of the years 2019 and 2020 3. LEGAL BASIS: Article 42 and 43(2) of the Treaty on the Functioning of the European Union 4. AIMS: This proposal aims at providing continuity in the granting of support to European farmers in the years 2019 and 2020 by adapting two legislative acts of the Common ***Agricultural*** Policy (CAP): rural development under Regulation (EU) No 1305/2013 and direct payments under Regulation (EU) No 1307/2013. 5. FINANCIAL IMPLICATIONS 12 MONTH PERIOD (EUR million) CURRENT FINANCIAL YEAR 2018 (EUR million) FOLLOWING FINANCIAL YEAR 2019 (EUR million) 5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER n.a n.a 5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL 2017 2018 2019 2020 5.0.1 ESTIMATED EXPENDITURE 5.1.1 ESTIMATED REVENUE 5.2 METHOD OF CALCULATION: See observations 6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? n.a 6.1 CAN THE PROJECT BE FINANCED BY ***TRANSFER*** BETWEEN CHAPTERS OF THE CURRENT BUDGET? n.a 6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY? NO 6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS? YES (see observations) OBSERVATIONS: EN 10 EN As regards support for rural development under Regulation (EU) No 1305/2013 (EAFRD), the proposal relates to financial years 2019 – 2021, whereas the proposed modifications for direct payments under Regulation (EU) No 1307/2013 relate to ***calendar*** year 2020/financial year 2021. The proposal does not have any financial implications in terms of increased expenditure. The effect of the proposed provisions giving Member States an option to ***transfer*** amounts between direct payments allocations in ***calendar*** year 2020/financial year 2021 and EAFRD in financial year 2021 as well as the ***transfer*** of the estimated product of reduction from direct payments in ***calendar*** year 2020 to EAFRD in financial year 2021 will depend on Member States’ implementation and can therefore not be quantified at present. Such ***transfers*** will in any case remain neutral with regard to overall commitment appropriations in the way that any deductions from the direct payments allocations will be off-set by a corresponding increase in the EAFRD allocations and vice versa. With regard to payment appropriations, if Member States’ implementation of these provisions would lead to a net ***transfer*** to EAFRD, it could lead to a slight postponement of payments from financial year 2021 to the following years, compared to the situation where Member States’ implementation would imply a net ***transfer*** towards direct payments allocations or no re-allocation at all. This effect can however not be quantified at this stage and is in any case expected to remain minimal. As an example, without prejudging Member States’ choices for ***calendar*** year 2020/financial year 2021, the flexibility in financial years 2018 and 2019 implies net ***transfers*** to EAFRD of respectively EUR 612 million and EUR 920 million. The ***transfer*** to EAFRD of the estimated product of reduction in the same financial years is respectively EUR 110 million and EUR 111 million. Given the past experience and the budgetary envelopes proposed for 2021-2027, a net ***transfer*** to the EAGF seems unlikely; however, it cannot be fully excluded at this stage. In such a case, in order to comply with the applicable ***ceilings***, differentiated expenditure, such as the payments under the EAFRD, may need to be given a lower priority.

**Load-Date:** December 8, 2018

**End of Document**



[***Register of Commission documents: Ensuring continuity of support for EU farmers in 2019 and 2020 Document date: 2019-01-09 EPRS\_ATA(2019)630355 At a glance***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5V66-MFG1-JDG9-Y48X-00000-00&context=1516831)

Impact News Service

January 12, 2019 Saturday

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**Length:** 1499 words

**Body**

Brussels: Public Register European Parliament has issued the following document:

AT A GLANCE EPRS European Parliamentary Research Service Author: Rachele Rossi, Members' Research Service PE 630.355 – January 2019 EN Ensuring continuity of support for EU farmers in 2019 and 2020 Every year, more than 6 million EU farms receive income support from direct payments (DP), a key element of the Common ***Agricultural*** Policy (CAP) that represents more than 70 % of total CAP expenditure. Rural development measures also support farming activities and contribute to enhancing people's livelihoods in rural areas, which represent a large share of EU territory. To ensure continuity of EU support and guarantee a smooth continuation of the CAP's implementation, the European Commission proposes to modify certain rules on DP and rural development, through the timely adoption of a regulation that should apply from 1 March 2019. Background Despite a downward trend in the share of EU spending on the CAP over time, EU support for farm incomes and rural areas still plays a major role both in the EU budget and in contributing to ensure EU farmers have a fair standard of living, as well as maintaining the vitality of EU rural communities. Under the current CAP legislative framework, which covers the years 2014-2020, over 6 million EU farms benefit from DP every year, while EU action in rural areas for the entire programming period is worth €100 billion, complemented by national funding. These interventions are mainly set out in one regulation on DP to farmers and another on support for rural development. For their provisions to cover DP and rural development until the very last year of the current programming period (i.e the 2020 ***calendar*** year, corresponding to the 2021 financial year, with 2021 being also the first year covered by the future budgetary and CAP legislative frameworks), both regulations would require an amendment of certain technical elements. Moreover, some other amendments would allow financing of particular activities aimed at timely preparation of the transition to the future CAP in the EU Member States, and smooth the effects of phasing out payments for beneficiaries affected by changes in the delimitation of areas facing natural constraints. European Commission proposal On 7 December 2018, the Commission published a proposal for a regulation amending certain provisions on direct payments and support for rural development in 2019 and 2020. The proposed amendments to some articles of the EU regulations on support for rural development and on DP to farmers would adjust the legislation to meet needs and requirements that were not envisaged at the time of their adoption. Although the proposal concerns legislative acts necessitating use of the ordinary legislative procedure for any amendments, the Commission put forward justifications for its request for fast adoption by the co-legislators, deviating from standard better regulation practices. In particular, the Commission stresses the need to have the regulation apply from 1 March 2019, to avoid financial disruption, with its transitional nature limited in scope and time, as well as the absence of new political or budgetary commitments. Support for rural development Two proposed amendments concern Articles 31 and 51 of Regulation (EU) No 1305/2013: • Article 31 sets out a four-year schedule of degressive payments to beneficiaries in areas that, following the new delimitation, are no longer classified as areas subject to natural constraints other than mountain areas. According to this schedule, degressive payments should start at no more than 80 % of the average payment fixed for the 2007-2013 programming period and end in 2020, at the latest, at no more than 20 %. However, the ***agricultural*** part of the 'omnibus' regulation, adopted in 2017, extended the deadline for setting up the new delimitation to 2019, thus limiting the time available to apply degressivity in payments and ensure a smooth phasing-out. Therefore, to avoid an overly sharp payment reduction for the beneficiaries concerned, the Commission proposes that degressive payments that only start in 2019 would start at no more than 80 % of the average payment fixed for the 2014-2020 programming period and end in 2020 at half of the starting level. EPRS Ensuring continuity of support for EU farmers in 2019 and 2020 This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy. © European Union, 2019. [*eprs@ep.europa.eu*](mailto:eprs@ep.europa.eu) (contact) [*http://www.eprs.ep.parl.union.eu*](http://www.eprs.ep.parl.union.eu) (intranet)   [*http://www.europarl.europa.eu/thinktank*](http://www.europarl.europa.eu/thinktank) (internet)   [*http://epthinktank.eu*](http://epthinktank.eu) (blog) • Article 51 provides for funding of technical assistance required to implement the CAP in the Member States. To favour a smooth passage to the new policy cycle, the Commission also proposes the use of technical assistance for actions preparing for the implementation of the future CAP. Direct payments to farmers Four proposed amendments concern Articles 7, 11, 14 and 22 of Regulation (EU) No 1307/2013: • Article 7 provides for the use of the amounts obtained from the reduction of payments referred to in Article 11 (see next point) as EU support for rural development measures. The Commission proposes to specify that such amounts should be available as EU support financed under the European ***Agricultural*** Fund for Rural Development (EAFRD). • Article 11 establishes an obligation on Member States to reduce part of the amount of direct payments exceeding €150 000 to be granted to a farmer in a given ***calendar*** year. However, the obligation for the Member States to ***notify*** the Commission as regards their decisions and the estimated output of the reduction is set out only for the years 2015 to 2019. The Commission also proposes to set out a ***notification*** obligation for 2020. • Article 14 sets out an option for Member States of ***transferring*** of funds between direct payments and rural development for ***calendar*** years 2014 to 2019. Several Member States have decided to apply this flexibility between CAP pillars, with amounts ***transferred*** from rural development to direct payments reaching between 15 % and 25 % of national ***ceilings*** in Croatia, Hungary, Poland and Slovakia, and lower but significant shares ***transferred*** from direct payments to rural development in a number of countries. With a view to ensuring that Member States can use this option until the end of the programming period, the Commission proposes that flexibility between the two CAP pillars would also apply to ***calendar*** year 2020. • Article 22 establishes an obligation on Member States to comply with set national ***ceilings*** for the basic payment scheme and to apply a linear reduction or increase in the value of all payment entitlements to ensure such compliance. This also applies to fluctuations resulting from the application of flexibility between pillars. Therefore, due to the amendment of Article 14 (see previous point), the Commission proposes also to adjust this article to cover ***calendar*** year 2020. Council position At the ***Agriculture*** and Fisheries Council meeting of 17 December 2018, EU Commissioner for ***Agriculture*** and Rural Development Phil Hogan informed EU ***Agriculture*** Ministers of the Commission's proposal, noting that its objective is to ensure a smooth continuation of CAP implementation until the end of the programming period. Although certain modifications would also favour a smooth transition between the current and future CAP, he emphasised that this is not a proposal on transitional measures as already called for by both Council and Parliament in the course of their recent discussions on the CAP reform package. Finally, Commissioner Hogan called for timely adoption by both co-legislators to avoid any disruptions in payments in some EU Member States. A few ministers took the floor welcoming the proposal, and the Austrian Presidency took note of the presentation. European Parliament position The legislative file (2018/0414(COD)) was referred to the Committee on ***Agriculture*** and Rural Development (AGRI), as announced in the Parliament’s plenary session of 13 December 2018. At the AGRI meeting of 7 January 2019, after a short Commission presentation that stressed the time-sensitive nature of the proposal, aimed at avoiding unnecessary interruption of CAP payments, AGRI Chair Czesław Adam Siekierski (EPP, Poland) proposed simplified adoption of the legislative act under Rule 50 of the EP’s Rules of Procedure. As Members agreed with this proposal, he will table a draft report without amendments.

**Load-Date:** January 14, 2019

**End of Document**



[***DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020; Congressional Record Vol. 165, No. 98 (House of Representatives - June 12, 2019)***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5WBM-S431-F0YC-N1KF-00000-00&context=1516831)

Impact News Service

June 14, 2019 Friday

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**Length:** 84979 words

**Body**

Washington: The Library of Congress, The Government of USA has issued the following house proceeding:

Mrs. LOWEY. Madam Speaker, I ask unanimous consent that all Members [[Page H4453]] have 5 legislative days to revise and extend their remarks and include extraneous material on H.R 2740. The SPEAKER pro tempore (Ms. Jackson Lee). Is there objection to the request of the gentlewoman from New York? There was no objection. The SPEAKER pro tempore. Pursuant to House Resolution 431 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R 2740. The Chair appoints the gentleman from Washington (Mr. Heck) to preside over the Committee of the Whole. {time} 1426 In the Committee of the Whole Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R 2740) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2020, and for other purposes, with Mr. Heck in the chair. The Clerk read the title of the bill. The CHAIR. Pursuant to the rule, the bill is considered read the first time. General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The gentlewoman from New York (Mrs. Lowey) and the gentlewoman from Texas (Ms. Granger) each will control 30 minutes. The Chair recognizes the gentlewoman from New York. Mrs. LOWEY. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, today, we bring four bills to the floor that reject the slash-and-burn approach of the Trump administration and, instead, chart a new course: one that increases investments in American families to make up for lost ground; one that gives every person a better chance at a better life. With these bills, we are investing for the people. We invest in education and in the health of the American people, in infrastructure, and in the environment, in our national security and in the needs of servicemembers and military families. And let me just say--because, frankly, the administration's misuse of government funds should concern both parties--this bill includes necessary oversight provisions to prohibit the administration from misappropriating funds, including for a border wall. This hallowed institution must not be a rubber stamp for Presidential pet projects. As chair of the State and Foreign Operations Appropriations Subcommittee, I am proud of the fiscal year 2020 State and Foreign Operations division, which reflects congressional priorities that advance United States foreign policy. {time} 1430 The allocation of $56.381 billion, a 3.9 increase above fiscal year 2019, is critical to support important investments in our national security, fund our international commitments, and repair America's reputation abroad. This bill rejects the administration's unacceptable budget request and irresponsible policies and, rather, strives to uphold many bipartisan congressional priorities. America's foreign policy is strongest when diplomacy, development, and defense are well-funded and equally prioritized, as many of today's global challenges cannot be addressed by military intervention alone. I want to quickly highlight some of the key provisions in this division. Unlike the administration's fiscal year 2020 request, this bill would ensure ample funding for humanitarian assistance, multilateral organizations, basic education, and reproductive health services. It would also permanently repeal the antiwoman global gag rule and prevent prior funds from implementing this destructive policy. To restore U.S leadership on fighting climate change, the bill would replace the prohibition on the Green Climate Fund with permissive authority and prohibit the use of funds to withdraw from the Paris climate agreement. It would provide robust funding to our key allies while protecting our investments in the Northern Triangle. Members on both sides of the aisle know these efforts save lives, promote goodwill, and support American interests abroad. This bill would support these programs and restore American leadership in the world. Our talented Appropriations Subcommittee chairs will tell us more about what the other parts of this package do for the people. In totality, this legislation truly is a product of hard work and bipartisan cooperation, with input from Members on both sides of the aisle, that meets the diverse needs of our Nation. Hubert Humphrey once said: The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those in the shadows of life. This has been our goal. If we pass this bill, it can be our achievement. So as we consider this bill, let's do so in good faith. Let's pass this bill for the good of the American people. Mr. Chair, I urge my colleagues to join me in support of this bill, and I reserve the balance of my time. Ms. GRANGER. Mr. Chair, I yield myself such time as I may consume. Mr. Chair, I rise today in opposition to H.R 2740. The Appropriations Committee has held more than 120 hearings this year on topics ranging from our Nation's defense priorities to the crisis of unaccompanied children coming to our southern border. We have now marked up all 12 bills in subcommittee and full committee. Unfortunately, each bill brought before the committee was written to an unrealistic top-line funding number--$176 billion above current budget caps. We still do not have consensus on a budget agreement for fiscal year 2020, which could lead to sequestration, resulting in devastating cuts to our military. Moving these bills as-is is a wasted opportunity because the bills are far from what the President has requested and will support. Defense spending does not meet the request, while nondefense spending greatly exceeds the request and current levels. This could lead to a veto and another government shutdown, something both agreed would be devastating. In addition to these funding concerns, these bills have, unfortunately, become partisan vehicles, reversing pro-life policies and risking the safety and security of the American people. Many provisions in this bill also force a return to policies of the previous administration and place unnecessary restrictions on Federal agencies. For example, the Labor, Health and Human Services, and Education division of this five-bill package includes $100 million to help people sign up for ObamaCare, forces the administration to send grants to Planned Parenthood clinics, and blocks pro-life rules from going into effect. Similarly, the State and Foreign Operations division prevents implementation of the President's expanded Mexico City policy. It provides $479 million to repay United Nations peacekeeping costs, even though the United Nations has not made the required reforms, and prohibits funds to withdraw from the Paris climate accord. For defense, there is no funding for any type of barrier or fence along the southern border, something badly needed and obvious if you visit that place. There are also other harmful reductions. Procurement is $4.8 billion below the FY 2019 level, and research and development is $2.2 billion below the request. These cuts are very concerning and put us in a serious problem when relating to China and Russia. The bill also repeals the Authorization for Use of Military Force, which could jeopardize the Defense Department's ability to conduct military operations worldwide. It is a bad policy and will force the DOD to unwind counterterrorism operations overseas if the Congress and the President cannot agree on a new authorization. The Energy and Water division only includes half of the requested funding for our nuclear weapons stockpile. There is also no funding for a permanent site for nuclear waste at Yucca Mountain. I would hope that my colleagues on the other side of the aisle would make in order an amendment to address immediate needs on our southwest border. [[Page H4454]] The ranking member of the Homeland Security Committee, Mr. Rogers, and I submitted an amendment to the Rules Committee that, unfortunately, will not be debated today. This is yet another missed opportunity to address the humanitarian and security crisis. There were over 140,000 apprehensions of migrants at the border just last month, making apprehensions this year alone equivalent to the population of Atlanta, Georgia. By the end of the fiscal year, apprehensions could reach 1 million people. The most troubling statistics are on the number of unaccompanied children coming to the border. Last week, approximately 2,500 children and teenagers were sleeping on the ground waiting to be referred to the Department of Health and Human Services to be connected with family members and sponsors. HHS expects 100,000 children and teens to be referred for placement this fiscal year. Unfortunately, our agencies do not have the resources needed to care for these children, and, in fact, HHS could run out of money by the end of this month--run out of money by the end of this month. If we are not going to address this problem in this bill, we need to come together and pass a stand-alone bill to meet these needs. We were all elected to responsibly represent the best interests of our constituents, and this package falls short. We can't afford to overfund nondefense programs, underfund defense initiatives, load these bills with controversial poison pill riders, and ignore the situation at our southern border. This package does just this, risking both our economic and our national security. I know that my colleague and friend, Chairwoman Lowey, has worked tirelessly to get us to this point today, and she and her subcommittee chairs included many bipartisan priorities. Unfortunately, on balance, these bills are partisan measures, and I can't support them in their current form. I look forward to working with my colleagues to develop a bipartisan budget agreement and to remove controversial language and funding in a final appropriations package. I strongly urge my colleagues to vote ``no'' on this package today, and I reserve the balance of my time. Mrs. LOWEY. Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. Kaptur), the distinguished chairwoman of the Subcommittee on Energy and Water. Ms. KAPTUR. Mr. Chairman, I thank our able Chairwoman Nita Lowey and Ranking Member Kay Granger for leading our Appropriations Committee in doing the real work of America on a bipartisan basis. Our Energy and Water bill makes critical investments in energy and water systems to sustain life on Earth by combating climate change, advancing energy science to yield innovation, building water infrastructure and flood control systems, and investing in necessary nuclear security programs. First, I would like to thank our ranking member, Mr. Simpson, who has been a very constructive and able partner, and also thank our staff, including Jaime Shimek, Angie Giancarlo, Mark Arnone, Mike Brain, Marcel Caldwell, Scott McKee, Farouk Ophaso, and Matt Kaplan, for their hard work in putting this good bill together. This bill rejects the President's drastic and shortsighted proposed cuts that would harm our Nation's interests. Instead, our bill increases investments to meet serious national priorities in energy and water and, of course, nuclear security. Addressing the needs of the future, economically and environmentally, requires that our Nation be at the forefront of global innovation. Our bill moves our Nation forward on that front. Further, American companies require means to ship goods efficiently in a highly competitive global marketplace. Our bill helps them succeed. Finally, ensuring water and electricity for millions of Americans is fundamental. We provide additional support toward those priorities. How do we achieve this? By providing $7.4 billion for the Army Corps of Engineers, an increase--yes, an increase--of $357 million above 2019 and $2.5 billion above the budget request. To understand why, simply listen to any news program and what is happening across this country. This bill invests in key water priorities across our Nation by funding countless regional priorities, including robust funding for the Soo Locks construction project, and by starting the pathway for the Brandon Road invasive species Asian bighead carp control project to, literally, save the Great Lakes. This bill's robust funding for the Army Corps of Engineers is critical to this Nation's economic vitality. We provide $1.63 billion for the Bureau of Reclamation, an increase of $83 million from 2019 and $523 million above the budget request. Overall, our bill provides $37.1 billion for the Department of Energy, an increase of $1.4 billion from 2019 and $5.6 billion above the budget request. We recognize the difficulties of serving a rising population with all of the climate change challenges facing this and the next generation. Within the Department of Energy, the Energy Efficiency and Renewable Energy program receives $2.65 billion, $273 million above 2019 and $2.3 billion above the budget request. This includes robust funding for the Weatherization Assistance Program, which helps ensure low-income households and communities across this country have energy-efficient, more livable homes. Advanced Energy Research, ARPA-E, receives $425 million, $59 million above 2019 and a rejection of the President's proposal to eliminate the future. We fund this program. The Office of Science receives $6.87 billion, $285 million above 2019 and $1.3 billion above the budget request. Our bill responsibly funds our Nation's nuclear deterrent, as well as increases funding for nonproliferation efforts while rejecting costly, poorly defined, and duplicative activities proposed by the administration. The National Nuclear Security Administration receives $15.9 billion, a $666 million increase above 2019. And, finally, this bill ensures the executive branch cannot divert essential Army Corps funding for a border wall. {time} 1445 In sum, this bill invests in innovation programs at the Department of Energy to yield future opportunities and jobs. It promotes economic prosperity and bolsters trade. The CHAIR. The time of the gentlewoman has expired. Mrs. LOWEY. Mr. Chair, I yield an additional 1 minute to the gentlewoman from Ohio. Ms. KAPTUR. Mr. Chair, I thank Chairwoman Lowey for yielding me the additional time. Our bill helps address the many challenges facing our Great Lakes, the largest collection of fresh water on the planet. Our bill prepares our country to mitigate and adapt to climate change, with challenges like the desertization of the West, as well as coastal resiliency on the Atlantic, Pacific, Gulf, and Great Lakes coasts. Our bill is more necessary than ever to build and gird America going forward in the great spirit of the quote above the Speaker's rostrum here in the House by Daniel Webster, uttered in 1825: ``Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.'' Mr. Chair, I urge my colleagues to support this bill. Do what is right for America. Vote for this bill. Ms. GRANGER. Mr. Chair, I yield 3 minutes to the gentleman from Oklahoma (Mr. Cole). Mr. COLE. Mr. Chair, I thank the distinguished ranking Republican member of the Appropriations Committee, my good friend, Ms. Granger, for yielding. I want to begin, Mr. Chair, on a positive note. I want to thank, particularly, my working partner, Rosa DeLauro, whom I have had the great opportunity to work with now for the fifth year. There are a lot of good things in this bill, a lot of things to be proud of. Frankly, we have worked together in the past and continued to work together in this bill. I am particularly pleased with the additional support for the National Institutes of Health and for the Centers for Disease Control. [[Page H4455]] I very much support the focus on early childhood education, on first- generation college students through programs like TRIO and GEAR UP, frankly, through our ChalleNGe children, the IDEA program, and many other good provisions. However, there are certainly a number of other things in this bill that mean I won't be able to support it at this time. I was disappointed to see language inserted throughout the bill that ties the hands of the administration in many ways. The bill forces a return to the Obama-era policies on Title X family programs. The bill ties the hands of the administration by not allowing it to process waivers that protect deeply held religious beliefs of institutions that provide vital services funded in the bill. The bill micromanages the Centers for Medicare and Medicaid Services, even going so far as to prescribe specific amounts of money to be used in advertising programs. I am also concerned about a number of limitations in this bill that are going to lead to a Presidential veto. While the bill does many good things, I remain concerned that it has been developed in a vacuum. As my good friend, the ranking member, said, these numbers are simply too high. They are not going to be accepted by a Republican Senate. They are not going to be signed by the President of the United States, and we run the risk of a Presidential veto. We need to come together, Mr. Chair, House and Senate, Republicans and Democrats, with the administration to hammer out a deal on top-line funding before we can move forward and actually move this bill into law. Finally, I would be remiss if I did not mention the significant crisis facing us on our southern border. That has yet to be addressed in this bill, and a number of our speakers have made that point. The Department of Health and Human Services, Mr. Chair, is at the breaking point. We literally will go broke this month taking care of unaccompanied children unless the majority works with the administration and their Republican colleagues to address this problem. I want to end by announcing that I will oppose the bill, but I look forward to working with my friends on the other side as we go through the process. I am convinced that under Chairwoman Lowey's leadership with Ranking Member Granger, we can arrive at a good solution for the country. This is a work in progress, and I think it is going to get better as it moves through the process. Mrs. LOWEY. Mr. Chair, I am very pleased to yield 5 minutes to the gentleman from Indiana (Mr. Visclosky), the chairman of the Defense Subcommittee. (Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.) Mr. VISCLOSKY. Mr. Chair, I would like to begin by expressing my appreciation, as I discuss the defense portion of this bill, to my ranking member, Mr. Calvert. He has made it easy to continue the collegiality, transparency, and bipartisanship that is a hallmark of the Defense Subcommittee. He is a wonderful partner. I also do want to express my gratitude to Chairwoman Lowey, Ranking Member Granger, and the other members of the subcommittee and full committee for their efforts. I want to also thank the staff. This legislation would not be possible without their outstanding effort. At this time, I would like to highlight some of the elements of this legislation that deal with the well-being and morale of those in uniform. The bill provides a 3.1 percent pay raise for our women and men in uniform. This is the largest increase in basic pay since 2010. The report expresses, however, support for a 3.1 percent pay increase for DOD civilian employees as well. We rely on DOD civilians to work side by side with military personnel. The administration's refusal to request an increase in pay for Federal employees devalues the important work done by these public servants. Congress must rectify this failure. I believe that access to affordable and quality childcare is vital to retention for All-Volunteer Forces, particularly for mid-career personnel. Thousands of military children are waitlisted for childcare development centers, and I am disappointed that the services have failed to meaningfully address this serious problem. To get at the backlog, the bill provides an additional $70.7 million for upgrades to military childcare facilities. The pervasiveness of sexual assault amongst servicemembers is deeply abhorrent. It is disheartening that the most recent report on this subject shows that sexual assaults across the U.S military increased by a rate of 38 percent last year, with over two-thirds of assaults going unreported. The bill provides $297.2 million for Sexual Assault Prevention and Response programs at the service level, $13.5 million above the fiscal year 2019-enacted level. It also provides an additional $35 million for the Special Victims Counsel and $3 million for the Sexual Trauma Response and Treatment pilot program. The bill provides $1.26 billion for environmental restoration activities, which is $188 million above the current request. There are also several actions taken in the bill that I believe are important to highlight as an appropriator and as a member of the legislative branch. In recent years, the Department has viewed report language as suggestive and, on several occasions, has taken action in contravention of it or simply ignored congressional direction in the report. It is unacceptable, and it must stop. Report language is directive; it is not permissive. I would also point out that the budget justifications should be complete in detail. In many instances, they continue to be lacking. For example, there was a $72 million request to establish a Space Force, but the Department was unable to answer basic questions about the structure of the force, nor could they provide detailed long-term costs. Another example would be the proposed reorganization of the Military Health System. In its 2020 request, the Department requested a significant amount of money for the reorganization and proposed major reductions in healthcare billets. Yet, it could not answer basic questions about how the reorganization would affect servicemembers and beneficiaries. This legislation also takes steps to return to balance the relationship between the executive and legislative branches in response to the administration's unconstitutional use of dollars appropriated for the military to fund the construction of a wall on our southern border. If Congress appropriates funds for a designated and authorized purpose, it is not lawful for those funds to be used in contravention of the law. In closing, I reiterate my thanks to Mr. Calvert and the members of our subcommittee, as well as our wonderful staff for their exceptional work, dedication, and long hours. I look forward to the debate on our amendments. Mr. Chair, I would like to begin by expressing appreciation to Ranking Member Calvert. He has made it easy to continue the collegiality, transparency, and bipartisanship that is the hallmark of the Defense Subcommittee. I also would like to express my gratitude to Chairwoman Lowey, Ranking Member Granger, and the other Members of the Subcommittee for their efforts. And thank you to the Subcommittee staff, particularly the clerks, Becky Leggieri and Leslie Albright, as well as Walter Hearne, Brooke Boyer, Ariana Sarar, Jackie Ripke, David Bortnick, Matt Bower, Bill Adkins, Jennifer Chartrand, Hayden Milberg, Paul Kilbride, Shannon Richter, Sherry Young, Kyle McFarland, Johnnie Kaberle, Kiya Batmanglidj, and Jamie McCormick. I would also like to acknowledge the personal office staff, Joe DeVooght, Preston Rackauskas, Rebecca Keightley, and Christopher Romero. This legislation would not be possible without their outstanding effort. The bill would provide $690.2 billion for the Department of Defense, which is $15.8 billion above the fiscal year 2019 enacted level and $8 billion below the request. The base funding recommendation is $622.1 billion, which is $15.6 billion above the fiscal year 2019 enacted level and $88.2 billion above the request. The overseas contingency operations recommendation is $68.1 billion, which is $165 million above the fiscal year 2019 enacted level and $96.2 billion below the request. This bill supports the Department of Defense's effort to align its resources with the National Defense Strategy. This strategy redirects the Department's primary focus toward the challenges posed by great powers such as [[Page H4456]] China and Russia, and their efforts to counter and challenge the technological and operational superiority long enjoyed by the United States military. This technological overmatch can no longer be assumed, and this bill provides funding to develop and field new weapon systems and capabilities to address these new challenges. To support this forward-looking posture, the bill makes major investments in procurement and research and development. Rather than focus my remarks on those investments, which have been detailed in several documents released by the Committee to the public, I am instead going to run through some of the efforts in this legislation that deal with the well-being and morale of those in uniform, their families, DoD civilians, and defense communities. The bill provides a 3.1 percent pay raise for our women and men in uniform. This is the largest increase in basic pay since 2010 and maintains the Committee's commitment to ensuring our all-volunteer force is compensated for their sacrifices. The report expresses support for a 3.1 percent pay increase for DoD civilian employees. We rely on DoD civilians to work side-by-side with military personnel to provide medical care for our troops, to perform vital logistics, maintenance, acquisition, and other essential services. The Administration's refusal to request an increase in pay for federal employees devalues the important work done by these public servants and I hope this Congress will ultimately rectify that in this year's appropriations measures. I believe that access to affordable and quality childcare is vital to retention in the all-volunteer force, particularly for mid-career enlisted and officers. Thousands of military children, including over 9,000 whose parents serve in the Navy, are waitlisted for Childcare Development Centers. I am disappointed that with such demonstrated need the military services' requests for childcare facilities were relatively unchanged from prior years. To get at this backlog, the bill provides an additional $70. 7 million for upgrades to military childcare facilities, which is complementary to an effort included in the FY20 Military Construction Appropriation measure to accelerate the construction of new Childcare Development Centers. The pervasiveness of sexual assault amongst service members is deeply abhorrent and it is disheartening that the most recent report on the subject shows that sexual assaults across the U.S military increased by a rate of nearly 38 percent in 2018, with over two-thirds of assaults going unreported, The bill provides $297.2 million for Sexual Assault Prevention and Response programs at the Service level, $13.5 million above the FY19 enacted level and equal to the request. It also provides an additional $35 million for Special Victims Counsel for victims of sexual assault and $3 million for a Sexual Trauma Treatment Pilot Program for treatment of members of the Armed Forces for PTSD Related to Military Sexual Trauma. The bill provides $1.26 billion for environmental restoration activities, which is $188 million above the request. This includes $13 million for a nationwide health study on the implications of PFOS/PFOA at former and current domestic military installations. Further, the report directs the Department to achieve a drinking water cleanup standard equal to or better than the EPA health advisory level for federally controlled sites and surrounding communities whose water sources were contaminated because of Department activities. I believe these efforts and several others within the bill will have an immediate positive impact on people's quality of life. There are also several actions taken in the bill that I believe are important to highlight as an Appropriator and a Member of the Legislative Branch. In recent years, the Department has viewed report language as suggestive, and on several occasions has taken actions in direct contravention or simply ignored Congressional direction in the report. That is unacceptable and must stop. Report language is directive, not permissive. For example, in FY19 the Committee Report expressed significant displeasure with the inadequate budget justification by the Department of Defense. There have been improvements in certain areas, but a number of major proposals put forth by the DoD in the FY20 budget were incredibly lacking in detail. For example, there was a $72 million request to establish a Space Force, but the Department was unable to answer basic questions about the structure of the force, nor could the detail long-term costs. Because of that uncertainty, the Committee only provides $15 million for Space Force. Another example would be the proposed reorganization of the Military Health System. This reorganization was mandated in the 2017 Defense Authorization Act. In its FY20 request the Department requested a significant amount of money for the reorganization and proposed a major reduction in healthcare billets. Yet it could not answer basic questions about how the reorganization would affect service members and beneficiaries. Of particular concern to the Committee were impacts to pediatrics, maternity care, and mental health. The legislation halts the reorganization until those questions can be answered. Further, this legislation takes several steps to return to balance the relationship between the Executive and Legislative Branch, in response to the Administration's unconstitutional use of dollars appropriated for the military to fund the construction of the wall on the southern border. The Constitution gives the Congress the power of the purse. And if Congress appropriates funds for a designated and authorized purpose, it is not lawful for those funds to be used in contravention of that direction. Specifically, the bill reduces the amount of money the Department can move between accounts by 75 percent from the FY 2019 levels. This reduction leaves the Department with $1.5 billion in general ***transfer*** authority, which allows for the meeting of urgent and emergent military requirements. The legislation also increases the ***notification*** requirements and requires additional detail be provided to Congress in order for the Department to reprogram funding or start a new program. These are not actions that were taken lightly, but are absolutely necessary in order to allow Congress to carry out its Article I responsibilities. Finally, I feel compelled to spend a moment discussing the issue that has been an albatross around this Committee's neck since August 2, 2011, the Budget Control Act (BCA). In past years, I have bemoaned the sheer lunacy of the BCA and how it has made this Committee's work that much more difficult. Unfortunately, that dynamic remains until Congress and the President come together and find a solution to the BCA caps for FY20 and FY21. I understand that this is not a simple matter. However, I fail to see the benefit from delaying the conversation any longer. In closing, I would like to again reiterate my thanks to Members and staff that logged the long hard hours required to put this product together and I look forward to debate on the amendments. Ms. GRANGER. Mr. Chair, I yield 6 minutes to the gentleman from Kentucky (Mr. Rogers). Mr. ROGERS of Kentucky. Mr. Chair, I thank the distinguished Republican ranking member on the committee for this time but also, more importantly, for her wise leadership of this committee. Mr. Chair, I rise in reluctant opposition to H.R 2740, the first appropriations measure to be considered by the House for fiscal year 2020. In February, while completing the fiscal year 2019 appropriations process, I began my remarks by drawing attention to the crisis at our southern border. Four months later, the crisis is even worse, and the bill we have before us today would only throw fuel on the fire. Our committee prides itself on staying above the partisan fray, but this package significantly constrains the administration's ability to respond appropriately. The partisan policy riders are misguided and dangerous. In addition to these substantive problems, the bill before us today provides funding for numerous departments and agencies without a bipartisan, bicameral budget agreement supported by the President. Budget uncertainty is nothing new, but overall spending increases of this magnitude are neither realistic nor sustainable without a plan. While this package does provide modest increases for total defense spending, it is still $17 billion below the President's request, risking the great strides we have made to rebuild our military. Despite these challenges, Chairwoman Lowey and Ranking Member Granger have worked hard to tackle many problems this year. Just yesterday, for example, we marked up the last two appropriations bills in full committee. As ranking member of the State, Foreign Operations, and Related Programs Subcommittee, I offer my thanks to Chairwoman Lowey for her collaboration. I am pleased that the chair decided to lead our subcommittee, in addition to her duties of chairing the full committee, given our long relationship. She cares deeply about these programs and, despite our differences, remains a reliable partner. Division D, the State and Foreign Operations Appropriations bill for fiscal year 2020, includes $48 billion in base funding. That is nearly a 5 percent [[Page H4457]] increase over fiscal year 2019. With the additional $8 billion in overseas contingency operations, OCO, the total is $56.3 billion. Within that total, this bill includes funding for many key priorities that are critical to our national security. Chief among them is $3.3 billion in foreign military financing for Israel. We don't need to look further than the recent headlines to understand how important and timely our support is for Israel's security. The bill also maintains funding at last year's level for other close partners in the region, including Egypt, Jordan, and Tunisia. Another shared priority is the safety of our diplomats and development experts serving abroad. This bill supports those efforts with robust funding for embassy security. Funding is also included to strengthen our efforts on the international front to combat the flow of drugs into our country. Overdose deaths, Mr. Chair, from synthetic opioids like fentanyl jumped 45 percent in just 1 year from 2016 to 2017, increasing in all demographics and virtually every State. We should all be concerned that cocaine and methamphetamine use in the U.S is climbing again at an alarming rate. {time} 1500 Funding is provided in the bill to help Colombia better control its coca production as counternarcotics efforts are redoubled in the region. We need to get this drug epidemic, this calamity, under control, and I believe this funding is a step in the right direction. Despite these worthy investments, partisan policy riders included in this portion of the bill mean it has no hope of becoming the law of the land. Sweeping measures, like those that overturn the President's expanded Mexico City policy, go well beyond what was done previously. The bill also prohibits funds from being used to withdraw from the Paris climate agreement and allows for a contribution to the unauthorized Green Climate Fund. The President is well within his authority to back out of this agreement that would cost billions of American jobs, harm domestic manufacturing, and damage our growing economy. I look forward to debating amendments on these and other issues in the bill. Therefore, without a budget agreement, in light of partisan riders blocking pro-life policies and overturning bipartisan agreements on climate change, as well as efforts to undermine an adequate response to the crisis at our southern border, I urge my colleagues to oppose this bill. Mrs. LOWEY. Mr. Chair, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DeLauro), who is the chair of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee. Ms. DeLAURO. Mr. Chair, I rise to speak about the fiscal year 2020 appropriations bill for the Labor, Health and Human Services, Education, and Related Agencies. To start, let me recognize the ranking member, Tom Cole, for his work on this bill. We have worked closely together over the years inasmuch as we have developed a mutual respect for one another. While we may have differences of opinions, we have the same values about the scope of these programs and whom they ought to be benefiting. I want to say thank you to the ranking member of the full committee, Congresswoman Granger. I believe we have put together very strong and serious resources in the Labor-H bill. I want to say a particular thank you to the chair of the full committee, Congresswoman Nita Lowey, for making the Labor-H bill a high priority. The Labor-HHS-Education bill supports some of the Nation's most critical programs. They touch individuals and families throughout their lifespan, from Early Head Start to the Social Security Administration. For 2020, the subcommittee is providing a total of $189.9 billion in discretionary funding. It is an increase of nearly $12 billion over last year's enacted levels. Our mission has been to advance a positive agenda, to look at issues where programs have been starved, and to reflect the oversight we have been conducting. I believe we have done so. To arrive at these figures, we hosted 12 hearings on the budget, predatory for-profit colleges, Federal student loan servicing, the unaccompanied children program, wage theft, and the administration's cost-increasing changes to the Affordable Care Act. We collected nearly 15,000 requests from Members, and we fulfilled, in part or in whole, more than 90 percent of them. With this input, we produced what I believe to be historic investments in working people, in students, in parents, in children, in families, and in our future. We make a historic $4 billion increase over last year for early childhood programs: $2.4 billion for the childcare and development block grant, equal to 300,000 new slots for childcare; $1.5 billion for Head Start; and $100 million for preschool development grants. We also increased funding for K-12 education by $3.4 billion, $1 billion more for title I, and $1 billion more for IDEA, State grants for special education. In post-secondary education, we make an additional investment of $928 million. We increase the maximum Pell grant award by $150. In health, we make a net increase of $2 billion in the National Institutes of Health, enabling a 5 percent increase for all institutes and centers. We also increased the Centers for Disease Control and Prevention's budget by $938 million. We held the first appropriations hearing on gun violence prevention research in 20 years. Experts told us that the CDC and the NIH can do and must do this research, so we provide $50 million for gun violence prevention research. We are investing in women's health. That includes a $114 million increase for Title X. Title X provides annually more than 4 million low-income women and men with contraception counseling services and health screenings. These investments transform lives. We know this President is highly invested in continuing what we call a tax on women's health. We know the power of the White House and that the President will reject a repeal of the Hyde amendment. That is why this bill maintains current law with regard to the Hyde amendment. The Hyde amendment is a discriminatory policy that makes access to basic reproductive healthcare contingent on your income. That is simply wrong, and I oppose it, as do others. We will continue the long fight, and we will win that fight in the near term to ensure that women of color, low-income women, and all women are on equal footing with regard to reproductive rights. Finally, we invest in working people whose pay does not keep up with their rising costs. They struggle to deal with healthcare, prescription drugs, and childcare. We invest an additional $1.2 billion to help working people find good-paying jobs and to protect and empower them in the workplace. That includes $69 million more for at least 500 new investigators at the Wage and Hour Division to combat wage theft and to help working people receive their full pay. I am also proud of the new initiatives we are introducing. We provide $150 million for community colleges and other 4-year institutions to train working people for in-demand industries. For too long, working people and middle-class families have been shortchanged, and we are moving ambitiously to make sure that we provide every individual with a better chance at a better life. The Acting CHAIR (Mr. Cleaver). The time of the gentlewoman has expired. Mrs. LOWEY. Mr. Chair, I yield an additional 1 minute to the gentlewoman from Connecticut. Ms. DeLAURO. We are moving ambitiously to make sure that we provide every individual with a better chance at a better life because we believe that that is our obligation as Members of Congress. Once again, I want to say thank you to the ranking member, Mr. Cole; to the chair, Mrs. Lowey; to the ranking member of the full committee, Ms. Granger; and to all the subcommittee members who worked so hard in putting this effort together. [[Page H4458]] And a thank you to the staff who have worked so hard: for the majority, Brad Allen, Jared Bass, Jennifer Cama, Robin Juliano, Jaclyn Kilroy, Laurie Mignone, Stephen Steigleder, and Philip Tizzani; and for the minority, Susan Ross and Kathryn Salmon. Ms. GRANGER. Mr. Chair, I yield 5 minutes to the gentleman from California (Mr. Calvert). Mr. CALVERT. Mr. Chair, I thank Ranking Member Granger and Chairwoman Lowey both for their leadership and expertise throughout this process. I also acknowledge the work of Chairman Visclosky. Mr. Chair, I am grateful for Mr. Visclosky's dedication to our U.S servicemembers and our national security and for his willingness to listen and work with us to put together this bill. I very much appreciate the bipartisan way in which the gentleman has managed the Defense Subcommittee. It has been an honor to work with him, and I look forward to finishing our work on time. There is a lot of good work in this bill. However, the United States faces an increasingly challenging geopolitical landscape, one that requires a strong U.S military to help maintain global peace and stability. While we have been at war in the Middle East for nearly two decades, other regions of the world have been watching us and chipping away at our military superiority. Unfortunately, the funding levels recommended in this bill are inadequate to enable us to address the needs of our military and maintain our superiority over our adversaries. The fiscal year 2020 Defense bill before the House today includes $622 billion in base funding and another $68 billion in overseas contingency operations, or OCO, funding, for a total of $690 billion. The amount is roughly $8 billion less than the request. This funding level is not adequate to address the myriad of issues that we face around the world, including from an increasingly aggressive Russia. Just last week, a Russian destroyer came dangerously and recklessly close to one of our vessels in the Philippine Sea. Shortchanging defense funding would send the wrong message to our adversaries. Let's be clear: We do not want a fair fight. Funding the Department to ensure our advantage against any threat is the best deterrent to war. In addition to the low funding levels in the bill, it includes a number of troubling provisions adopted in committee, including a new restriction on the Department's ability to provide lawful assistance to other agencies in combating the real crisis on our southern border. We cannot continue to ignore the reality along our southern border. The sheer numbers of people coming across our borders, in the hundreds of thousands, now require the use of military bases to house migrants. The situation is untenable, and the Congress must update our immigration laws to make the process more rational and enforceable. Restricting the President's ability to address the crisis will only make the problem worse and put more people at risk as they embark on a dangerous journey. I am also concerned with the language striking the Authorization for Use of Military Force. This provision would repeal the current authorization 240 days after enactment. This is a serious topic that needs to be debated by the authorizing committees. Including this language in an appropriations bill with little debate and no committee hearings or witnesses is not the correct way to address this matter. Broadcasting to our enemies the stop date of any military operation is reckless and irresponsible. Then there is the issue of numbers. In divided government, bipartisanship is essential. Unfortunately, until we reach agreement on the top-line spending levels that the President will also support, I remain concerned that the Defense funding bill will be crafted in an environment in which we have no budgetary certainty. Without a top-line budget agreement, and a 2-year deal with the House, the Senate, and the White House to relieve the budget caps put in place by the Budget Control Act, we are not making spending decisions based in reality. If we cannot come to an agreement on a budget caps deal, we face sequestration in the coming year. The impacts would reverse all the progress on readiness and modernization we have achieved over the last 2 years. Sequestration would cut $20 billion from the Navy and $29 billion from the Air Force, and it would stop 100 Army programs. We need all the parties to come together at the table now to make the tough but critical budget decisions. We know all too well how devastating budgetary ambiguity and continuing resolutions can be for defense planning and the real-world impact it has on training, readiness, and quality-of-life issues. That is a recipe for disaster for both our military and the American people. That is why I cannot support this bill at this time. I want to work with my colleagues on the other side of the aisle to develop bills for fiscal year 2020 that meet our Nation's defense and border security priorities in a fiscally responsible manner. Given the chairman's nature, I am sure that he will be an able partner and leader in any effort to strike a budget agreement and certainly happy to help avert sequestration. Finally, I thank the staff on both sides of the aisle for their hard work. I appreciate their diligence. Mrs. LOWEY. Mr. Chair, I yield 2 minutes to the gentlewoman from California (Ms. Lee), who is a member of the Appropriations Committee. Ms. LEE of California. Mr. Chair, I thank Chairwoman Lowey for her leadership, for yielding, and for her tireless work day and night on behalf of the American people. As a member of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee, I am really pleased to see such a comprehensive bill that strongly invests in our communities. For example, there is a $150 million increase for HIV research at NIH and an $8 million increase to the Office of Minority Health to ensure decreases in health disparities for our communities of color. We have a $92 million increase to Historically Black Colleges and Universities' and Hispanic-Serving Institutions' undergraduate programs to help improve higher education access for our students of color. Also, it is important to recognize the $65 million increase to the Education Innovation Research grants for computer science for young girls and students of color, and the $9 million increase for teen pregnancy prevention and the $114 million increase to Title X Family Planning, both programs providing evidence-based, comprehensive sex education. Also, as the proud vice chair of the State, Foreign Operations, and Related Programs Subcommittee, we increased the Global Fund. It remains, of course, at 33 percent, sending an important signal, in terms of our leadership to international partners, that we intend for the United States to stay in the leadership to address the HIV/AIDS pandemic. {time} 1515 Let me just say, with regard to defense, yes, we did, and I want to thank those who have supported this effort to repeal the 2001 AUMF, Authorization to Use Military Force. It was passed 3 days after the horrific tragedy of 9/11. It was 60 words. It has now allowed for the use of force over 41 times in 17 countries, unrelated to the terrible events of 9/11. So, we need to do our job. We need to allow Congress to debate and make some decisions on a new AUMF. The Acting CHAIR. The time of the gentlewoman has expired. Mrs. LOWEY. Mr. Chair, I yield the gentlewoman from California an additional 1 minute. Ms. LEE of California. Mr. Chair, the point is we will have 8 months to debate a new authorization, depending on what this Congress determines should move forward as the Authorization to Use Military Force. The 2001 was passed in 3 days. Certainly, 8 months gives us enough time to do our job. The Constitution requires us not to be missing in action. We have the power of the purse, and we should use that because we have sent our young men and women into harm's way. They have done their job. They need to know now that, in the wars in which they are engaged, Congress has their back. We should make some decisions on this, and it doesn't make any sense to [[Page H4459]] continue using this authorization on wars 18 years later. Twenty percent of Members of Congress serving today were here in 2001. Members deserve to represent their constituents and to debate and to make sure their voices are heard also. Ms. GRANGER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Idaho (Mr. Simpson). Mr. SIMPSON. Mr. Chair, I thank the chairwoman for yielding time. I rise today in reluctant opposition to H.R 2740, the four-bill fiscal 2020 appropriations package that includes the Energy and Water Development appropriations bill. As ranking member of that subcommittee, I know there are several bipartisan priorities in the bill, but, unfortunately, the overall four-bill package is too flawed for me to be able to support it at this time. First and foremost, these bills were developed using top-line funding levels that do not reflect a bipartisan, bicameral agreement. The reality is that we are dealing with monopoly money here, and we all know that. These will not be the final numbers that come out whenever we reach an agreement. The majority's budget framework also promotes the misguided notion that increases to defense spending must be matched or exceeded by increases in nondefense spending. In the Energy and Water bill specifically, a bill that was roughly half defense and half nondefense spending in fiscal year 2019, the increase for nondefense programs is more than 1\1/2\ times the increase for defense programs. While I support many of the nondefense programs in this bill, we need to know the broader budgetary context before we can decide whether individual programs are funded appropriately. We must work together with the Senate and the White House and develop an agreement on overall spending caps. Only then can we write bills that can be passed by both Chambers and that the President will sign. Speaking of the Energy and Water bill specifically, one of my highest priorities in this bill is the Department of Energy's nuclear energy program. The bill includes many good investments within that account, but, overall, the account is kept essentially flat from last year. This decision is a bit perplexing. The bill's allocation is well above last year's, and the majority has stated an intent to focus on technologies to address climate change. The subcommittee held several hearings, at which Members of both parties and witnesses discussed the necessity of advanced nuclear technologies in any kind of low-carbon energy future, yet the nuclear energy program does not share in the funding increases provided for almost all of the other nondefense programs. I am hopeful that, as the bill moves forward, we can address this issue and create a stronger bill. The bill continues significant investments in our Nation's water resources infrastructure, including harbor maintenance activities. Unfortunately, while the majority included additional funding for critical water storage projects, they also decided not to allow previous appropriated dollars to be put to good use. The exclusion of the Shasta Dam and Reservoir Enlargement Project amounts to throwing away a key opportunity to enhance water security in the drought-prone West. The full House should have been allowed to consider the Calvert amendment to correct this problem in the bill. While the majority has referred to funding increases for the National Nuclear Security Administration, the truth is the bill does not sufficiently prioritize activities to maintain and modernize our nuclear weapons stockpile. The Weapons Activities program is $648 million below the budget request. That is more than half a billion dollars below the budget request. As detailed in the Statement of Administration Policy, these cuts to the budget request will delay efforts to improve safety and security features and disrupt alignment with the Department of Defense's plans. Since this delay typically leads to increases, reduced spending does not actually save money; it costs money. We must make the investments necessary to invest in a safe, reliable, and effective stockpile. Finally, I am disappointed that the bill does not include any funding to advance the Yucca Mountain licensing application process and, instead, offers a false promise of interim storage as a solution to the nuclear waste issue. Funding for interim storage alone cannot solve the issue of nuclear waste disposal, especially since current law strictly limits Federal action in this area. Additionally, interim storage locations will be much more difficult to site if there are no assurances of a permanent disposal, as the interim sites would become de facto permanent sites. The Governor of New Mexico recently raised this very point in expressing her concerns about a private interim storage site proposed to be located in her State. Continuing the licensing process is a necessary step to establish a permanent repository for our Nation's defense and commercial nuclear waste. Over the past few decades, electricity consumers across the country have paid roughly $41 billion, with accrued interest, into the Nuclear Waste Fund for permanent disposal of nuclear waste. Due to the political decision to halt advancement of a permanent repository, however, it is the taxpayers--not ratepayers but taxpayers--in all 435 congressional districts who currently are paying $2.2 million a day, more than $800 million per year, to cover the cost of temporary onsite storage. My colleague from Illinois (Mr. Shimkus) filed an amendment to address this, but it was not allowed. We have had strong bipartisan support in the past for this issue. Despite our disagreements over the issues that I have mentioned, I want to close by thanking Chairwoman Kaptur and the majority staff and my staff for their dedication and hard work on this bill. Ms. Kaptur and I have worked together on the Energy and Water Development, and Related Agencies Subcommittee for several years now; and, while we don't agree on every issue, I value our friendship and continue to appreciate the collegial and cooperative tradition of the subcommittee. I would also like to thank Chairwoman Lowey and Ranking Member Granger of the full committee for their leadership and support for the important programs in the Energy and Water bill. Mrs. LOWEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. Hoyer), the majority leader. Mr. HOYER. Mr. Chair, I thank the chairwoman for yielding, and I want to say I thank the chair and I thank Ms. Granger for her leadership and working with the chair, Mrs. Lowey, on getting these bills to the floor. As a member of the Appropriations Committee, albeit on leave, I am very proud of this committee. This committee is probably the most critical committee in the sense that, if it doesn't get its work done, we shut down the government. No other committee can say that, luckily. But I am pleased, as the majority leader, to say that it has been my intent, working with the chair and the ranking member, to complete this appropriations process in a timely fashion. Mr. Chair, the new Democratic majority began this Congress in the middle of a damaging government shutdown. Even though we had a bipartisan agreement on spending levels--which we don't yet have--and the Republicans held both Chambers of Congress and the executive, they failed a fundamental responsibility of funding all of government. And, as a result, we had a partial shutdown. This week, the Democratic majority, working with the Republican minority in the House--and I had the privilege of serving with Ms. Granger actively on the committee--is moving the first four appropriations bills to the floor for consideration, with passage expected early next week. It is my hope that, by moving through this process, we can help prevent a shutdown and, rationally, adopt the priorities of this country, both from a national security standpoint [[Page H4460]] and from a national security standpoint on domestic investments. The bills that are included in this package show our commitment to a stronger military, supporting critical research to combat diseases, more educational opportunities for our people, prioritizing diplomacy and more robust water and energy infrastructure, and a more accountable government. It is a funding package for the people. I am particularly proud of the Labor, HHS, Education, and Related Agencies bill. In my estimate, it is the best I have had the opportunity to vote for throughout my career. It supports a more competitive workforce, advances healthcare research and access, stands up for women's health, and invests in future generations by funding important educational initiatives; such as, full-service community schools, a Special Olympics that provides so many opportunities to those with intellectual disabilities, and after- school programming. These are all critical programs for our national security that President Trump has proposed, unfortunately, eliminating. Moreover, the Energy and Water bill before us supports the Chesapeake Bay Oyster Restoration Project, which is important to our State, but also important to one of America's great estuaries. We are doing all that while bringing the package of appropriations bills to the floor under a rule that allows for genuine bipartisan debate and amendment. As I have said before, the House intends to do its job by passing all 12 appropriations bills before the end of June so that we have ample time to go to conference with the Senate and complete them before the end of the fiscal year. That will be a historic step if we, together, can accomplish it. The Democratic-led House ended the Trump shutdown earlier this year. And the Democratic-led House is going to do its part to prevent another Trump shutdown in October. Let me reiterate, though, that we want to do it in a bipartisan way. Again, I thank the chair and the ranking member for being such constructive, positive participants in this process. The best way to accomplish our objective, though, is for House and Senate Democrats and Republicans to reach agreement before the fall on lifting the sequester caps based on the principle of parity while, at the same time, extending or eliminating the debt limit. I talked to Senator McConnell in January. Both he and I agreed that we ought to get a caps agreement. I regret that we have not done that, so we are proceeding under a deemed number. That is not the perfect way to do it, but it is the only way we had available to us to get our work done. I observe that Mr. Shelby, who is the chairman of the Appropriations Committee, for my Republican friends, indicated he thought he might well follow the House and deem numbers. As a practical matter, that is the only way to do it absent agreement. Agreement on top-line numbers will make it easier for the House and Senate to agree on individual appropriations bills that can be sent to the President's desk. Together, we have a responsibility to make the investments the American people have entrusted us to make. I realize that we do not all agree, but we ought to, as a democratic body, decide that we will vote on our disagreements and we will resolve those by vote, as we did when the Republican side was in charge. And, very frankly, we disagreed with many of those bills, but they became law, five of them. And, as a result, we funded the majority of the expenditures in the last year, even though we shut down most of the agencies of government at the end of the year into this year. So, Mr. Chair, I would urge my friends to pursue this debate in an orderly fashion, realizing that we couldn't make all 600 amendments in order, but also realizing that we will have an opportunity to debate the equities that we think are important, come to a decision, and pass those bills to the Senate. Hopefully, the Senate will pass them, and we will have conferences. Some Members don't know what conferences are. When I started on the Appropriations Committee in 1983, and in the 23 years thereafter--in the early years, we really had conferences, and all the members of the subcommittee were members of the conference. And we met with the Senate; we debated back and forth; and we came out with the compromised bills. When I started on the Appropriations Committee, there were really no Republicans and no Democrats. One may think that is a surprising statement. All were advocates. Some had different points of view, but they were advocates of making sure that we funded our government in a rational, democratic way, which means the majority will rule, as it did last year. So, I urge my colleagues: Let us do our business. We will have differences, but do not allow those differences to undermine the ability of this House to operate in a rational, constructive manner. {time} 1530 Ms. GRANGER. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. Hudson). Mr. HUDSON. Mr. Chairman, I thank distinguished Ranking Member Granger for her strong leadership on the committee and for yielding this time to me. Mr. Chairman, I rise today to call attention to a serious issue of mismanagement between the Community Development Institute, known by its acronym, CDI, and the Office of Head Start. I wholeheartedly support the Head Start program, and I know it has the power to change lives. In fact, my mother is a retired Head Start teacher, and I know the impact on her students was profound. However, I have also seen, firsthand, the damage that can quickly happen to a community when proper oversight is not conducted over local Head Start programs, especially once CDI assumes control. In Cabarrus County, my home county in the Eighth District of North Carolina, we have witnessed CDI continuously demonstrate an inability to ensure the federally mandated guidelines outlined in the Head Start Act are met. While I have been impressed by the new Head Start national Director, Dr. Deborah Bergeron, I adamantly believe Congress needs to exercise more oversight when it comes to Head Start and CDI--not just in my congressional district, but across the Nation. I would like to ask Congresswoman DeLauro to work with me to make sure Head Start and CDI are held accountable and ensure the most vulnerable children in our communities receive the best preschool education possible. Ms. DeLAURO. Will the gentleman yield? Mr. HUDSON. I yield to the gentlewoman from Connecticut. Ms. DeLAURO. Mr. Chairman, the gentleman and I have had these conversations, and I appreciate being able to speak with him. Mr. Chairman, I thank the gentleman from North Carolina (Mr. Hudson) for bringing attention to this critical issue. I proudly support increased access to Head Start for all children, which is why this bill provides an increase of $1.5 billion for this important program. Mr. Chairman, let me commit to working with the gentleman and the agency to get to the bottom of this issue that has impacted the children in his district and prevented access to high-quality early childhood education. Mr. HUDSON. Mr. Chair, I look forward to working with the gentlewoman and my other colleagues to protect the Head Start program and ensure this does not happen again in my district, but I also want to help make sure it doesn't happen to any child who is denied access to these vital education programs. Mrs. LOWEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. Wasserman Schultz), the chairwoman of the Military Construction, Veterans Affairs, and Related Agencies Subcommittee. Ms. WASSERMAN SCHULTZ. Mr. Chairman, I want to thank the chair of the committee for her leadership throughout our appropriations process. We now have a funding bill on the floor [[Page H4461]] this week that makes critical investments and advances American values. I want to touch on the part of the State and Foreign Operations bill that deals with support for the Venezuelan people. I am thrilled with the support in the bill for Venezuela, for her people, because the Venezuelan people are enduring an unimaginable onslaught of hunger, danger, and escalating economic pain, and America cannot stand idly by. As a member of the Appropriations Committee and the Representative with the largest Venezuelan population in the United States, I am thrilled that the bill has language that allocates aid to Colombia to assist communities that are impacted by refugee and migrant populations fleeing the despotic Maduro regime. Congresswoman Shalala and I visited Colombia and met with starving and impoverished Venezuelans and saw, firsthand, the need for this funding. We saw the blocked bridges and met with Venezuelans shot by their own military to prevent them from delivering humanitarian aid to their own people. The bill also includes funding for democracy promotion, human rights, and civil society programs in Venezuela, and I was proud to work with the chairwoman to include this vital funding. Perhaps most important is what this bill does not do, what it does not contain, which is the traditional prohibition on funds being provided to the central Government of Venezuela, with the clear hope that we might have a cooperating regime to work with in the near future. The U.S rightfully recognizes Juan Guaido as the legitimate interim President of Venezuela. Viva Venezuela. We must continue to work to make sure that she can transition to a democracy and the vibrant nation that she once was. Ms. GRANGER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. Yoho). Mr. YOHO. Mr. Chair, I thank the gentlewoman for yielding time. Mr. Chair, we stand at a moment in history. Seventy years after the end of World War II and 30 years after the end of the Cold War, the world is still battling authoritarianism. However, due to the increased global economic integration, authoritarian states have begun to utilize practices of economic coercion and predatory lending to take advantage of developing nations. These vulnerable countries are presented with funding for major development projects, which ultimately lead to unrepayable debt. When these governments cannot fulfill their financial obligations, they are forced to give up strategic ports and lands that can now be used by the authoritarian regimes to achieve diplomatic and strategic aims that threaten democracies and stability. At the same time, we face the challenge and opportunity of leading the global effort to combat extreme poverty and disease, with an increasing recognition that public investment and grants alone are insufficient for the task. To tackle these issues, I worked with my colleagues last Congress to pass the new U.S Development Finance Corporation. This critical tool put America and her allies in the position to counter economic coercion by ensuring that our government maximizes the impact of our resources through a coordinated strategy that prioritizes the mobilization of private capital through a variety of investment structures and partnerships. Additionally, the DFC will work much more closely with our lead development agency, USAID, and ensure we focus on sustainable development and allowing countries to make the transition from aid to trade through investments in infrastructure. As the implementation of the new DFC continues, I look forward to engaging with my colleagues and providing this new entity with the sufficient funding and flexibility it needs to achieve our Nation's foreign policy goals. I applaud Chairwoman Lowey and Ranking Member Granger's support for the new DFC. I would also like to thank my colleagues Adam Smith, Hal Rogers, and Jeff Fortenberry for their support and engagement on this critical issue. It is paramount that we get this policy right to show America's commitment and continued leadership in forging strong foreign policy that benefits all. Ms. GRANGER. Mr. Chairman, I yield back the balance of my time. Mrs. LOWEY. Mr. Chair, I yield myself the balance of my time. Before I close, I would like to thank the staff for their tireless work, particularly Steve Marchese, Craig Higgins, Erin Kolodjeski, Dean Koulouris, Jason Wheelock, Jean Kwon, Marin Stein, Clelia Alvarado, Liz Leibowitz, and Wendy Coursen. And all those whom I didn't include, I thank all the other staff who have been so really remarkable in this very important work. With this bill, we have forged a vision that stands in stark contrast to the reckless austerity of recent years and the bleak view presented in the administration's budget request. This is a bill for the people. It will strengthen communities, improve lives, and help repair our standing in the world, and I urge support. Mr. Chairman, I yield back the balance of my time. The Acting CHAIR (Mr. Brindisi). All time for general debate has expired. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. An amendment in the nature of a substitute consisting of the text of Rules Committee Print 116-17, modified by the amendment printed in part A of House Report 116-109, shall be considered as adopted, and the bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered as read. The text of the bill, as amended, is as follows: H.R 2740 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. SHORT TITLE. This Act may be cited as the ``Labor, Health and Human Services, Education, Defense, State, Foreign Operations, and Energy and Water Development Appropriations Act, 2020''. DIVISION A--DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020 The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2020, and for other purposes, namely: TITLE I DEPARTMENT OF LABOR Employment and Training Administration training and employment services For necessary expenses of the Workforce Innovation and Opportunity Act (referred to in this Act as ``WIOA'') and the National Apprenticeship Act, $3,977,615,000, plus reimbursements, shall be available. Of the amounts provided: (1) for grants to States for adult employment and training activities, youth activities, and dislocated worker employment and training activities, $2,967,360,000 as follows: (A) $900,000,000 for adult employment and training activities, of which $188,000,000 shall be available for the period July 1, 2020 through June 30, 2021, and of which $712,000,000 shall be available for the period October 1, 2020 through June 30, 2021; (B) $964,000,000 for youth activities, which shall be available for the period April 1, 2020 through June 30, 2021; and (C) $1,103,360,000 for dislocated worker employment and training activities, of which $243,360,000 shall be available for the period July 1, 2020 through June 30, 2021, and of which $860,000,000 shall be available for the period October 1, 2020 through June 30, 2021: Provided, That the funds available for allotment to outlying areas to carry out subtitle B of title I of the WIOA shall not be subject to the requirements of section 127(b)(1)(B)(ii) of such Act; and (2) for national programs, $1,010,255,000 as follows: (A) $370,859,000 for the dislocated workers assistance national reserve, of which $170,859,000 shall be available for the period July 1, 2020 through September 30, 2021, and of which $200,000,000 shall be available for the period October 1, 2020 through September 30, 2021: Provided, That funds provided to carry out section 132(a)(2)(A) of the WIOA may be used to provide assistance to a State for statewide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: Provided further, That funds provided to carry out sections 168(b) and 169(c) of the WIOA may be used for technical assistance and demonstration projects, respectively, that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That notwithstanding section 168(b) of the WIOA, of the funds provided under this subparagraph, the Secretary of Labor (referred to in this title [[Page H4462]] as ``Secretary'') may reserve not more than 7 percent of such funds to provide technical assistance and carry out additional activities related to the transition to the WIOA: Provided further, That of the funds provided under this subparagraph, $150,000,000 shall be for training and employment assistance under sections 168(b), 169(c) (notwithstanding the 10 percent limitation in such section) and 170 of the WIOA for the purpose of developing, offering, or improving educational or career training programs at community colleges, defined as public institutions of higher education, as described in section 101(a) of the Higher Education Act and at which the associate's degree is primarily the highest degree awarded, with other eligible institutions of higher education, as defined in section 101(a) of the Higher Education Act, eligible to participate through consortia, with community colleges as the lead grantee: Provided further, That the Secretary shall follow the requirements for the program in the committee report accompanying this Act: Provided further, That any grant funds used for apprenticeships shall be used to support only apprenticeship programs registered under the National Apprenticeship Act and as referred to in Section 3(7)(B) of the Workforce Innovation and Opportunity Act; (B) $55,000,000 for Native American programs under section 166 of the WIOA, which shall be available for the period July 1, 2020 through June 30, 2021; (C) $98,896,000 for migrant and seasonal farmworker programs under section 167 of the WIOA, including $91,722,000 for formula grants (of which not less than 70 percent shall be for employment and training services), $6,588,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and $586,000 for other discretionary purposes, which shall be available for the period April 1, 2020 through June 30, 2021: Provided, That notwithstanding any other provision of law or related regulation, the Department of Labor shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services; (D) $127,500,000 for YouthBuild activities as described in section 171 of the WIOA, which shall be available for the period April 1, 2020 through June 30, 2021; (E) $100,000,000 for ex-offender activities, under the authority of section 169 of the WIOA, which shall be available for the period April 1, 2020 through June 30, 2021: Provided, That of this amount, $25,000,000 shall be for competitive grants to national and regional intermediaries for activities that prepare young, formerly incarcerated individuals, including those who have dropped out of school or other educational programs, with a priority for projects serving high-crime, high-poverty areas; (F) $8,000,000 for the Workforce Data Quality Initiative, under the authority of section 169 of the WIOA, which shall be available for the period July 1, 2020 through June 30, 2021; and (G) $250,000,000, to expand opportunities through apprenticeships only registered under the National Apprenticeship Act and as referred to in section 3(7)(B) of the WIOA, to be available to the Secretary to carry out activities through grants, cooperative agreements, contracts and other arrangements, with States and other appropriate entities, which shall be available for the period July 1, 2020 through June 30, 2021: Provided further, That of the funds provided to carry out this subparagraph, not less than 20 percent shall be for making competitive contracts, grants, and cooperative agreements to national apprenticeship intermediaries, not less than 20 percent shall be for competitive contracts, grants, and cooperative agreements to local apprenticeship intermediaries, and not less than 50 percent shall be used to fund grants to States. job corps (including ***transfer*** of funds) To carry out subtitle C of title I of the WIOA, including Federal administrative expenses, the purchase and hire of passenger motor vehicles, the construction, alteration, and repairs of buildings and other facilities, and the purchase of real property for training centers as authorized by the WIOA, $1,868,655,000, plus reimbursements, as follows: (1) $1,603,325,000 for Job Corps Operations, which shall be available for the period July 1, 2020 through June 30, 2021; (2) $233,000,000 for construction, rehabilitation and acquisition of Job Corps Centers, which shall be available for the period July 1, 2020 through June 30, 2023, and which may include the acquisition, maintenance, and repair of major items of equipment: Provided, That the Secretary may ***transfer*** up to 15 percent of such funds to meet the operational needs of such centers or to achieve administrative efficiencies: Provided further, That any funds ***transferred*** pursuant to the preceding provision shall not be available for obligation after June 30, 2021: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***; and (3) $32,330,000 for necessary expenses of Job Corps, which shall be available for obligation for the period October 1, 2019 through September 30, 2020: Provided, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers. community service employment for older americans To carry out title V of the Older Americans Act of 1965 (referred to in this Act as ``OAA''), $463,800,000, which shall be available for the period April 1, 2020 through June 30, 2021, and may be recaptured and reobligated in accordance with section 517(c) of the OAA. federal unemployment benefits and allowances For payments during fiscal year 2020 of trade adjustment benefit payments and allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and section 246 of that Act; and for training, employment and case management services, allowances for job search and relocation, and related State administrative expenses under part II of subchapter B of chapter 2 of title II of the Trade Act of 1974, and including benefit payments, allowances, training, employment and case management services, and related State administration provided pursuant to section 231(a) of the Trade Adjustment Assistance Extension Act of 2011 and section 405(a) of the Trade Preferences Extension Act of 2015, $680,000,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15, 2020: Provided, That notwithstanding section 502 of this Act, any part of the appropriation provided under this heading may remain available for obligation beyond the current fiscal year pursuant to the authorities of section 245(c) of the Trade Act of 1974 (19 U.S.C 2317(c)). state unemployment insurance and employment service operations For authorized administrative expenses, $84,066,000, together with not to exceed $3,381,695,000 which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund (``the Trust Fund''), of which: (1) $2,618,230,000 from the Trust Fund is for grants to States for the administration of State unemployment insurance laws as authorized under title III of the Social Security Act (including not less than $175,000,000 to carry out reemployment services and eligibility assessments under section 306 of such Act, any claimants of regular compensation, as defined in such section, including those who are profiled as most likely to exhaust their benefits, may be eligible for such services and assessments: Provided, That of such amount, $117,000,000 is specified for grants under section 306 of the Social Security Act and is provided to meet the terms of section 251(b)(2)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and $58,000,000 is additional new budget authority specified for purposes of section 251(b)(2)(E)(i)(II) of such Act; and $9,000,000 for continued support of the Unemployment Insurance Integrity Center of Excellence), the administration of unemployment insurance for Federal employees and for ex- service members as authorized under 5 U.S.C 8501-8523, and the administration of trade readjustment allowances, reemployment trade adjustment assistance, and alternative trade adjustment assistance under the Trade Act of 1974 and under section 231(a) of the Trade Adjustment Assistance Extension Act of 2011 and section 405(a) of the Trade Preferences Extension Act of 2015, and shall be available for obligation by the States through December 31, 2020, except that funds used for automation shall be available for Federal obligation through December 31, 2020, and for State obligation through September 30, 2022, or, if the automation is being carried out through consortia of States, for State obligation through September 30, 2026, and for expenditure through September 30, 2027, and funds for competitive grants awarded to States for improved operations and to conduct in- person reemployment and eligibility assessments and unemployment insurance improper payment reviews and provide reemployment services and referrals to training, as appropriate, shall be available for Federal obligation through December 31, 2020, and for obligation by the States through September 30, 2022, and funds for the Unemployment Insurance Integrity Center of Excellence shall be available for obligation by the State through September 30, 2021, and funds used for unemployment insurance workloads experienced through September 30, 2020 shall be available for Federal obligation through December 31, 2020: Provided further, That of the funds available under this paragraph for grants to States for administering claims under State unemployment compensation laws that remain unallocated at the end of the fiscal year as a result of state workloads in administering such claims not supporting the allocation, the Secretary shall use such funds (other than funds specified for other activities in this paragraph) for supplemental grant funding opportunities to States in order to improve operations and modernize State Unemployment Insurance systems and such funds shall remain available for Federal obligation through December 31, 2020; (2) $12,000,000 from the Trust Fund is for national activities necessary to support the administration of the Federal-State unemployment insurance system; (3) $658,587,000 from the Trust Fund, together with $21,413,000 from the General Fund of the Treasury, is for grants to States in accordance with section 6 of the Wagner- Peyser Act, and shall be available for Federal obligation for the period July 1, 2020 through June 30, 2021; (4) $22,318,000 from the Trust Fund is for national activities of the Employment Service, including administration of the work opportunity tax credit under section 51 of the Internal Revenue Code of 1986, and the provision of technical assistance and staff training under the Wagner-Peyser Act; (5) $70,560,000 from the Trust Fund is for the administration of foreign labor certifications and related activities under the Immigration and Nationality Act and related laws, of which $56,278,000 shall be available for the Federal administration of such activities, and $14,282,000 shall be available for grants to States for the administration of such activities; and [[Page H4463]] (6) $62,653,000 from the General Fund is to provide workforce information, national electronic tools, and one- stop system building under the Wagner-Peyser Act and shall be available for Federal obligation for the period July 1, 2020 through June 30, 2021: Provided, That to the extent that the Average Weekly Insured Unemployment (``AWIU'') for fiscal year 2020 is projected by the Department of Labor to exceed 1,758,000, an additional $28,600,000 from the Trust Fund shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) to carry out title III of the Social Security Act: Provided further, That funds appropriated in this Act that are allotted to a State to carry out activities under title III of the Social Security Act may be used by such State to assist other States in carrying out activities under such title III if the other States include areas that have suffered a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided further, That the Secretary may use funds appropriated for grants to States under title III of the Social Security Act to make payments on behalf of States for the use of the National Directory of New Hires under section 453(j)(8) of such Act: Provided further, That the Secretary may use funds appropriated for grants to States under title III of the Social Security Act to make payments on behalf of States to the entity operating the State Information Data Exchange System: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance, employment service, or immigration programs, may be obligated in contracts, grants, or agreements with States and non-State entities: Provided further, That States awarded competitive grants for improved operations under title III of the Social Security Act, or awarded grants to support the national activities of the Federal-State unemployment insurance system, may award subgrants to other States and non-State entities under such grants, subject to the conditions applicable to the grants: Provided further, That funds appropriated under this Act for activities authorized under title III of the Social Security Act and the Wagner- Peyser Act may be used by States to fund integrated Unemployment Insurance and Employment Service automation efforts, notwithstanding cost allocation principles prescribed under the final rule entitled ``Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards'' at part 200 of title 2, Code of Federal Regulations: Provided further, That the Secretary, at the request of a State participating in a consortium with other States, may reallot funds allotted to such State under title III of the Social Security Act to other States participating in the consortium or to the entity operating the Unemployment Insurance Information Technology Support Center in order to carry out activities that benefit the administration of the unemployment compensation law of the State making the request: Provided further, That the Secretary may collect fees for the costs associated with additional data collection, analyses, and reporting services relating to the National ***Agricultural*** Workers Survey requested by State and local governments, public and private institutions of higher education, and nonprofit organizations and may utilize such sums, in accordance with the provisions of 29 U.S.C 9a, for the National ***Agricultural*** Workers Survey infrastructure, methodology, and data to meet the information collection and reporting needs of such entities, which shall be credited to this appropriation and shall remain available until September 30, 2021, for such purposes. advances to the unemployment trust fund and other funds For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1986; and for nonrepayable advances to the revolving fund established by section 901(e) of the Social Security Act, to the Unemployment Trust Fund as authorized by 5 U.S.C 8509, and to the ``Federal Unemployment Benefits and Allowances'' account, such sums as may be necessary, which shall be available for obligation through September 30, 2021. program administration For expenses of administering employment and training programs, $108,674,000, together with not to exceed $49,982,000 which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund. Employee Benefits Security Administration salaries and expenses For necessary expenses for the Employee Benefits Security Administration, $183,155,000, of which up to $3,000,000 shall be made available through September 30, 2021, for the procurement of expert witnesses for enforcement litigation. Pension Benefit Guaranty Corporation pension benefit guaranty corporation fund The Pension Benefit Guaranty Corporation (``Corporation'') is authorized to make such expenditures, including financial assistance authorized by subtitle E of title IV of the Employee Retirement Income Security Act of 1974, within limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by 31 U.S.C 9104, as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2020, for the Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2020 shall be available for obligations for administrative expenses in excess of $452,858,000: Provided further, That to the extent that the number of new plan participants in plans terminated by the Corporation exceeds 100,000 in fiscal year 2020, an amount not to exceed an additional $9,200,000 shall remain available until expended for obligations for administrative expenses for every 20,000 additional terminated participants: Provided further, That obligations in excess of the amounts provided for administrative expenses in this paragraph may be incurred and shall remain available until expended for obligation for unforeseen and extraordinary pre-termination or termination expenses or extraordinary multiemployer program related expenses after approval by the Office of Management and Budget and ***notification*** of the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That to the extent the Corporation's expenses exceed $250,000 for the provision of credit or identity monitoring to affected individuals upon suffering a security incident or privacy breach, an additional amount shall remain available until expended for obligations for such expenses, not to exceed an additional $100 per affected individual. Wage and Hour Division salaries and expenses For necessary expenses for the Wage and Hour Division, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $298,131,000. Office of Labor-management Standards salaries and expenses For necessary expenses for the Office of Labor-Management Standards, $40,187,000. Office of Federal Contract Compliance Programs salaries and expenses For necessary expenses for the Office of Federal Contract Compliance Programs, $120,000,000. Office of Workers' Compensation Programs salaries and expenses For necessary expenses for the Office of Workers' Compensation Programs, $118,609,000, together with $2,173,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act. special benefits (including ***transfer*** of funds) For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by 5 U.S.C 81; continuation of benefits as provided for under the heading ``Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; section 5(f) of the War Claims Act (50 U.S.C App. 2012); obligations incurred under the War Hazards Compensation Act (42 U.S.C 1701 et seq.); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, $234,600,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year, for deposit into and to assume the attributes of the Employees' Compensation Fund established under 5 U.S.C 8147(a): Provided, That amounts appropriated may be used under 5 U.S.C 8104 by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a re-employed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2019, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be ***transferred*** to this appropriation from the Postal Service and from any other corporation or instrumentality required under 5 U.S.C 8147(c) to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2020: Provided further, That of those funds ***transferred*** to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $74,777,000 shall be made available to the Secretary as follows: (1) For enhancement and maintenance of automated data processing systems operations and telecommunications systems, $24,540,000; (2) For automated workload processing operations, including document imaging, centralized mail intake, and medical bill processing, $22,968,000; (3) For periodic roll disability management and medical review, $25,535,000; (4) For program integrity, $1,734,000; and (5) The remaining funds shall be paid into the Treasury as miscellaneous receipts: Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under 5 U.S.C 81, or the Longshore and Harbor Workers' Compensation Act, provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe. special benefits for disabled coal miners For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107-275, $20,970,000, to remain available until expended. [[Page H4464]] For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of such Act, for costs incurred in the current fiscal year, such amounts as may be necessary. For making benefit payments under title IV for the first quarter of fiscal year 2021, $14,000,000, to remain available until expended. administrative expenses, energy employees occupational illness compensation fund For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, $59,846,000, to remain available until expended: Provided, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim such identifying information (including Social Security account number) as may be prescribed. black lung disability trust fund (including ***transfer*** of funds) Such sums as may be necessary from the Black Lung Disability Trust Fund (the ``Fund''), to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (6), and (7) of the Internal Revenue Code of 1986; and repayment of, and payment of interest on advances, as authorized by section 9501(d)(4) of that Act. In addition, the following amounts may be expended from the Fund for fiscal year 2020 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed $38,246,000 for ***transfer*** to the Office of Workers' Compensation Programs, ``Salaries and Expenses''; not to exceed $32,844,000 for ***transfer*** to Departmental Management, ``Salaries and Expenses''; not to exceed $330,000 for ***transfer*** to Departmental Management, ``Office of Inspector General''; and not to exceed $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury. Occupational Safety and Health Administration salaries and expenses For necessary expenses for the Occupational Safety and Health Administration, $660,908,000, including not to exceed $123,233,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the ``Act''), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C 3302, the Occupational Safety and Health Administration may retain up to $499,000 per fiscal year of training institute course tuition and fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education: Provided, That notwithstanding 31 U.S.C 3302, the Secretary is authorized, during the fiscal year ending September 30, 2020, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That $12,690,000 shall be available for Susan Harwood training grants, of which not less than $4,500,000 is for Susan Harwood Training Capacity Building Developmental grants, as described in Funding Opportunity Number SHTG-FY-16-02 (referenced in the notice of availability of funds published in the Federal Register on May 3, 2016 (81 Fed. Reg. 30568)) for program activities starting not later than September 30, 2020 and lasting for a period of 12 months: Provided further, That not more than $3,500,000 shall be for Voluntary Protection Programs. Mine Safety and Health Administration salaries and expenses For necessary expenses for the Mine Safety and Health Administration, $417,290,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to $2,000,000 for mine rescue and recovery activities and not less than $10,537,000 for State assistance grants: Provided, That notwithstanding 31 U.S.C 3302, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities: Provided further, That notwithstanding 31 U.S.C 3302, the Mine Safety and Health Administration is authorized to collect and retain up to $2,499,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities: Provided further, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided further, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: Provided further, That the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization: Provided further, That any funds available to the Department of Labor may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster. Bureau of Labor Statistics salaries and expenses For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $600,800,000, together with not to exceed $65,000,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. In addition, $10,000,000 to remain available until September 30, 2024, for costs associated with the physical move of the Bureau of Labor Statistics' headquarters, including replication of space, furniture, fixtures, equipment, and related costs, as well as relocation of the data center to a shared facility. Office of Disability Employment Policy salaries and expenses For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $38,500,000. Departmental Management salaries and expenses (including ***transfer*** of funds) For necessary expenses for Departmental Management, including the hire of three passenger motor vehicles, $382,631,000, together with not to exceed $308,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: Provided, That $89,825,000 for the Bureau of International Labor Affairs shall be available for obligation through December 31, 2020: Provided further, That funds available to the Bureau of International Labor Affairs may be used to administer or operate international labor activities, bilateral and multilateral technical assistance, and microfinance programs, by or through contracts, grants, subgrants and other arrangements: Provided further, That not more than $53,825,000 shall be for programs to combat exploitative child labor internationally and not less than $36,000,000 shall be used to implement model programs that address worker rights issues through technical assistance in countries with which the United States has free trade agreements or trade preference programs: Provided further, That $8,040,000 shall be used for program evaluation and shall be available for obligation through September 30, 2021: Provided further, That funds available for program evaluation may be used to administer grants for the purpose of evaluation: Provided further, That grants made for the purpose of evaluation shall be awarded through fair and open competition: Provided further, That funds available for program evaluation may be ***transferred*** to any other appropriate account in the Department for such purpose: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***: Provided further, That the funds available to the Women's Bureau may be used for grants to serve and promote the interests of women in the workforce: Provided further, That of the amounts made available to the Women's Bureau, not less than $4,994,000 shall be used for grants authorized by the Women in Apprenticeship and Nontraditional Occupations Act. veterans employment and training Not to exceed $256,341,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of chapters 41, 42, and 43 of title 38, United States Code, of which: (1) $180,000,000 is for Jobs for Veterans State grants under 38 U.S.C 4102A(b)(5) to support disabled veterans' outreach program specialists under section 4103A of such title and local veterans' employment representatives under section 4104(b) of such title, and for the expenses described in section 4102A(b)(5)(C), which shall be available for obligation by the States through December 31, 2020, and not to exceed 3 percent for the necessary Federal expenditures for data systems and contract support to allow for the tracking of participant and performance information: Provided, That, in addition, such funds may be used to support such specialists and representatives in the provision of services to transitioning members of the Armed Forces who have participated in the Transition Assistance Program and have been identified as in need of intensive services, to members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units, and to the spouses or other family caregivers of such wounded, ill, or injured members; (2) $29,379,000 is for carrying out the Transition Assistance Program under 38 U.S.C 4113 and 10 U.S.C 1144; (3) $43,548,000 is for Federal administration of chapters 41, 42, and 43 of title 38, and sections 2021, 2021A and 2023 of title 38, United States Code: Provided, That, up to $500,000 may be used to carry out the Hire VETS Act (division O of Public Law 115-31); and (4) $3,414,000 is for the National Veterans' Employment and Training Services Institute under 38 U.S.C 4109: Provided, That the Secretary may reallocate among the appropriations provided under paragraphs (1) through (4) above an amount not to exceed 3 percent of the appropriation from which such reallocation is made. In addition, from the General Fund of the Treasury, $60,000,000 is for carrying out programs to assist homeless veterans and veterans at risk of homelessness who are transitioning [[Page H4465]] from certain institutions under sections 2021, 2021A, and 2023 of title 38, United States Code: Provided, That notwithstanding subsections (c)(3) and (d) of section 2023, the Secretary may award grants through September 30, 2020, to provide services under such section: Provided further, That services provided under sections 2021 or under 2021A may include, in addition to services to homeless veterans described in section 2002(a)(1), services to veterans who were homeless at some point within the 60 days prior to program entry or veterans who are at risk of homelessness within the next 60 days, and that services provided under section 2023 may include, in addition to services to the individuals described in subsection (e) of such section, services to veterans recently released from incarceration who are at risk of homelessness: Provided further, That notwithstanding paragraph (3) under this heading, funds appropriated in this paragraph may be used for data systems and contract support to allow for the tracking of participant and performance information: Provided further, That notwithstanding sections 2021(e)(2) and 2021A(f)(2) of title 38, United States Code, such funds shall be available for expenditure pursuant to 31 U.S.C 1553. In addition, fees may be assessed and deposited in the HIRE Vets Medallion Award Fund pursuant to section 5(b) of the HIRE Vets Act, and such amounts shall be available to the Secretary to carry out the HIRE Vets Medallion Award Program, as authorized by such Act, and shall remain available until expended: Provided, That such sums shall be in addition to any other funds available for such purposes, including funds available under paragraph (3) of this heading: Provided further, That section 2(d) of division O of the Consolidated Appropriations Act, 2017 (Public Law 115-31; 38 U.S.C 4100 note) shall not apply. information technology modernization For necessary expenses for Department of Labor centralized infrastructure technology investment activities related to support systems and modernization, $37,000,000, which shall be available through September 30, 2021. office of inspector general For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $90,461,000, together with not to exceed $5,660,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. General Provisions Sec. 101. None of the funds appropriated by this Act for the Job Corps shall be used to pay the salary and bonuses of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II. (***transfer*** of funds) Sec. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for the Department of Labor in this Act may be ***transferred*** between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such ***transfer***: Provided, That the ***transfer*** authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***. Sec. 103. In accordance with Executive Order 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, in whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act. Sec. 104. Except as otherwise provided in this section, none of the funds made available to the Department of Labor for grants under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C 2916a) may be used for any purpose other than competitive grants for training individuals who are older than 16 years of age and are not currently enrolled in school within a local educational agency in the occupations and industries for which employers are using H-1B visas to hire foreign workers, and the related activities necessary to support such training. Sec. 105. None of the funds made available by this Act under the heading ``Employment and Training Administration'' shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in Office of Management and Budget Circular A-133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. (***transfer*** of funds) Sec. 106. (a) Notwithstanding section 102, the Secretary may ***transfer*** funds made available to the Employment and Training Administration by this Act, either directly or through a set-aside, for technical assistance services to grantees to ``Program Administration'' when it is determined that those services will be more efficiently performed by Federal employees: Provided, That this section shall not apply to section 171 of the WIOA. (b) Notwithstanding section 102, the Secretary may ***transfer*** not more than 0.5 percent of each discretionary appropriation made available to the Employment and Training Administration by this Act to ``Program Administration'' in order to carry out program integrity activities relating to any of the programs or activities that are funded under any such discretionary appropriations: Provided, That notwithstanding section 102 and the preceding proviso, the Secretary may ***transfer*** not more than 0.5 percent of funds made available in paragraphs (1) and (2) of the ``Office of Job Corps'' account to paragraph (3) of such account to carry out program integrity activities related to the Job Corps program: Provided further, That funds ***transferred*** under the authority provided by this subsection shall be available for obligation through September 30, 2021. (***transfer*** of funds) Sec. 107. (a) The Secretary may reserve not more than 0.75 percent from each appropriation made available in this Act identified in subsection (b) in order to carry out evaluations of any of the programs or activities that are funded under such accounts. Any funds reserved under this section shall be ***transferred*** to ``Departmental Management'' for use by the Office of the Chief Evaluation Officer within the Department of Labor, and shall be available for obligation through September 30, 2021: Provided, That such funds shall only be available if the Chief Evaluation Officer of the Department of Labor submits a plan to the Committees on Appropriations of the House of Representatives and the Senate describing the evaluations to be carried out 15 days in advance of any ***transfer***. (b) The accounts referred to in subsection (a) are: ``Training and Employment Services'', ``Job Corps'', ``Community Service Employment for Older Americans'', ``State Unemployment Insurance and Employment Service Operations'', ``Employee Benefits Security Administration'', ``Office of Workers' Compensation Programs'', ``Wage and Hour Division'', ``Office of Federal Contract Compliance Programs'', ``Office of Labor Management Standards'', ``Occupational Safety and Health Administration'', ``Mine Safety and Health Administration'', ``Office of Disability Employment Policy'', funding made available to the ``Bureau of International Labor Affairs'' and ``Women's Bureau'' within the ``Departmental Management, Salaries and Expenses'' account, and ``Veterans Employment and Training''. Sec. 108. Notwithstanding any other provision of law, the Secretary may furnish through grants, cooperative agreements, contracts, and other arrangements, up to $2,000,000 of excess personal property, at a value determined by the Secretary, to apprenticeship programs for the purpose of training apprentices in those programs. Sec. 109. Funds made available in prior Acts under the heading ``Department of Labor--Employment and Training Administration--State Unemployment Insurance and Employment Service Operations'' for fiscal years 2015 through 2019 for automation acquisitions that are being carried out through consortia of States shall be available for expenditure for six fiscal years after the final fiscal year that such funds are available to incur new obligations. Sec. 110. (a) The Act entitled ``An Act to create a Department of Labor'', approved March 4, 1913 (37 Stat. 736, chapter 141) shall be applied as if the following text is part of such Act: `` ``(a) In General.--The Secretary of Labor is authorized to employ law enforcement officers or special agents to-- ``(1) provide protection for the Secretary of Labor during the workday of the Secretary and during any activity that is preliminary or postliminary to the performance of official duties by the Secretary; ``(2) provide protection, incidental to the protection provided to the Secretary, to a member of the immediate family of the Secretary who is participating in an activity or event relating to the official duties of the Secretary; ``(3) provide continuous protection to the Secretary (including during periods not described in paragraph (1)) and to the members of the immediate family of the Secretary if there is a unique and articulable threat of physical harm, in accordance with guidelines established by the Secretary; and ``(4) provide protection to the Deputy Secretary of Labor or another senior officer representing the Secretary of Labor at a public event if there is a unique and articulable threat of physical harm, in accordance with guidelines established by the Secretary. ``(b) Authorities.--The Secretary of Labor may authorize a law enforcement officer or special agent employed under subsection (a), for the purpose of performing the duties authorized under subsection (a), to-- ``(1) carry firearms; ``(2) make arrests without a warrant for any offense against the United States committed in the presence of such officer or special agent; ``(3) perform protective intelligence work, including identifying and mitigating potential threats and conducting advance work to review security matters relating to sites and events; ``(4) coordinate with local law enforcement agencies; and ``(5) initiate criminal and other investigations into potential threats to the security of the Secretary, in coordination with the Inspector General of the Department of Labor. ``(c) Compliance With Guidelines.--A law enforcement officer or special agent employed under subsection (a) shall exercise any authority provided under this section in accordance with any-- [[Page H4466]] ``(1) guidelines issued by the Attorney General; and ``(2) guidelines prescribed by the Secretary of Labor.''. (b) This section shall be effective on the date of enactment of this Act. Sec. 111. The Secretary is authorized to dispose of or divest, by any means the Secretary determines appropriate, including an agreement or partnership to construct a new Job Corps center, all or a portion of the real property on which the Treasure Island Job Corps Center is situated. Any sale or other disposition will not be subject to any requirement of any Federal law or regulation relating to the disposition of Federal real property, including but not limited to subchapter III of chapter 5 of title 40 of the United States Code and subchapter V of chapter 119 of title 42 of the United States Code. The net proceeds of such a sale shall be ***transferred*** to the Secretary, which shall be available until expended to carry out the Job Corps Program on Treasure Island. Sec. 112. Notwithstanding the Federal Assets Sale and ***Transfer*** Act of 2016 (Public Law 114-287), the proceeds from the sale of any Job Corps facility under such Act shall be ***transferred*** to the Secretary pursuant to section 158(g) of the WIOA. This title may be cited as the ``Department of Labor Appropriations Act, 2020''. TITLE II DEPARTMENT OF HEALTH AND HUMAN SERVICES Health Resources and Services Administration primary health care For carrying out titles II and III of the Public Health Service Act (referred to in this Act as the ``PHS Act'') with respect to primary health care and the Native Hawaiian Health Care Act of 1988, $1,676,522,000: Provided, That no more than $1,000,000 shall be available until expended for carrying out the provisions of section 224(o) of the PHS Act: Provided further, That no more than $120,000,000 shall be available until expended for carrying out subsections (g) through (n) and (q) of section 224 of the PHS Act, and for expenses incurred by the Department of Health and Human Services (referred to in this Act as ``HHS'') pertaining to administrative claims made under such law. health workforce For carrying out titles III, VII, and VIII of the PHS Act with respect to the health workforce, sections 1128E and 1921 of the Social Security Act, and the Health Care Quality Improvement Act of 1986, $1,244,942,000: Provided, That sections 751(j)(2) and 762(k) of the PHS Act and the proportional funding amounts in paragraphs (1) through (4) of section 756(f) of the PHS Act shall not apply to funds made available under this heading: Provided further, That for any program operating under section 751 of the PHS Act on or before January 1, 2009, the Secretary of Health and Human Services (referred to in this title as the ``Secretary'') may hereafter waive any of the requirements contained in sections 751(d)(2)(A) and 751(d)(2)(B) of such Act for the full project period of a grant under such section: Provided further, That no funds shall be available for section 340G-1 of the PHS Act: Provided further, That fees collected for the disclosure of information under section 427(b) of the Health Care Quality Improvement Act of 1986 and sections 1128E(d)(2) and 1921 of the Social Security Act shall be sufficient to recover the full costs of operating the programs authorized by such sections and shall remain available until expended for the National Practitioner Data Bank: Provided further, That funds ***transferred*** to this account to carry out section 846 and subpart 3 of part D of title III of the PHS Act may be used to make prior year adjustments to awards made under such section and subpart: Provided further, That $120,000,000 shall remain available until expended for the purposes of providing primary health services, assigning National Health Service Corps (``NHSC'') members to expand the delivery of substance use disorder treatment services, notwithstanding the assignment priorities and limitations under sections 333(a)(1)(D), 333(b), and 333A(a)(1)(B)(ii) of the PHS Act, and making payments under the NHSC Loan Repayment Program under section 338B of such Act: Provided further, That, within the amount made available in the previous proviso, $15,000,000 shall remain available until expended for the purposes of making payments under the NHSC Loan Repayment Program under section 338B of the PHS Act to individuals participating in such program who provide primary health services in Indian Health Service facilities, Tribally- Operated 638 Health Programs, and Urban Indian Health Programs (as those terms are defined by the Secretary), notwithstanding the assignment priorities and limitations under section 333(b) of such Act: Provided further, That for purposes of the previous two provisos, section 331(a)(3)(D) of the PHS Act shall be applied as if the term ``primary health services'' includes clinical substance use disorder treatment services, including those provided by masters level, licensed substance use disorder treatment counselors: Provided further, That of the funds made available under this heading, $20,000,000 shall be available to make grants to establish or expand optional community-based nurse practitioner fellowship programs that are accredited or in the accreditation process, with a preference for those in Federally Qualified Health Centers, for practicing postgraduate nurse practitioners in primary care or behavioral health. Of the funds made available under this heading, $40,000,000 shall remain available until expended for grants to public institutions of higher education to expand or support graduate education for physicians provided by such institutions: Provided, That, in awarding such grants, the Secretary shall give priority to public institutions of higher education located in States with a projected primary care provider shortage in 2025, as determined by the Secretary: Provided further, That grants so awarded are limited to such public institutions of higher education in States in the top quintile of States with a projected primary care provider shortage in 2025, as determined by the Secretary: Provided further, That the minimum amount of a grant so awarded to such an institution shall be not less than $1,000,000 per year: Provided further, That such a grant may be awarded for a period not to exceed 5 years: Provided further, That such a grant awarded with respect to a year to such an institution shall be subject to a matching requirement of non-Federal funds in an amount that is not less than 10 percent of the total amount of Federal funds provided in the grant to such institution with respect to such year. maternal and child health For carrying out titles III, XI, XII, and XIX of the PHS Act with respect to maternal and child health, title V of the Social Security Act, $972,751,000: Provided, That notwithstanding sections 502(a)(1) and 502(b)(1) of the Social Security Act, not more than $119,593,000 shall be available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act and $10,276,000 shall be available for projects described in subparagraphs (A) through (F) of section 501(a)(3) of such Act. ryan white hiv/aids program For carrying out title XXVI of the PHS Act with respect to the Ryan White HIV/AIDS program, $2,435,157,000, of which $2,009,200,000 shall remain available to the Secretary through September 30, 2022, for parts A and B of title XXVI of the PHS Act, and of which not less than $912,017,000 shall be for State AIDS Drug Assistance Programs under the authority of section 2616 or 311(c) of such Act: Provided, That of the funds made available under this heading, $175,000,000 shall be for the Minority AIDS Initiative under section 2693 of such Act, of which $56,664,000 shall be allocated under subsection (b)(2)(A) of such section and $74,376,000 shall be allocated under subsection (b)(2)(C) of such section: Provided further, That of the funds made available under this heading, $70,000,000, to remain available until expended, shall be available to the Secretary for carrying out a program of grants and contracts under title XXVI or section 311(c) of such Act focused on ending the nationwide HIV/AIDS epidemic, with any grants issued under such section 311(c) administered in conjunction with title XXVI of the PHS Act, including the limitation on administrative expenses. health care systems For carrying out titles III and XII of the PHS Act with respect to health care systems, and the Stem Cell Therapeutic and Research Act of 2005, $123,693,000, of which $122,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center. rural health For carrying out titles III and IV of the PHS Act with respect to rural health, section 427(a) of the Federal Coal Mine Health and Safety Act of 1969, and sections 711 and 1820 of the Social Security Act, $317,794,000, of which $59,000,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program: Provided, That of the funds made available under this heading for Medicare rural hospital flexibility grants, $19,942,000 shall be available for the Small Rural Hospital Improvement Grant Program for quality improvement and adoption of health information technology and up to $1,000,000 shall be to carry out section 1820(g)(6) of the Social Security Act, with funds provided for grants under section 1820(g)(6) available for the purchase and implementation of telehealth services, including pilots and demonstrations on the use of electronic health records to coordinate rural veterans care between rural providers and the Department of Veterans Affairs electronic health record system: Provided further, That notwithstanding section 338J(k) of the PHS Act, $12,500,000 shall be available for State Offices of Rural Health: Provided further, That $10,000,000 shall remain available through September 30, 2022, to support the Rural Residency Development Program. family planning For carrying out the program under title X of the PHS Act to provide for voluntary family planning projects, $400,000,000: Provided, That the Secretary shall carry out section 1001 of the PHS Act solely in accordance with any regulations or other conditions or instructions established by the Secretary pursuant to the authority under section 1006 of the PHS Act that applied as of January 18, 2017, to grants and contracts awarded under section 1001 of the PHS Act: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office. program management For program support in the Health Resources and Services Administration, $155,250,000: Provided, That funds made available under this heading may be used to supplement program support funding provided under the headings ``Primary Health Care'', ``Health Workforce'', ``Maternal and Child Health'', ``Ryan White HIV/AIDS Program'', ``Health Care Systems'', and ``Rural Health''. [[Page H4467]] vaccine injury compensation program trust fund For payments from the Vaccine Injury Compensation Program Trust Fund (the ``Trust Fund''), such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the PHS Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $11,200,000 shall be available from the Trust Fund to the Secretary. Centers for Disease Control and Prevention immunization and respiratory diseases For carrying out titles II, III, XVII, and XXI, and section 2821 of the PHS Act, titles II and IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act, with respect to immunization and respiratory diseases, $499,758,000. hiv/aids, viral hepatitis, sexually transmitted diseases, and tuberculosis prevention For carrying out titles II, III, XVII, and XXIII of the PHS Act with respect to HIV/AIDS, viral hepatitis, sexually transmitted diseases, and tuberculosis prevention, $1,335,197,000. emerging and zoonotic infectious diseases For carrying out titles II, III, and XVII, and section 2821 of the PHS Act, titles II and IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act, with respect to emerging and zoonotic infectious diseases, $592,622,000: Provided, That of the funds made available under this heading to pay for the transportation, medical care, treatment, and other related costs of persons quarantined or isolated under Federal or State quarantine law, up to $1,000,000 shall remain available until expended. chronic disease prevention and health promotion For carrying out titles II, III, XI, XV, XVII, and XIX of the PHS Act with respect to chronic disease prevention and health promotion, $1,080,121,000: Provided, That funds made available under this heading may be available for making grants under section 1509 of the PHS Act for not less than 21 States, tribes, or tribal organizations: Provided further, That of the funds made available under this heading, $15,000,000 shall be available to continue and expand community specific extension and outreach programs to combat obesity in counties with the highest levels of obesity: Provided further, That the proportional funding requirements under section 1503(a) of the PHS Act shall not apply to funds made available under this heading. birth defects, developmental disabilities, disabilities and health For carrying out titles II, III, XI, and XVII of the PHS Act with respect to birth defects, developmental disabilities, disabilities and health, $161,560,000. public health scientific services For carrying out titles II, III, and XVII of the PHS Act with respect to health statistics, surveillance, health informatics, and workforce development, $603,897,000. environmental health For carrying out titles II, III, and XVII of the PHS Act with respect to environmental health, $226,350,000. injury prevention and control For carrying out titles II, III, and XVII of the PHS Act with respect to injury prevention and control, $697,559,000, of which $25,000,000 is provided for firearm injury and mortality prevention research. national institute for occupational safety and health For carrying out titles II, III, and XVII of the PHS Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act, section 13 of the Mine Improvement and New Emergency Response Act, and sections 20, 21, and 22 of the Occupational Safety and Health Act, with respect to occupational safety and health, $346,300,000. energy employees occupational illness compensation program For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, $55,358,000, to remain available until expended: Provided, That this amount shall be available consistent with the provision regarding administrative expenses in section 151(b) of division B, title I of Public Law 106-554. global health For carrying out titles II, III, and XVII of the PHS Act with respect to global health, $523,621,000, of which: (1) $128,421,000 shall remain available through September 30, 2021, for international HIV/AIDS; and (2) $99,762,000 shall be available for global public health protection: Provided, That funds may be used for purchase and insurance of official motor vehicles in foreign countries. public health preparedness and response For carrying out titles II, III, and XVII of the PHS Act with respect to public health preparedness and response, and for expenses necessary to support activities related to countering potential biological, nuclear, radiological, and chemical threats to civilian populations, $880,200,000: Provided, That the Director of the Centers for Disease Control and Prevention (referred to in this title as ``CDC'') or the Administrator of the Agency for Toxic Substances and Disease Registry may detail staff without reimbursement for up to 180 days to support an activation of the CDC Emergency Operations Center, so long as the Director or Administrator, as applicable, provides a notice to the Committees on Appropriations of the House of Representatives and the Senate within 15 days of the use of this authority and a full report within 30 days after use of this authority which includes the number of staff and funding level broken down by the originating center and number of days detailed. buildings and facilities (including ***transfer*** of funds) For acquisition of real property, equipment, construction, installation, demolition, and renovation of facilities, $30,000,000, which shall remain available until September 30, 2024: Provided, That in addition to the amount provided, for a new CDC research support building and all related material handling, utility, transportation, and personnel support infrastructure at the Chamblee campus, including necessary acquisition of real property, equipment, construction, demolition, installation, activation, renovation, and improvements, $225,000,000, which shall be derived by ***transfer*** from the Fund established by Public Law 110-161, division G, title II, section 223 and shall remain available until September 30, 2024: Provided further, That funds previously set aside by CDC for repair and upgrade of the Lake Lynn Experimental Mine and Laboratory shall be used to acquire a replacement mine safety research facility: Provided further, That in addition, the prior year unobligated balance of any amounts assigned to former employees in accounts of CDC made available for Individual Learning Accounts shall be credited to and merged with the amounts made available under this heading to support the replacement of the mine safety research facility. cdc-wide activities and program support (including ***transfer*** of funds) For carrying out titles II, III, XVII and XIX, and section 2821 of the PHS Act and for cross-cutting activities and program support for activities funded in other appropriations included in this Act for the Centers for Disease Control and Prevention, $163,570,000, of which up to $10,000,000 may be ***transferred*** to the reserve of the Working Capital Fund authorized under this heading in division F of Public Law 112-74: Provided, That paragraphs (1) through (3) of subsection (b) of section 2821 of the PHS Act shall not apply to funds appropriated under this heading and in all other accounts of the CDC: Provided further, That of the amounts made available under this heading, $50,000,000 shall be ***transferred*** to and merged with the Infectious Diseases Rapid Response Reserve Fund established by section 231 of division B of Public Law 115-245: Provided further, That any funds made available by this Act to the Centers for Disease Control and Prevention may be used to support the purchase, hire, maintenance, and operation of an aircraft for use and support of the activities of CDC: Provided further, That employees of CDC or the Public Health Service, both civilian and commissioned officers, detailed to States, municipalities, or other organizations under authority of section 214 of the PHS Act, or in overseas assignments, shall be treated as non- Federal employees for reporting purposes only and shall not be included within any personnel ***ceiling*** applicable to the Agency, Service, or HHS during the period of detail or assignment: Provided further, That CDC may use up to $10,000 from amounts appropriated to CDC in this Act for official reception and representation expenses when specifically approved by the Director of CDC: Provided further, That in addition, such sums as may be derived from authorized user fees, which shall be credited to the appropriation charged with the cost thereof: Provided further, That with respect to the previous proviso, authorized user fees from the Vessel Sanitation Program and the Respirator Certification Program shall be available through September 30, 2021. National Institutes of Health national cancer institute For carrying out section 301 and title IV of the PHS Act with respect to cancer, $6,249,165,000, of which up to $30,000,000 may be used for facilities repairs and improvements at the National Cancer Institute--Frederick Federally Funded Research and Development Center in Frederick, Maryland. national heart, lung, and blood institute For carrying out section 301 and title IV of the PHS Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $3,658,822,000. national institute of dental and craniofacial research For carrying out section 301 and title IV of the PHS Act with respect to dental and craniofacial diseases, $484,350,000. national institute of diabetes and digestive and kidney diseases For carrying out section 301 and title IV of the PHS Act with respect to diabetes and digestive and kidney disease, $2,129,027,000. national institute of neurological disorders and stroke For carrying out section 301 and title IV of the PHS Act with respect to neurological disorders and stroke, $2,315,571,000. national institute of allergy and infectious diseases For carrying out section 301 and title IV of the PHS Act with respect to allergy and infectious diseases, $5,808,268,000. national institute of general medical sciences For carrying out section 301 and title IV of the PHS Act with respect to general medical sciences, $3,033,183,000, of which $1,146,821,000 shall be from funds available under section 241 [[Page H4468]] of the PHS Act: Provided, That not less than $381,573,000 is provided for the Institutional Development Awards program. eunice kennedy shriver national institute of child health and human development For carrying out section 301 and title IV of the PHS Act with respect to child health and human development, $1,580,084,000. national eye institute For carrying out section 301 and title IV of the PHS Act with respect to eye diseases and visual disorders, $835,465,000. national institute of environmental health sciences For carrying out section 301 and title IV of the PHS Act with respect to environmental health sciences, $812,570,000. national institute on aging For carrying out section 301 and title IV of the PHS Act with respect to aging, $3,286,107,000. national institute of arthritis and musculoskeletal and skin diseases For carrying out section 301 and title IV of the PHS Act with respect to arthritis and musculoskeletal and skin diseases, $634,637,000. national institute on deafness and other communication disorders For carrying out section 301 and title IV of the PHS Act with respect to deafness and other communication disorders, $497,590,000. national institute of nursing research For carrying out section 301 and title IV of the PHS Act with respect to nursing research, $170,958,000. national institute on alcohol abuse and alcoholism For carrying out section 301 and title IV of the PHS Act with respect to alcohol abuse and alcoholism, $551,278,000. national institute on drug abuse For carrying out section 301 and title IV of the PHS Act with respect to drug abuse, $1,489,237,000. national institute of mental health For carrying out section 301 and title IV of the PHS Act with respect to mental health, $1,891,704,000. national human genome research institute For carrying out section 301 and title IV of the PHS Act with respect to human genome research, $603,710,000. national institute of biomedical imaging and bioengineering For carrying out section 301 and title IV of the PHS Act with respect to biomedical imaging and bioengineering research, $408,498,000. national center for complementary and integrative health For carrying out section 301 and title IV of the PHS Act with respect to complementary and integrative health, $153,632,000. national institute on minority health and health disparities For carrying out section 301 and title IV of the PHS Act with respect to minority health and health disparities research, $341,244,000. john e. fogarty international center For carrying out the activities of the John E. Fogarty International Center (described in subpart 2 of part E of title IV of the PHS Act), $84,926,000. national library of medicine For carrying out section 301 and title IV of the PHS Act with respect to health information communications, $463,599,000: Provided, That of the amounts available for improvement of information systems, $4,000,000 shall be available until September 30, 2021: Provided further, That in fiscal year 2020, the National Library of Medicine may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health (referred to in this title as ``NIH''). national center for advancing translational sciences For carrying out section 301 and title IV of the PHS Act with respect to translational sciences, $845,783,000: Provided, That up to $80,000,000 shall be available to implement section 480 of the PHS Act, relating to the Cures Acceleration Network. office of the director For carrying out the responsibilities of the Office of the Director, NIH, $2,049,992,000: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That $165,000,000 shall be for the Environmental Influences on Child Health Outcomes study: Provided further, That $617,761,000 shall be available for the Common Fund established under section 402A(c)(1) of the PHS Act: Provided further, That of the funds provided, $10,000 shall be for official reception and representation expenses when specifically approved by the Director of the NIH: Provided further, That the Office of AIDS Research within the Office of the Director of the NIH may spend up to $8,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the PHS Act: Provided further, That $25,000,000 shall be used to carry out section 404I of the PHS Act (42 U.S.C 283K), relating to biomedical and behavioral research facilities. In addition to other funds appropriated for the Common Fund established under section 402A(c) of the PHS Act, $12,600,000 is appropriated to the Common Fund from the 10-year Pediatric Research Initiative Fund described in section 9008 of title 26, United States Code, for the purpose of carrying out section 402(b)(7)(B)(ii) of the PHS Act (relating to pediatric research), as authorized in the Gabriella Miller Kids First Research Act. buildings and facilities For the study of, construction of, demolition of, renovation of, and acquisition of equipment for, facilities of or used by NIH, including the acquisition of real property, $200,000,000, to remain available through September 30, 2024. nih innovation account, cures act (including ***transfer*** of funds) For necessary expenses to carry out the purposes described in section 1001(b)(4) of the 21st Century Cures Act, in addition to amounts available for such purposes in the appropriations provided to the NIH in this Act, $492,000,000, to remain available until expended: Provided, That such amounts are appropriated pursuant to section 1001(b)(3) of such Act, are to be derived from amounts ***transferred*** under section 1001(b)(2)(A) of such Act, and may be ***transferred*** by the Director of the National Institutes of Health to other accounts of the National Institutes of Health solely for the purposes provided in such Act: Provided further, That upon a determination by the Director that funds ***transferred*** pursuant to the previous proviso are not necessary for the purposes provided, such amounts may be ***transferred*** back to the Account: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided by law. Substance Abuse and Mental Health Services Administration mental health For carrying out titles III, V, and XIX of the PHS Act with respect to mental health, the Protection and Advocacy for Individuals with Mental Illness Act, and section 224 of the Protecting Access to Medicare Act of 2014, $1,622,974,000: Provided, That of the funds made available under this heading, $70,887,000 shall be for the National Child Traumatic Stress Initiative: Provided further, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A shall be available for carrying out section 1971 of the PHS Act: Provided further, That in addition to amounts provided herein, $21,039,000 shall be available under section 241 of the PHS Act to supplement funds otherwise available for mental health activities and to carry out subpart I of part B of title XIX of the PHS Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX: Provided further, That up to 10 percent of the amounts made available to carry out the Children's Mental Health Services program may be used to carry out demonstration grants or contracts for early interventions with persons not more than 25 years of age at clinical high risk of developing a first episode of psychosis: Provided further, That section 520E(b)(2) of the PHS Act shall not apply to funds appropriated in this Act for fiscal year 2020: Provided further, That of the total amount each State receives for carrying out section 1911 of the PHS Act, the State shall expend at least 10 percent of such total amount to support evidence-based programs that address the needs of individuals with early serious mental illness, including psychotic disorders, regardless of the age at onset, and shall expend at least five percent of such total amount for evidence-based crisis care programs addressing the needs of individuals with serious mental illnesses and children with serious mental and emotional disturbances: Provided further, That $150,000,000 shall be available until September 30, 2022, for grants to communities and community organizations who meet criteria for Certified Community Behavioral Health Clinics pursuant to section 223(a) of Public Law 113-93: Provided further, That none of the funds provided for section 1911 of the PHS Act shall be subject to section 241 of such Act. substance abuse treatment For carrying out titles III and V of the PHS Act with respect to substance abuse treatment, title XIX of such Act with respect to substance abuse treatment and prevention, and section 3203 of the Support for Patients and Communities Act, $3,761,056,000: Provided, That $1,500,000,000 shall be for State Opioid Response Grants for carrying out activities pertaining to opioids undertaken by the State agency responsible for administering the substance abuse prevention and treatment block grant under subpart II of part B of title XIX of the PHS Act (42 U.S.C 300x-21 et seq.): Provided further, That of such amount $50,000,000 shall be made available to Indian Tribes or tribal organizations: Provided further, That 15 percent of the remaining amount shall be for the States with the highest mortality rate related to opioid use disorders: Provided further, That of the amounts provided for State Opioid Response Grants not more than 2 percent shall be available for Federal administrative expenses, training, technical assistance, and evaluation: Provided further, That of the amount not reserved by the previous three provisos, the Secretary shall make allocations to States, territories, and the District of Columbia according to a formula using national survey results that the Secretary determines are the most objective and reliable measure of drug use and drug-related deaths: Provided further, That the Secretary shall submit the formula methodology to the Committees on Appropriations of the House of Representatives and the Senate not less than 15 days prior to publishing [[Page H4469]] a Funding Opportunity Announcement: Provided further, That prevention and treatment activities funded through such grants may include education, treatment (including the provision of medication), behavioral health services for individuals in treatment programs, referral to treatment services, recovery support, and medical screening associated with such treatment: Provided further, That each State, as well as the District of Columbia, shall receive not less than $4,000,000: Provided further, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) $79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; and (2) $2,000,000 to evaluate substance abuse treatment programs: Provided further, That none of the funds provided for section 1921 of the PHS Act or State Opioid Response Grants shall be subject to section 241 of such Act. substance abuse prevention For carrying out titles III and V of the PHS Act with respect to substance abuse prevention, $212,469,000. health surveillance and program support For program support and cross-cutting activities that supplement activities funded under the headings ``Mental Health'', ``Substance Abuse Treatment'', and ``Substance Abuse Prevention'' in carrying out titles III, V, and XIX of the PHS Act and the Protection and Advocacy for Individuals with Mental Illness Act in the Substance Abuse and Mental Health Services Administration, $128,830,000: Provided, That in addition to amounts provided herein, $31,428,000 shall be available under section 241 of the PHS Act to supplement funds available to carry out national surveys on drug abuse and mental health, to collect and analyze program data, and to conduct public awareness and technical assistance activities: Provided further, That, in addition, fees may be collected for the costs of publications, data, data tabulations, and data analysis completed under title V of the PHS Act and provided to a public or private entity upon request, which shall be credited to this appropriation and shall remain available until expended for such purposes: Provided further, That amounts made available in this Act for carrying out section 501(o) of the PHS Act shall remain available through September 30, 2021: Provided further, That funds made available under this heading may be used to supplement program support funding provided under the headings ``Mental Health'', ``Substance Abuse Treatment'', and ``Substance Abuse Prevention''. Agency for Healthcare Research and Quality healthcare research and quality For carrying out titles III and IX of the PHS Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $339,809,000: Provided, That in addition to amounts provided herein, $18,408,000 shall be available from amounts available under section 241 of the PHS Act: Provided further, That section 947(c) of the PHS Act shall not apply in fiscal year 2020: Provided further, That in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until September 30, 2021. Centers for Medicare and Medicaid Services grants to states for medicaid For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $273,188,478,000, to remain available until expended. In addition, for carrying out such titles after May 31, 2020, for the last quarter of fiscal year 2020 for unanticipated costs incurred for the current fiscal year, such sums as may be necessary, to remain available until expended. In addition, for carrying out such titles for the first quarter of fiscal year 2021, $139,903,075,000, to remain available until expended. Payment under such title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter. payments to the health care trust funds For payment to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as provided under sections 217(g), 1844, and 1860D-16 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d)(3) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $410,796,100,000. In addition, for making matching payments under section 1844 and benefit payments under section 1860D-16 of the Social Security Act that were not anticipated in budget estimates, such sums as may be necessary. program management For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the PHS Act, the Clinical Laboratory Improvement Amendments of 1988, and other responsibilities of the Centers for Medicare & Medicaid Services, not to exceed $3,984,744,000, to be ***transferred*** from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the PHS Act and section 1857(e)(2) of the Social Security Act, funds retained by the Secretary pursuant to section 1893(h) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall be credited to this account and remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C 9701 from organizations established under title XIII of the PHS Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That the Secretary is directed to collect fees in fiscal year 2020 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That amounts available under this heading for quality improvement organizations (as defined in section 1152 of the Social Security Act) may not exceed the amount provided under this heading in division H of the Consolidated Appropriations Act, 2018 (Public Law 115-141) for such organizations. In addition, the Secretary shall obligate not less than $100,000,000 in fiscal year 2020 out of amounts collected through the user fees on participating health insurance issuers pursuant to section 156.50 of title 45, Code of Federal Regulations (or any successor regulations) to carry out the navigator program (as described in section 1311(i) of the Patient Protection and Affordable Care Act (42 U.S.C 18031(i)), and to carry out outreach and educational activities, for purposes of informing potential enrollees in qualified health plans (as defined in section 1301(a) of such Act (42 U.S.C 18021(a)) offered through an Exchange established or operated by the Secretary within a State, of the availability of coverage under such plans and financial assistance for coverage under such plans: Provided, That awards under such program shall be based solely on an entity's demonstrated capacity to carry out each of the duties specified in section 1311(i)(3) of such Act: Provided further, That not less than $15,000,000 shall be obligated for national television and not less than $15,000,000 shall be obligated for internet search advertising for purposes of carrying out such outreach and educational activities: Provider further, That not less than $30,000,000 of the funds made available in this paragraph shall be obligated for advertising during the final two weeks of the open enrollment period specified by the Secretary pursuant to section 1311(c)(6)(B) of such Act occurring during 2019: Provided further, That no amounts collected through such user fees shall be available for expenditures for promoting health insurance coverage or a group health plan (as such terms are defined in section 2791 of the PHS Act (42 U.S.C 300gg-91)) that is not a qualified health plan. health care fraud and abuse control account In addition to amounts otherwise available for program integrity and program management, $786,000,000, to remain available through September 30, 2021, to be ***transferred*** from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as authorized by section 201(g) of the Social Security Act, of which $610,000,000 shall be for the Centers for Medicare & Medicaid Services program integrity activities, of which $93,000,000 shall be for the Department of Health and Human Services Office of Inspector General to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act, and of which $83,000,000 shall be for the Department of Justice to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act: Provided, That the report required by section 1817(k)(5) of the Social Security Act for fiscal year 2020 shall include measures of the operational efficiency and impact on fraud, waste, and abuse in the Medicare, Medicaid, and CHIP programs for the funds provided by this appropriation: Provided further, That of the amount provided under this heading, $311,000,000 is provided to meet the terms of section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and $475,000,000 is additional new budget authority specified for purposes of section 251(b)(2)(C) of such Act: Provided further, That the Secretary shall provide not less than $18,000,000 from amounts made available under this heading and amounts made available for fiscal year 2020 under section 1817(k)(3)(A) of the Social Security Act for the Senior Medicare Patrol program to combat health care fraud and abuse. Administration for Children and Families payments to states for child support enforcement and family support programs For carrying out, except as otherwise provided, titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960, $2,890,000,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2021, $1,400,000,000, to remain available until expended. For carrying out, after May 31 of the current fiscal year, except as otherwise provided, titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. low income home energy assistance For making payments under subsections (b) and (d) of section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C 8621 et seq.), $3,840,304,000: Provided, That notwithstanding section 2609A(a) of such Act, not more than $2,988,000 may be reserved by the Secretary of Health and Human Services for technical assistance, training, and monitoring of program activities for compliance with internal controls, [[Page H4470]] policies and procedures and the Secretary may, in addition to the authorities provided in section 2609A(a)(1), use such funds through contracts with private entities that do not qualify as nonprofit organizations: Provided further, That $3,637,316,000 of the amount appropriated under this heading shall be allocated to each State and territory in amounts equal to the amount each State and territory was allocated in fiscal year 2018 pursuant to allocations made from amounts appropriated under this heading in the Consolidated Appropriations Act, 2018 (Public Law 115-141): Provided further, that $37,280,000 of the amount appropriated under this heading shall be allocated as though the total appropriation for such payments for fiscal year 2020 was less than $1,975,000,000. refugee and entrant assistance For necessary expenses for refugee and entrant assistance activities authorized by section 414 of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, and for carrying out section 462 of the Homeland Security Act of 2002, section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, the Trafficking Victims Protection Act of 2000 (``TVPA''), and the Torture Victims Relief Act of 1998, $2,411,701,000, of which $2,364,446,000 shall remain available through September 30, 2022 for carrying out such sections 414, 501, 462, and 235: Provided, That amounts available under this heading to carry out the TVPA shall also be available for research and evaluation with respect to activities under such Act: Provided further, That not less than $190,000,000 shall be used for legal services, child advocates, and post-release services: Provided further, That none of the funds made available by this Act may be used to implement or enforce the Memorandum of Agreement Among the Office of Refugee Resettlement of the Department of Health and Human Services and U.S Immigration and Customs Enforcement and U.S Customs and Border Protection of the Department of Homeland Security Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters, dated April 13, 2018: Provided further, That not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spend plan of anticipated uses of funds made available in this account, including the following: costs, capacity, and timelines for existing grants and contracts; costs for expanding capacity through use of community-based residential care placements (including long- term and transitional foster care and small group homes) through new or modified grants and contracts; costs and services to be provided for legal services, child advocates, and post-release services; program administration; and the average number of weekly referrals and discharge rate assumed in the spend plan: Provided further, That such plan shall be updated to reflect changes and expenditures and submitted to the Committees every 60 days thereafter. None of the funds made available in this Act may be used in contravention of the Homeland Security Act of 2002, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, or the Adoption and Safe Families Act of 1997 (as those law are in effect on the date of the enactment of this Act, and including provisions of other statutes amended or added by those laws, as so in effect), or the Stipulated Settlement Agreement in Flores v. Reno (U.S District Court, Central District of California, 1997). payments to states for the child care and development block grant For carrying out the Child Care and Development Block Grant Act of 1990 (``CCDBG Act''), $7,676,000,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That technical assistance under section 658I(a)(3) of such Act may be provided directly, or through the use of contracts, grants, cooperative agreements, or interagency agreements: Provided further, That all funds made available to carry out section 418 of the Social Security Act (42 U.S.C 618), including funds appropriated for that purpose in such section 418 or any other provision of law, shall be subject to the reservation of funds authority in paragraphs (4) and (5) of section 658O(a) of the CCDBG Act: Provided further, That in addition to the amounts required to be reserved by the Secretary under section 658O(a)(2)(A) of such Act, $156,780,000 shall be for Indian tribes and tribal organizations. social services block grant For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000: Provided, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX- A of such Act shall be 10 percent. children and families services programs For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Head Start Act, the Every Student Succeeds Act, the Child Abuse Prevention and Treatment Act, sections 303 and 313 of the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (adoption opportunities), part B-1 of title IV and sections 429, 473A, 477(i), 1110, 1114A, and 1115 of the Social Security Act, and the Community Services Block Grant Act (``CSBG Act''); and for necessary administrative expenses to carry out titles I, IV, V, X, XI, XIV, XVI, and XX-A of the Social Security Act, the Act of July 5, 1960, the Low-Income Home Energy Assistance Act of 1981, the Child Care and Development Block Grant Act of 1990, the Assets for Independence Act, title IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act of 1980, $13,967,468,000, of which $75,000,000, to remain available through September 30, 2021, shall be for grants to States for adoption and legal guardianship incentive payments, as defined by section 473A of the Social Security Act and may be made for adoptions and legal guardianships completed before September 30, 2020: Provided, That $11,563,095,000 shall be for making payments under the Head Start Act, of which, notwithstanding section 640 of such Act: (1) $217,000,000 shall be available for a cost of living adjustment, and with respect to any continuing appropriations act, funding available for a cost of living adjustment shall not be construed as an authority or condition under this Act; (2) $25,000,000 shall be available for allocation by the Secretary to supplement activities described in paragraphs (7)(B) and (9) of section 641(c) of the Head Start Act under the Designation Renewal System, established under the authority of sections 641(c)(7), 645A(b)(12), and 645A(d) of such Act, and such funds shall not be included in the calculation of ``base grant'' in subsequent fiscal years, as such term is used in section 640(a)(7)(A) of such Act; (3) $1,330,000,000, in addition to funds otherwise available under such section 640 for such purposes, shall be available through March 31, 2021, for Early Head Start programs as described in section 645A of such Act, for conversion of Head Start services to Early Head Start services as described in section 645(a)(5)(A) of such Act, for discretionary grants for high quality infant and toddler care through Early Head Start-Child Care Partnerships, to entities defined as eligible under section 645A(d) of such Act, for training and technical assistance for such activities, and for up to $26,000,000 in Federal costs of administration and evaluation; (4) $750,000,000 shall be available for quality improvement consistent with section 640(a)(5) of such Act; and (5) $8,000,000 shall be available for the purposes of re- establishing the Tribal Colleges and Universities Head Start Partnership Program consistent with section 648(g) of such Act: Provided further, That the Secretary may reduce the reservation of funds under section 640(a)(2)(C) of such Act in lieu of reducing the reservation of funds under sections 640(a)(2)(B), 640(a)(2)(D), and 640(a)(2)(E) of such Act: Provided further, That $350,000,000 shall be available until December 31, 2020 for carrying out sections 9212 and 9213 of the Every Student Succeeds Act: Provided further, That up to 3 percent of the funds in the preceding proviso shall be available for technical assistance and evaluation related to grants awarded under such section 9212: Provided further, That $796,000,000 shall be for making payments under the CSBG Act: Provided further, That $36,000,000 shall be for sections 680 and 678E(b)(2) of the CSBG Act, of which not less than $25,000,000 shall be for section 680(a)(2) and not less than $11,000,000 shall be for section 680(a)(3)(B) of such Act: Provided further, That, notwithstanding section 675C(a)(3) of such Act, to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under such Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible assets and program income that permit such assets acquired with, and program income derived from, grant funds authorized under section 680 of the CSBG Act to become the sole property of such grantees after a period of not more than 12 years after the end of the grant period for any activity consistent with section 680(a)(2)(A) of the CSBG Act: Provided further, That intangible assets in the form of loans, equity investments and other debt instruments, and program income may be used by grantees for any eligible purpose consistent with section 680(a)(2)(A) of the CSBG Act: Provided further, That these procedures shall apply to such grant funds made available after November 29, 1999: Provided further, That funds appropriated for section 680(a)(2) of the CSBG Act shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $175,000,000 shall be for carrying out section 303(a) of the Family Violence Prevention and Services Act, of which $5,000,000 shall be allocated notwithstanding section 303(a)(2) of such Act for carrying out section 309 of such Act: Provided further, That the percentages specified in section 112(a)(2) of the Child Abuse Prevention and Treatment Act shall not apply to funds appropriated under this heading: Provided further, That $1,864,000 shall be for a human services case management system for federally declared disasters, to include a comprehensive national case management contract and Federal costs of administering the system: Provided further, That up to $2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness. promoting safe and stable families For carrying out, except as otherwise provided, section 436 of the Social Security Act, $345,000,000 and, for carrying out, except as otherwise provided, section 437 of such Act, $79,765,000: Provided, That of the funds available to carry out section 437, $59,765,000 shall be allocated consistent with subsections (b) through (d) of such section: Provided further, [[Page H4471]] That of the funds available to carry out section 437, to assist in meeting the requirements described in section 471(e)(4)(C), $20,000,000 shall be for grants to each State, territory, and Indian tribe operating title IV-E plans for developing, enhancing, or evaluating kinship navigator programs, as described in section 427(a)(1) of such Act: Provided further, That section 437(b)(1) shall be applied to amounts in the previous proviso by substituting ``5 percent'' for ``3.3 percent'', and notwithstanding section 436(b)(1), such reserved amounts may be used for identifying, establishing, and disseminating practices to meet the criteria specified in section 471(e)(4)(C): Provided further, That the reservation in section 437(b)(2) and the limitations in section 437(d) shall not apply to funds specified in the second proviso: Provided further, That the minimum grant award for kinship navigator programs in the case of States and territories shall be $200,000, and, in the case of tribes, shall be $25,000: Provided further, That section 437(b)(4) of such Act shall be applied by substituting ``fiscal year 2020'' for ``fiscal year 2018''. payments for foster care and permanency For carrying out, except as otherwise provided, title IV-E of the Social Security Act, $5,744,000,000. For carrying out, except as otherwise provided, title IV-E of the Social Security Act, for the first quarter of fiscal year 2021, $3,000,000,000. For carrying out, after May 31 of the current fiscal year, except as otherwise provided, section 474 of title IV-E of the Social Security Act, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. Administration for Community Living aging and disability services programs (including ***transfer*** of funds) For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965 (``OAA''), the RAISE Family Caregivers Act, the Supporting Grandparents Raising Grandchildren Act, titles III and XXIX of the PHS Act, sections 1252 and 1253 of the PHS Act, section 119 of the Medicare Improvements for Patients and Providers Act of 2008, title XX-B of the Social Security Act, the Developmental Disabilities Assistance and Bill of Rights Act, parts 2 and 5 of subtitle D of title II of the Help America Vote Act of 2002, the Assistive Technology Act of 1998, titles II and VII (and section 14 with respect to such titles) of the Rehabilitation Act of 1973, and for Department-wide coordination of policy and program activities that assist individuals with disabilities, $2,294,343,000, together with $55,000,000 to be ***transferred*** from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to carry out section 4360 of the Omnibus Budget Reconciliation Act of 1990: Provided, That amounts appropriated under this heading may be used for grants to States under section 361 of the OAA only for disease prevention and health promotion programs and activities which have been demonstrated through rigorous evaluation to be evidence-based and effective: Provided further, That of amounts made available under this heading to carry out sections 311, 331, and 336 of the OAA, up to one percent of such amounts shall be available for developing and implementing evidence-based practices for enhancing senior nutrition: Provided further, That notwithstanding any other provision of this Act, funds made available under this heading to carry out section 311 of the OAA may be ***transferred*** to the Secretary of ***Agriculture*** in accordance with such section: Provided further, That $2,000,000 shall be for competitive grants to support alternative financing programs that provide for the purchase of assistive technology devices, such as a low-interest loan fund; an interest buy-down program; a revolving loan fund; a loan guarantee; or an insurance program: Provided further, That applicants shall provide an assurance that, and information describing the manner in which, the alternative financing program will expand and emphasize consumer choice and control: Provided further, That State agencies and community- based disability organizations that are directed by and operated for individuals with disabilities shall be eligible to compete: Provided further, That none of the funds made available under this heading may be used by an eligible system (as defined in section 102 of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C 10802)) to continue to pursue any legal action in a Federal or State court on behalf of an individual or group of individuals with a developmental disability (as defined in section 102(8)(A) of the Developmental Disabilities and Assistance and Bill of Rights Act of 2000 (20 U.S.C 15002(8)(A)) that is attributable to a mental impairment (or a combination of mental and physical impairments), that has as the requested remedy the closure of State operated intermediate care facilities for people with intellectual or developmental disabilities, unless reasonable public notice of the action has been provided to such individuals (or, in the case of mental incapacitation, the legal guardians who have been specifically awarded authority by the courts to make healthcare and residential decisions on behalf of such individuals) who are affected by such action, within 90 days of instituting such legal action, which informs such individuals (or such legal guardians) of their legal rights and how to exercise such rights consistent with current Federal Rules of Civil Procedure: Provided further, That the limitations in the immediately preceding proviso shall not apply in the case of an individual who is neither competent to consent nor has a legal guardian, nor shall the proviso apply in the case of individuals who are a ward of the State or subject to public guardianship. Departmental Management general departmental management For necessary expenses, not otherwise provided, for general departmental management, including hire of six passenger motor vehicles, and for carrying out titles III, XVII, XXI, and section 229 of the PHS Act, functions of the Departmental Appeals Board authorized in title XVIII of the Social Security Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, $474,169,000, together with $64,828,000 from the amounts available under section 241 of the PHS Act to carry out national health or human services research and evaluation activities: Provided, That of the funds made available under this heading, $60,000,000 shall be for minority AIDS prevention and treatment activities: Provided further, That of the funds made available under this heading, $20,000,000 shall be for the Departmental Appeals Board: Provided further, That of the funds made available under this heading, $110,000,000 shall be for making competitive grants to public and private entities, as well as continuing to fund through fiscal year 2020 grants awarded for fiscal years 2015 through 2019, to fund medically accurate and age appropriate programs that reduce teen pregnancy and for the Federal costs associated with administering and evaluating such grants, of which not more than 10 percent of the available funds shall be for training and technical assistance, outreach, and additional program support activities, and of the remaining amount 75 percent shall be for replicating programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors, and 25 percent shall be available for research and demonstration grants to develop, replicate, refine, and test additional models and innovative strategies for preventing teenage pregnancy: Provided further, That amounts made available under this heading for programs to reduce teen pregnancy shall not be made available by interagency agreement or otherwise to any agency within the Department of Health and Human Services other than the Office of the Secretary to carry out or support such programs: Provided further, That of the amounts provided under this heading from amounts available under section 241 of the PHS Act, $6,800,000 shall be available to carry out evaluations (including longitudinal evaluations) of teenage pregnancy prevention approaches: Provided further, That funds provided in this Act for embryo adoption activities may be used to provide to individuals adopting embryos, through grants and other mechanisms, medical and administrative services deemed necessary for such adoptions: Provided further, That such services shall be provided consistent with 42 CFR 59.5(a)(4). For an additional amount for prize competitions (as authorized by section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C 3719)), $10,000,000. office of medicare hearings and appeals For expenses necessary for the Office of Medicare Hearings and Appeals, $182,381,000 shall remain available until September 30, 2021, to be ***transferred*** in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. office of the national coordinator for health information technology For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts, and cooperative agreements for the development and advancement of interoperable health information technology, $60,367,000 shall be available from amounts available under section 241 of the PHS Act. office of inspector general For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, $85,000,000: Provided, That of such amount, necessary sums shall be available for providing protective services to the Secretary and investigating non- payment of child support cases for which non-payment is a Federal offense under 18 U.S.C 228. office for civil rights For expenses necessary for the Office for Civil Rights, $38,798,000. retirement pay and medical benefits for commissioned officers For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, and for medical care of dependents and retired personnel under the Dependents' Medical Care Act, such amounts as may be required during the current fiscal year. public health and social services emergency fund For expenses necessary to support activities related to countering potential biological, nuclear, radiological, chemical, and cybersecurity threats to civilian populations, and for other public health emergencies, $1,083,458,000, of which $566,700,000 shall remain available through September 30, 2021, for expenses necessary to support advanced research and development pursuant to section 319L of the PHS Act and other administrative expenses of the Biomedical Advanced Research and Development Authority: Provided, That funds provided under this heading for the purpose of acquisition of security countermeasures shall be in addition to any other funds available for such purpose: Provided further, That products purchased with funds provided under this heading may, at the discretion of the Secretary, be deposited in the [[Page H4472]] Strategic National Stockpile pursuant to section 319F-2 of the PHS Act: Provided further, That $5,000,000 of the amounts made available to support emergency operations shall remain available through September 30, 2022. For expenses necessary for procuring security countermeasures (as defined in section 319F-2(c)(1)(B) of the PHS Act), $735,000,000, to remain available until expended. For expenses necessary to carry out section 319F-2(a) of the PHS Act, $920,000,000, to remain available until expended. For an additional amount for expenses necessary to prepare for or respond to an influenza pandemic, $270,000,000, of which $225,000,000 shall be available until expended, for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools: Provided, That notwithstanding section 496(b) of the PHS Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologics, if the Secretary finds such construction or renovation necessary to secure sufficient supplies of such vaccines or biologics. General Provisions Sec. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary. Sec. 202. None of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II. Sec. 203. None of the funds appropriated in this Act may be expended pursuant to section 241 of the PHS Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in HHS, prior to the preparation and submission of a report by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate detailing the planned uses of such funds. Sec. 204. Notwithstanding section 241(a) of the PHS Act, such portion as the Secretary shall determine, but not more than 2.5 percent, of any amounts appropriated for programs authorized under such Act shall be made available for the evaluation (directly, or by grants or contracts) and the implementation and effectiveness of programs funded in this title. (***transfer*** of funds) Sec. 205. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the current fiscal year for HHS in this Act may be ***transferred*** between appropriations, but no such appropriation shall be increased by more than 3 percent by any such ***transfer***: Provided, That the ***transfer*** authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***. Sec. 206. In lieu of the timeframe specified in section 338E(c)(2) of the PHS Act, terminations described in such section may occur up to 60 days after the effective date of a contract awarded in fiscal year 2020 under section 338B of such Act, or at any time if the individual who has been awarded such contract has not received funds due under the contract. Sec. 207. None of the funds appropriated in this Act may be made available to any entity under title X of the PHS Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities. Sec. 208. Notwithstanding any other provision of law, no provider of services under title X of the PHS Act shall be exempt from any State law requiring ***notification*** or the reporting of child abuse, child molestation, sexual abuse, rape, or incest. Sec. 209. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services. Sec. 210. None of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control. Sec. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. Sec. 212. In order for HHS to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2020: (1) The Secretary may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956. The Secretary shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 and other applicable statutes administered by the Department of State. (2) The Secretary is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of HHS. The Department of State shall cooperate fully with the Secretary to ensure that HHS has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad. (3) The Secretary is authorized to provide to personnel appointed or assigned by the Secretary to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1980, and 22 U.S.C 4081 through 4086 and subject to such regulations prescribed by the Secretary. The Secretary is further authorized to provide locality-based comparability payments (stated as a percentage) up to the amount of the locality- based comparability payment (stated as a percentage) that would be payable to such personnel under section 5304 of title 5, United States Code if such personnel's official duty station were in the District of Columbia. Leaves of absence for personnel under this subsection shall be on the same basis as that provided under subchapter I of chapter 63 of title 5, United States Code, or section 903 of the Foreign Service Act of 1980, to individuals serving in the Foreign Service. (***transfer*** of funds) Sec. 213. The Director of the NIH, jointly with the Director of the Office of AIDS Research, may ***transfer*** up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***. (***transfer*** of funds) Sec. 214. Of the amounts made available in this Act for NIH, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the ``Office of AIDS Research'' account. The Director of the Office of AIDS Research shall ***transfer*** from such account amounts necessary to carry out section 2353(d)(3) of the PHS Act. Sec. 215. (a) Authority.--Notwithstanding any other provision of law, the Director of NIH (``Director'') may use funds authorized under section 402(b)(12) of the PHS Act to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research identified pursuant to or research and activities described in such section 402(b)(12). (b) Peer Review.--In entering into transactions under subsection (a), the Director may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the PHS Act. Sec. 216. Not to exceed $45,000,000 of funds appropriated by this Act to the institutes and centers of the National Institutes of Health may be used for alteration, repair, or improvement of facilities, as necessary for the proper and efficient conduct of the activities authorized herein, at not to exceed $3,500,000 per project. (***transfer*** of funds) Sec. 217. Of the amounts made available for NIH, 1 percent of the amount made available for National Research Service Awards (``NRSA'') shall be made available to the Administrator of the Health Resources and Services Administration to make NRSA awards for research in primary medical care to individuals affiliated with entities who have received grants or contracts under sections 736, 739, or 747 of the PHS Act, and 1 percent of the amount made available for NRSA shall be made available to the Director of the Agency for Healthcare Research and Quality to make NRSA awards for health service research. Sec. 218. (a) The Biomedical Advanced Research and Development Authority (``BARDA'') may enter into a contract, for more than one but no more than 10 program years, for purchase of research services or of security countermeasures, as that term is defined in section 319F-2(c)(1)(B) of the PHS Act (42 U.S.C 247d-6b(c)(1)(B)), if-- (1) funds are available and obligated-- (A) for the full period of the contract or for the first fiscal year in which the contract is in effect; and [[Page H4473]] (B) for the estimated costs associated with a necessary termination of the contract; and (2) the Secretary determines that a multi-year contract will serve the best interests of the Federal Government by encouraging full and open competition or promoting economy in administration, performance, and operation of BARDA's programs. (b) A contract entered into under this section-- (1) shall include a termination clause as described by subsection (c) of section 3903 of title 41, United States Code; and (2) shall be subject to the congressional notice requirement stated in subsection (d) of such section. Sec. 219. (a) The Secretary shall publish in the fiscal year 2021 budget justification and on Departmental Web sites information concerning the employment of full-time equivalent Federal employees or contractors for the purposes of implementing, administering, enforcing, or otherwise carrying out the provisions of the ACA, and the amendments made by that Act, in the proposed fiscal year and each fiscal year since the enactment of the ACA. (b) With respect to employees or contractors supported by all funds appropriated for purposes of carrying out the ACA (and the amendments made by that Act), the Secretary shall include, at a minimum, the following information: (1) For each such fiscal year, the section of such Act under which such funds were appropriated, a statement indicating the program, project, or activity receiving such funds, the Federal operating division or office that administers such program, and the amount of funding received in discretionary or mandatory appropriations. (2) For each such fiscal year, the number of full-time equivalent employees or contracted employees assigned to each authorized and funded provision detailed in accordance with paragraph (1). (c) In carrying out this section, the Secretary may exclude from the report employees or contractors who-- (1) are supported through appropriations enacted in laws other than the ACA and work on programs that existed prior to the passage of the ACA; (2) spend less than 50 percent of their time on activities funded by or newly authorized in the ACA; or (3) work on contracts for which FTE reporting is not a requirement of their contract, such as fixed-price contracts. Sec. 220. The Secretary shall publish, as part of the fiscal year 2021 budget of the President submitted under section 1105(a) of title 31, United States Code, information that details the uses of all funds used by the Centers for Medicare & Medicaid Services specifically for Health Insurance Exchanges for each fiscal year since the enactment of the ACA and the proposed uses for such funds for fiscal year 2021. Such information shall include, for each such fiscal year, the amount of funds used for each activity specified under the heading ``Health Insurance Exchange Transparency'' in the committee report accompanying this Act. Sec. 221. None of the funds made available by this Act from the Federal Hospital Insurance Trust Fund or the Federal Supplemental Medical Insurance Trust Fund, or ***transferred*** from other accounts funded by this Act to the ``Centers for Medicare & Medicaid Services--Program Management'' account, may be used for payments under section 1342(b)(1) of Public Law 111-148 (relating to risk corridors). (***transfer*** of funds) Sec. 222. (a) Within 45 days of enactment of this Act, the Secretary shall ***transfer*** funds appropriated under section 4002 of the ACA to the accounts specified, in the amounts specified, and for the activities specified under the heading ``Prevention and Public Health Fund'' in the committee report accompanying this Act. (b) Notwithstanding section 4002(c) of the ACA, the Secretary may not further ***transfer*** these amounts. (c) Funds ***transferred*** for activities authorized under section 2821 of the PHS Act shall be made available without reference to section 2821(b) of such Act. Sec. 223. Effective during the period beginning on November 1, 2015 and ending January 1, 2022, any provision of law that refers (including through cross-reference to another provision of law) to the current recommendations of the United States Preventive Services Task Force with respect to breast cancer screening, mammography, and prevention shall be administered by the Secretary involved as if-- (1) such reference to such current recommendations were a reference to the recommendations of such Task Force with respect to breast cancer screening, mammography, and prevention last issued before 2009; and (2) such recommendations last issued before 2009 applied to any screening mammography modality under section 1861(jj) of the Social Security Act (42 U.S.C 1395x(jj)). Sec. 224. In making Federal financial assistance, the provisions relating to indirect costs in part 75 of title 45, Code of Federal Regulations, including with respect to the approval of deviations from negotiated rates, shall continue to apply to the National Institutes of Health to the same extent and in the same manner as such provisions were applied in the third quarter of fiscal year 2017. None of the funds appropriated in this or prior Acts or otherwise made available to the Department of Health and Human Services or to any department or agency may be used to develop or implement a modified approach to such provisions, or to intentionally or substantially expand the fiscal effect of the approval of such deviations from negotiated rates beyond the proportional effect of such approvals in such quarter. (***transfer*** of funds) Sec. 225. The NIH Director may ***transfer*** funds specifically appropriated for opioid addiction, opioid alternatives, pain management, and addiction treatment to other Institutes and Centers of the NIH to be used for the same purpose 15 days after ***notifying*** the Committees on Appropriations: Provided, That the ***transfer*** authority provided in the previous proviso is in addition to any other ***transfer*** authority provided by law. Sec. 226. (a) The Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate: (1) Detailed monthly enrollment figures from the Exchanges established under the Patient Protection and Affordable Care Act of 2010 pertaining to enrollments during the open enrollment period; and (2) ***Notification*** of any new or competitive grant awards, including supplements, authorized under section 330 of the Public Health Service Act. (b) The Committees on Appropriations of the House and Senate must be ***notified*** at least 2 business days in advance of any public release of enrollment information or the award of such grants. Sec. 227. Not later than the 15th day of each month, the Department of Health and Human Services shall provide the Committees on Appropriations of the House of Representatives and Senate a report on staffing described in the committee report accompanying this Act. Sec. 228. Funds appropriated in this Act that are available for salaries and expenses of employees of the Department of Health and Human Services shall also be available to pay travel and related expenses of such an employee or of a member of his or her family, when such employee is assigned to duty, in the United States or in a U.S territory, during a period and in a location that are the subject of a determination of a public health emergency under section 319 of the Public Health Service Act and such travel is necessary to obtain medical care for an illness, injury, or medical condition that cannot be adequately addressed in that location at that time. For purposes of this section, the term ``U.S territory'' means Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, or the Trust Territory of the Pacific Islands. Sec. 229. The Department of Health and Human Services may accept donations from the private sector, nongovernmental organizations, and other groups independent of the Federal Government for the care of unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C 279(g)(2))) in the care of the Office of Refugee Resettlement of the Administration for Children and Families, including medical goods and services, school supplies, toys, clothing, and any other items intended to promote the wellbeing of such children. (rescission) Sec. 230. Of the unobligated balances made available by section 301(b)(3) of Public Law 114-10, $4,300,000,000 are hereby permanently rescinded. Sec. 231. None of the funds made available by this Act may be used to prevent a United States Senator or Member of the House of Representatives from entering, for the purpose of conducting oversight, any facility in the United States used for the purpose of maintaining custody of, or otherwise housing, unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C 279(g)(2))). Nothing in this section shall be construed to require such a Senator or Member to provide prior notice of the intent to enter such a facility for such purpose. Sec. 232. To the extent practicable, and so long as it is appropriate and in the best interest of the child, in cases where the Office of Refugee Resettlement of the Department of Health and Human Services is responsible for the care of siblings who are unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C 279(g)(2)), the Director of the Office shall place the siblings-- (1) in the same facility; or (2) with the same sponsor. Sec. 233. (a) None of the funds provided by this Act or provided by any accounts in the Treasury of the United States derived by the collection of fees available to the Secretary of Health and Human Services, or to any other official of a Federal agency funded by this Act may be used to facilitate the Secretary of Homeland Security placing in detention, removing, referring for a decision whether to initiate removal proceedings, or initiating removal proceedings against a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C 279(g))) based on information shared by the Secretary of Health and Human Services, or information shared by an unaccompanied alien child himself or herself with the Department of Homeland Security or the Department of Health and Human Services. (b) Subsection (a) shall not apply if a background check of a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor reveals-- (1) a felony conviction or pending felony charge that relates to-- (A) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C 1101(a)(43))); (B) child abuse; (C) sexual violence or abuse; or (D) child pornography; (2) an association with any business that employs a minor who-- (A) is unrelated to the sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor; and [[Page H4474]] (B) is-- (i) not paid a legal wage; or (ii) unable to attend school due to employment; or (3) an association with the organization or implementation of prostitution. Sec. 234. None of the funds made available in this Act may be used to house unaccompanied alien children (as such term is defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C 279(g))) in-- (a) soft-sided dormitories; or (b) an influx facility that is not State-licensed for the care of dependent minors, except in the case that the Secretary of Health and Human Services determines that housing unaccompanied alien children in such a facility is necessary on a temporary basis due to an influx of such children or an emergency, provided that-- (1) any such influx facility that remains in operation for more than three consecutive months shall fully comply with the requirements listed in Exhibit 1 of the Flores Settlement Agreement, regardless of the status of the underlying settlement agreement, as well as the standard staffing ratio requirements for youth care workers, mental health providers, and clinicians to children that permanent facilities are required to meet, including those in section 4.4.1 of the Office of Refugee Resettlement's (ORR) Policies and Procedures Guide for ``Children Entering the United States Unaccompanied''; (2) the Secretary of Health and Human Services may grant a one-month waiver for an influx facility's non-compliance with paragraph (1) if the Secretary certifies and provides a report to Congress on the facility's good-faith efforts and progress towards compliance; (3) not more than three consecutive waivers under paragraph (2) may be granted to any one facility; (4) ORR shall ensure full adherence to the monitoring requirements set forth in section 5.5 of its Policies and Procedures Guide; and (5) for any such influx facility in operation for more than three consecutive months, ORR shall conduct a minimum of one comprehensive monitoring visit during the first three months of operation, with quarterly monitoring visits thereafter. Sec. 235. Not later than 14 days after the date of enactment of this Act, and weekly thereafter, the Secretary of Health and Human Services shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and make publicly available online, a report with respect to children who were separated from their parents or legal guardians by the Department of Homeland Security (DHS) (regardless of whether or not such separation was pursuant to an option selected by the children, parents, or guardians), subsequently classified as unaccompanied alien children, and ***transferred*** to the care and custody of the Office of Refugee Resettlement of the Department of Health and Human Services (ORR) during the previous week. Each report shall contain the following information: (1) The number and ages of children so separated at or between ports of entry, to be reported by sector where separation occurred. (2) The documented cause of separation, as reported by DHS when each child was referred. (3) The custody status of the parents or legal guardians from whom the child was separated. Sec. 236. (a) None of the funds made available by this Act may be awarded to any organization, including under the Federal Foster Care program under part E of title IV of the Social Security Act, that does not comply with subsections (c) and (d) of section 75.300 of title 45, Code of Federal Regulations (prohibiting discrimination on the basis of age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation). (b) None of the funds made available by this Act may be used by the Department of Health and Human Services to grant an exception from either such subsection for any Federal grantee. Sec. 237. Funds appropriated under this Act, any previous appropriations Act, or the Patient Protection and Affordable Care Act that are available for salaries and expenses of employees of the Department of Health and Human Services shall also remain available for obligation for the primary and secondary schooling of eligible dependents of HHS personnel stationed in the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and other territories or possessions of the United States at costs not in excess of those paid for or reimbursed by the Department of Defense. Sec. 238. None of the funds made available by this Act may be used to implement, enforce, or otherwise give effect to the revision to section 447.10 of title 42, Code of Federal Regulations, contained in the proposed rule entitled ``Medicaid Program; Reassignment of Medicaid Provider Claims'' (83 Fed. Reg. 32252 (July 12, 2018)). Sec. 239. None of the funds appropriated in this bill or otherwise made available to the Department of Health and Human Services shall be used to publish the proposed regulation in the Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions relating to the Medicaid Nonemergency Medical Transportation benefit for Medicaid beneficiaries expected to be published for comment in May 2019 and promulgated in Fall 2019 (RIN: 0938-AT81). Sec. 240. None of the funds made available by this Act may be used to finalize, implement, or enforce the rule entitled ``Protecting Statutory Conscience Rights in Health Care; Delegations of Authority'' issued by the Department of Health and Human Services (RIN 0945-AA10). This title may be cited as the ``Department of Health and Human Services Appropriations Act, 2020''. TITLE III DEPARTMENT OF EDUCATION Education for the Disadvantaged For carrying out title I and subpart 2 of part B of title II of the Elementary and Secondary Education Act of 1965 (referred to in this Act as ``ESEA'') and section 418A of the Higher Education Act of 1965 (referred to in this Act as ``HEA''), $17,563,802,000, of which $6,638,625,000 shall become available on July 1, 2020, and shall remain available through September 30, 2021, and of which $10,841,177,000 shall become available on October 1, 2020, and shall remain available through September 30, 2021, for academic year 2020- 2021: Provided, That $6,459,401,000 shall be for basic grants under section 1124 of the ESEA: Provided further, That up to $5,000,000 of these funds shall be available to the Secretary of Education (referred to in this title as ``Secretary'') on October 1, 2019, to obtain annually updated local educational agency-level census poverty data from the Bureau of the Census: Provided further, That $1,362,301,000 shall be for concentration grants under section 1124A of the ESEA: Provided further, That $4,519,050,000 shall be for targeted grants under section 1125 of the ESEA: Provided further, That $4,519,050,000 shall be for education finance incentive grants under section 1125A of the ESEA: Provided further, That $224,000,000 shall be for carrying out subpart 2 of part B of title II: Provided further, That $50,000,000 shall be for carrying out section 418A of the HEA. Impact Aid For carrying out programs of financial assistance to federally affected schools authorized by title VII of the ESEA, $1,498,112,000, of which $1,351,242,000 shall be for basic support payments under section 7003(b), $48,316,000 shall be for payments for children with disabilities under section 7003(d), $17,406,000, shall be for construction under section 7007(a), $76,313,000 shall be for Federal property payments under section 7002, and $4,835,000, to remain available until expended, shall be for facilities maintenance under section 7008: Provided, That for purposes of computing the amount of a payment for an eligible local educational agency under section 7003(a) for school year 2019-2020, children enrolled in a school of such agency that would otherwise be eligible for payment under section 7003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 7003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status. School Improvement Programs For carrying out school improvement activities authorized by part B of title I, part A of title II, subpart 1 of part A of title IV, part B of title IV, part B of title V, and parts B and C of title VI of the ESEA; the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, $6,016,470,000, of which $4,174,902,000 shall become available on July 1, 2020, and remain available through September 30, 2021, and of which $1,681,441,000 shall become available on October 1, 2020, and shall remain available through September 30, 2021, for academic year 2020-2021: Provided, That $378,000,000 shall be for part B of title I: Provided further, That $1,321,673,000 shall be for part B of title IV: Provided further, That $40,000,000 shall be for part B of title VI and may be used for construction, renovation, and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That $36,453,000 shall be for part C of title VI and shall be awarded on a competitive basis, and also may be used for construction: Provided further, That $60,400,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002 and the Secretary shall make such arrangements as determined to be necessary to ensure that the Bureau of Indian Education has access to services provided under this section: Provided further, That $16,699,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia and the Republic of the Marshall Islands: Provided further, That the Secretary may reserve up to 5 percent of the amount referred to in the previous proviso to provide technical assistance in the implementation of these grants: Provided further, That $180,840,000 shall be for part B of title V: Provided further, That $1,320,000,000 shall be available for grants under subpart 1 of part A of title IV. Indian Education For expenses necessary to carry out, to the extent not otherwise provided, title VI, part A of the ESEA, $186,374,000, of which $67,993,000 shall be for subpart 2 of part A of title VI and $13,000,000 shall be for subpart 3 of part A of title VI. Innovation and Improvement For carrying out activities authorized by subparts 1, 3 and 4 of part B of title II, and parts C, D, and E and subparts 1 and 4 of part F of title IV of the ESEA, $1,223,815,000: Provided, That $304,815,000 shall be for subparts 1, 3 and 4 of part B of title II and shall be made available without regard to sections 2201, 2231(b) and 2241: Provided further, That $619,000,000 shall be for parts C, D, and E and subpart 4 of part F of title IV, and shall be made available without regard to sections 4311, 4409(a), and 4601 of [[Page H4475]] the ESEA: Provided further, That notwithstanding section 4601(b), $300,000,000 shall be available through December 31, 2020 for subpart 1 of part F of title IV, of which $170,000,000 shall be for social and emotional learning grants, and $125,000,000 shall be used for science, technology, engineering, arts, and mathematics, including computer science education grants. Safe Schools and Citizenship Education For carrying out activities authorized by subparts 2 and 3 of part F of title IV of the ESEA, $240,000,000: Provided, That $120,000,000 shall be available for section 4631, of which up to $10,000,000, to remain available until expended, shall be for the Project School Emergency Response to Violence (Project SERV) program: Provided further, That $40,000,000 shall be available for section 4625: Provided further, That $80,000,000 shall be available through December 31, 2020, for section 4624. English Language Acquisition For carrying out part A of title III of the ESEA, $980,000,000, which shall become available on July 1, 2020, and shall remain available through September 30, 2021, except that 6.5 percent of such amount shall be available on October 1, 2019, and shall remain available through September 30, 2021, to carry out activities under section 3111(c)(1)(C). Special Education For carrying out the Individuals with Disabilities Education Act (IDEA) and the Special Olympics Sport and Empowerment Act of 2004, $14,523,544,000, of which $4,975,709,000 shall become available on July 1, 2020, and shall remain available through September 30, 2021, and of which $9,283,383,000 shall become available on October 1, 2020, and shall remain available through September 30, 2021, for academic year 2020-2021: Provided, That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2019, increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA, or the percent change in the funds appropriated under section 611(i) of the IDEA, but not less than the amount for that activity during fiscal year 2019: Provided further, That the Secretary shall, without regard to section 611(d) of the IDEA, distribute to all other States (as that term is defined in section 611(g)(2)), subject to the third proviso, any amount by which a State's allocation under section 611, from funds appropriated under this heading, is reduced under section 612(a)(18)(B), according to the following: 85 percent on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part, and 15 percent to States on the basis of the States' relative populations of those children who are living in poverty: Provided further, That the Secretary may not distribute any funds under the previous proviso to any State whose reduction in allocation from funds appropriated under this heading made funds available for such a distribution: Provided further, That the States shall allocate such funds distributed under the second proviso to local educational agencies in accordance with section 611(f): Provided further, That the amount by which a State's allocation under section 611(d) of the IDEA is reduced under section 612(a)(18)(B) and the amounts distributed to States under the previous provisos in fiscal year 2012 or any subsequent year shall not be considered in calculating the awards under section 611(d) for fiscal year 2013 or for any subsequent fiscal years: Provided further, That, notwithstanding the provision in section 612(a)(18)(B) regarding the fiscal year in which a State's allocation under section 611(d) is reduced for failure to comply with the requirement of section 612(a)(18)(A), the Secretary may apply the reduction specified in section 612(a)(18)(B) over a period of consecutive fiscal years, not to exceed five, until the entire reduction is applied: Provided further, That the Secretary may, in any fiscal year in which a State's allocation under section 611 is reduced in accordance with section 612(a)(18)(B), reduce the amount a State may reserve under section 611(e)(1) by an amount that bears the same relation to the maximum amount described in that paragraph as the reduction under section 612(a)(18)(B) bears to the total allocation the State would have received in that fiscal year under section 611(d) in the absence of the reduction: Provided further, That the Secretary shall either reduce the allocation of funds under section 611 for any fiscal year following the fiscal year for which the State fails to comply with the requirement of section 612(a)(18)(A) as authorized by section 612(a)(18)(B), or seek to recover funds under section 452 of the General Education Provisions Act (20 U.S.C 1234a): Provided further, That the funds reserved under 611(c) of the IDEA may be used to provide technical assistance to States to improve the capacity of the States to meet the data collection requirements of sections 616 and 618 and to administer and carry out other services and activities to improve data collection, coordination, quality, and use under parts B and C of the IDEA: Provided further, That the Secretary may use funds made available for the State Personnel Development Grants program under part D, subpart 1 of IDEA to evaluate program performance under such subpart: Provided further, That States may use funds reserved for other State-level activities under sections 611(e)(2) and 619(f) of the IDEA to make subgrants to local educational agencies, institutions of higher education, other public agencies, and private non-profit organizations to carry out activities authorized by those sections: Provided further, That, notwithstanding section 643(e)(2)(A) of the IDEA, if 5 or fewer States apply for grants pursuant to section 643(e) of such Act, the Secretary shall provide a grant to each State in an amount equal to the maximum amount described in section 643(e)(2)(B) of such Act: Provided further, That if more than 5 States apply for grants pursuant to section 643(e) of the IDEA, the Secretary shall award funds to those States on the basis of the States' relative populations of infants and toddlers except that no such State shall receive a grant in excess of the amount described in section 643(e)(2)(B) of such Act. Rehabilitation Services For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, $3,752,076,000, of which $3,610,040,000 shall be for grants for vocational rehabilitation services under title I of the Rehabilitation Act: Provided, That the Secretary may use amounts provided in this Act that remain available subsequent to the reallotment of funds to States pursuant to section 110(b) of the Rehabilitation Act for innovative activities aimed at improving the outcomes of individuals with disabilities as defined in section 7(20)(B) of the Rehabilitation Act, including activities aimed at improving the education and post-school outcomes of children receiving Supplemental Security Income (``SSI'') and their families that may result in long-term improvement in the SSI child recipient's economic status and self-sufficiency: Provided further, That States may award subgrants for a portion of the funds to other public and private, nonprofit entities: Provided further, That any funds made available subsequent to reallotment for innovative activities aimed at improving the outcomes of individuals with disabilities shall remain available until September 30, 2021. Special Institutions for Persons With Disabilities american printing house for the blind For carrying out the Act to Promote the Education of the Blind of March 3, 1879, $39,000,000. national technical institute for the deaf For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986, $80,000,000: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207 of such Act. gallaudet university For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986, $138,361,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207 of such Act. Career, Technical, and Adult Education For carrying out, to the extent not otherwise provided, the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act), and the Adult Education and Family Literacy Act (AEFLA), $2,003,133,000, of which $1,212,133,000 shall become available on July 1, 2020, and shall remain available through September 30, 2021, and of which $791,000,000 shall become available on October 1, 2020, and shall remain available through September 30, 2021: Provided, That of the amounts made available for the AEFLA, $13,712,000 shall be for national leadership activities under section 242. Student Financial Assistance For carrying out subparts 1, 3, and 10 of part A, and part C of title IV of the HEA, $24,937,352,000, which shall remain available through September 30, 2021. The maximum Pell Grant for which a student shall be eligible during award year 2020-2021 shall be $5,285. Student Aid Administration For Federal administrative expenses to carry out part D of title I, and subparts 1, 3, 9, and 10 of part A, and parts B, C, D, and E of title IV of the HEA, and subpart 1 of part A of title VII of the Public Health Service Act, $1,678,943,000, to remain available through September 30, 2021: Provided, That the Secretary shall allocate new student loan borrower accounts to eligible student loan servicers on the basis of their past performance compared to all loan servicers, utilizing established common metrics, and on the basis of the capacity of each servicer to process new and existing accounts and compliance with Federal and State law: Provided further, That for student loan contracts awarded prior to October 1, 2017, the Secretary shall allow student loan borrowers who are consolidating Federal student loans to select from any student loan servicer to service their new consolidated student loan: Provided further, That in order to promote accountability and high-quality service to borrowers, the Secretary shall not award funding for any contract solicitation for a new Federal student loan servicing environment, including the solicitation for the FSA Next Generation Processing and Servicing Environment, unless such an environment provides for the participation of multiple student loan servicers that contract directly with the Department of Education: Provided further, That the FSA Next Generation Processing and Servicing Environment, or any new Federal student loan servicing environment, shall include accountability measures that account for the performance of the portfolio and contractor compliance with Federal Student Aid (FSA) guidelines: Provided further, That FSA shall ensure that contracts for the Next Generation Processing and Servicing Environment, or any new Federal loan servicing environment, incentivize more support to borrowers at risk of delinquency or default: Provided further, That the Secretary shall provide quarterly briefings to [[Page H4476]] the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Health, Education, Labor, and Pensions of the Senate on general progress related to solicitations for Federal student loan servicing contracts. Higher Education For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the HEA, the Mutual Educational and Cultural Exchange Act of 1961, and section 117 of the Perkins Act, $2,748,533,000: Provided, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: Provided further, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: Provided further, That up to 1.5 percent of the funds made available under chapter 2 of subpart 2 of part A of title IV of the HEA may be used for evaluation. Howard University For partial support of Howard University, $250,000,000, of which not less than $3,405,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act and shall remain available until expended. College Housing and Academic Facilities Loans Program For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the HEA, $435,000. Historically Black College and University Capital Financing Program Account For the cost of guaranteed loans, $20,150,000, as authorized pursuant to part D of title III of the HEA, which shall remain available through September 30, 2021: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $212,100,000: Provided further, That these funds may be used to support loans to public and private Historically Black Colleges and Universities without regard to the limitations within section 344(a) of the HEA. In addition, $20,000,000 shall be made available to provide for the deferment of loans made under part D of title III of the HEA to eligible institutions that are private Historically Black Colleges and Universities, which apply for the deferment of such a loan and demonstrate financial need for such deferment by having a score of 2.6 or less on the Department of Education's financial responsibility test: Provided, That during the period of deferment of such a loan, interest on the loan will not accrue or be capitalized, and the period of deferment shall be for at least a period of 3- fiscal years and not more than 6-fiscal years: Provided further, That funds available under this paragraph shall be used to fund eligible deferment requests submitted for this purpose in fiscal year 2018: Provided further, That the Secretary shall create and execute an outreach plan to work with States and the Capital Financing Advisory Board to improve outreach to States and help additional public Historically Black Colleges and Universities participate in the program. In addition, $10,000,000 shall be made available to provide for the deferment of loans made under part D of title III of the HEA to eligible institutions that are public Historically Black Colleges and Universities, which apply for the deferment of such a loan and demonstrate financial need for such deferment, which shall be determined by the Secretary of Education based on factors including, but not limited to, equal to or greater than 5 percent of the school's annual revenue from the previous fiscal year relative to its debt service: Provided, That during the period of deferment of such a loan, interest on the loan will not accrue or be capitalized, and the period of deferment shall be for at least a period of 3-fiscal years and not more than 6-fiscal years. In addition, for administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to part D of title III of the HEA, $334,000. Institute of Education Sciences For carrying out activities authorized by the Education Sciences Reform Act of 2002, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, $650,000,000, which shall remain available through September 30, 2021: Provided, That funds available to carry out section 208 of the Educational Technical Assistance Act may be used to link Statewide elementary and secondary data systems with early childhood, postsecondary, and workforce data systems, or to further develop such systems: Provided further, That up to $6,000,000 of the funds available to carry out section 208 of the Educational Technical Assistance Act may be used for awards to public or private organizations or agencies to support activities to improve data coordination, quality, and use at the local, State, and national levels. Departmental Management program administration For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $430,000,000: Provided, That, notwithstanding any other provision of law, none of the funds provided by this Act or provided by previous Appropriations Acts to the Department of Education available for obligation or expenditure in the current fiscal year may be used for any activity relating to implementing a reorganization that decentralizes, reduces the staffing level, or alters the responsibilities, structure, authority, or functionality of the Budget Service of the Department of Education, relative to the organization and operation of the Budget Service as in effect on January 1, 2018. office for civil rights For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $130,000,000. office of inspector general For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, $63,418,000. General Provisions Sec. 301. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools. (***transfer*** of funds) Sec. 302. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) which are appropriated for the Department of Education in this Act may be ***transferred*** between appropriations, but no such appropriation shall be increased by more than 3 percent by any such ***transfer***: Provided, That the ***transfer*** authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Committees on Appropriations of the House of Representatives and the Senate are ***notified*** at least 15 days in advance of any ***transfer***. Sec. 303. Funds appropriated in this Act and consolidated for evaluation purposes under section 8601(c) of the ESEA shall be available from July 1, 2020, through September 30, 2021. Sec. 304. (a) An institution of higher education that maintains an endowment fund supported with funds appropriated for title III or V of the HEA for fiscal year 2020 may use the income from that fund to award scholarships to students, subject to the limitation in section 331(c)(3)(B)(i) of the HEA. The use of such income for such purposes, prior to the enactment of this Act, shall be considered to have been an allowable use of that income, subject to that limitation. (b) Subsection (a) shall be in effect until titles III and V of the HEA are reauthorized. Sec. 305. Section 114(f) of the HEA (20 U.S.C 1011c(f)) is amended by striking ``2019'' and inserting ``2020''. Sec. 306. Section 458(a) of the HEA (20 U.S.C 1087h(a)) is amended in paragraph (4) by striking ``2019'' and inserting ``2020''. Sec. 307. Funds appropriated in this Act under the heading ``Student Aid Administration'' may be available for payments for student loan servicing to an institution of higher education that services outstanding Federal Perkins Loans under part E of title IV of the Higher Education Act of 1965 (20 U.S.C 1087aa et seq.). (rescission) Sec. 308. Section 401(b)(7)(A)(iv)(X) of the Higher Education Act of 1965 (20 U.S.C 1070a(b)(7)(A)(iv)(X)) is amended by striking ``$1,430,000,000'' and inserting ``$1,380,000,000''. Sec. 309. (a) An institution of higher education may, with explicit written consent of an applicant who has completed a FAFSA under such section 483(a), provide such information collected from the applicant's FAFSA as is necessary to a scholarship granting organization, including a tribal organization (defined in section 4 of the Indian Self- Determination and Education Assistance Act (25 U.S.C 5304)), or to an organization assisting the applicant in applying for and receiving Federal, State, local, or tribal assistance, that is designated by the applicant to assist the applicant in applying for and receiving financial assistance for any component of the applicant's cost of attendance (defined in section 472 of the HEA) at that institution. (b) An organization that receives information pursuant to subsection (a) shall not sell or otherwise share such information. (c) This section shall be in effect until title IV of the HEA is reauthorized. Sec. 310. For an additional amount for ``Department of Education--Federal Direct Student Loan Program Account'', $350,000,000, to remain available until expended, shall be for the cost, as defined under section 502 of the Congressional Budget Act of 1974, of the Secretary of Education providing loan cancellation in the same manner as under section 455(m) of the Higher Education Act of 1965 (20 U.S.C 1087e(m)), for borrowers of loans made under part D of title IV of such Act who would qualify for loan cancellation under section 455(m) except some, or all, of the 120 required payments under section 455(m)(1)(A) do not qualify for purposes of the program because they were monthly payments made in accordance with graduated or extended repayment plans as described under subparagraph (B) or (C) of section 455(d)(1) or the corresponding repayment plan for a consolidation loan made under section 455(g) and that were less than the amount calculated under section 455(d)(1)(A), based on a [[Page H4477]] 10-year repayment period: Provided, That the total loan volume, including outstanding principal, fees, capitalized interest, or accrued interest, at application that is eligible for such loan cancellation by such borrowers shall not exceed $500,000,000: Provided further, That the Secretary shall develop and make available a simple method for borrowers to apply for loan cancellation under this section within 60 days of enactment of this Act: Provided further, That the Secretary shall provide loan cancellation under this section to eligible borrowers on a first-come, first-serve basis, based on the date of application and subject to both the limitation on total loan volume at application for such loan cancellation specified in the first proviso and the availability of appropriations under this section: Provided further, That no borrower may, for the same service, receive a reduction of loan obligations under both this section and section 428J, 428K, 428L, or 460 of such Act: Provided further, That the Secretary shall inform all borrowers who have submitted an Employment Certification Form and are in the incorrect repayment program about the Temporary Expanded Public Service Loan Forgiveness Program and requirements for qualification under the program. Sec. 311. Of the amounts made available under this title under the heading ``Student Aid Administration'', $2,300,000 shall be used by the Secretary of Education to conduct outreach to borrowers of loans made under part D of title IV of the Higher Education Act of 1965 who may intend to qualify for loan cancellation under section 455(m) of such Act (20 U.S.C 1087e(m)), to ensure that borrowers are meeting the terms and conditions of such loan cancellation: Provided, That the Secretary shall specifically conduct outreach to assist borrowers who would qualify for loan cancellation under section 455(m) of such Act except that the borrower has made some, or all, of the 120 required payments under a repayment plan that is not described under section 455(m)(A) of such Act, to encourage borrowers to enroll in a qualifying repayment plan: Provided further, That the Secretary shall also communicate to all Direct Loan borrowers the full requirements of section 455(m) of such Act and improve the filing of employment certification by providing improved outreach and information such as outbound calls, electronic communications, ensuring prominent access to program requirements and benefits on each servicer's website, and creating an option for all borrowers to complete the entire payment certification process electronically and on a centralized website. This title may be cited as the ``Department of Education Appropriations Act, 2020''. TITLE IV RELATED AGENCIES Committee for Purchase From People Who Are Blind or Severely Disabled salaries and expenses For expenses necessary for the Committee for Purchase From People Who Are Blind or Severely Disabled (referred to in this title as ``the Committee'') established under section 8502 of title 41, United States Code, $9,000,000: Provided, That in order to authorize any central nonprofit agency designated pursuant to section 8503(c) of title 41, United States Code, to perform requirements of the Committee as prescribed under section 51-3.2 of title 41, Code of Federal Regulations, the Committee shall enter into a written agreement with any such central nonprofit agency: Provided further, That such agreement shall contain such auditing, oversight, and reporting provisions as necessary to implement chapter 85 of title 41, United States Code: Provided further, That such agreement shall include the elements listed under the heading ``Committee For Purchase From People Who Are Blind or Severely Disabled--Written Agreement Elements'' in the explanatory statement described in section 4 of Public Law 114-113 (in the matter preceding division A of that consolidated Act): Provided further, That any such central nonprofit agency may not charge a fee under section 51-3.5 of title 41, Code of Federal Regulations, prior to executing a written agreement with the Committee: Provided further, That no less than $1,650,000 shall be available for the Office of Inspector General. Corporation for National and Community Service operating expenses For necessary expenses for the Corporation for National and Community Service (referred to in this title as ``CNCS'') to carry out the Domestic Volunteer Service Act of 1973 (referred to in this title as ``1973 Act'') and the National and Community Service Act of 1990 (referred to in this title as ``1990 Act''), $829,665,000, notwithstanding sections 198B(b)(3), 198S(g), 501(a)(4)(C), and 501(a)(4)(F) of the 1990 Act: Provided, That of the amounts provided under this heading: (1) up to 1 percent of program grant funds may be used to defray the costs of conducting grant application reviews, including the use of outside peer reviewers and electronic management of the grants cycle; (2) $17,538,000 shall be available to provide assistance to State commissions on national and community service, under section 126(a) of the 1990 Act and notwithstanding section 501(a)(5)(B) of the 1990 Act; (3) $33,000,000 shall be available to carry out subtitle E of the 1990 Act; and (4) $6,400,000 shall be available for expenses authorized under section 501(a)(4)(F) of the 1990 Act, which, notwithstanding the provisions of section 198P shall be awarded by CNCS on a competitive basis: Provided further, That for the purposes of carrying out the 1990 Act, satisfying the requirements in section 122(c)(1)(D) may include a determination of need by the local community. payment to the national service trust (including ***transfer*** of funds) For payment to the National Service Trust established under subtitle D of title I of the 1990 Act, $218,691,000, to remain available until expended: Provided, That CNCS may ***transfer*** additional funds from the amount provided within ``Operating Expenses'' allocated to grants under subtitle C of title I of the 1990 Act to the National Service Trust upon determination that such ***transfer*** is necessary to support the activities of national service participants and after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That amounts appropriated for or ***transferred*** to the National Service Trust may be invested under section 145(b) of the 1990 Act without regard to the requirement to apportion funds under 31 U.S.C 1513(b). salaries and expenses For necessary expenses of administration as provided under section 501(a)(5) of the 1990 Act and under section 504(a) of the 1973 Act, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C 3109, and not to exceed $2,500 for official reception and representation expenses, $83,737,000. office of inspector general For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, $6,013,000. administrative provisions Sec. 401. CNCS shall make any significant changes to program requirements, service delivery or policy only through public notice and comment rulemaking. For fiscal year 2020, during any grant selection process, an officer or employee of CNCS shall not knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of CNCS that is authorized by CNCS to receive such information. Sec. 402. AmeriCorps programs receiving grants under the National Service Trust program shall meet an overall minimum share requirement of 24 percent for the first 3 years that they receive AmeriCorps funding, and thereafter shall meet the overall minimum share requirement as provided in section 2521.60 of title 45, Code of Federal Regulations, without regard to the operating costs match requirement in section 121(e) or the member support Federal share limitations in section 140 of the 1990 Act, and subject to partial waiver consistent with section 2521.70 of title 45, Code of Federal Regulations. Sec. 403. Donations made to CNCS under section 196 of the 1990 Act for the purposes of financing programs and operations under titles I and II of the 1973 Act or subtitle B, C, D, or E of title I of the 1990 Act shall be used to supplement and not supplant current programs and operations. Sec. 404. In addition to the requirements in section 146(a) of the 1990 Act, use of an educational award for the purpose described in section 148(a)(4) shall be limited to individuals who are veterans as defined under section 101 of the Act. Sec. 405. For the purpose of carrying out section 189D of the 1990 Act-- (1) entities described in paragraph (a) of such section shall be considered ``qualified entities'' under section 3 of the National Child Protection Act of 1993 (``NCPA''); (2) individuals described in such section shall be considered ``volunteers'' under section 3 of NCPA; and (3) State Commissions on National and Community Service established pursuant to section 178 of the 1990 Act, are authorized to receive criminal history record information, consistent with Public Law 92-544. Sec. 406. Notwithstanding sections 139(b), 146 and 147 of the 1990 Act, an individual who successfully completes a term of service of not less than 1,200 hours during a period of not more than one year may receive a national service education award having a value of 70 percent of the value of a national service education award determined under section 147(a) of the Act. Corporation for Public Broadcasting For payment to the Corporation for Public Broadcasting (``CPB''), as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2022, $495,000,000: Provided, That none of the funds made available to CPB by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds made available to CPB by this Act shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That none of the funds made available to CPB by this Act shall be used to apply any political test or qualification in selecting, appointing, promoting, or taking any other personnel action with respect to officers, agents, and employees of CPB. In addition, for the costs associated with replacing and upgrading the public broadcasting interconnection system and other technologies and services that create infrastructure and efficiencies within the public media system, $20,000,000. Federal Mediation and Conciliation Service salaries and expenses For expenses necessary for the Federal Mediation and Conciliation Service (``Service'') to carry out the functions vested in it by the [[Page H4478]] Labor-Management Relations Act, 1947, including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978; and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, $48,200,000, including up to $900,000 to remain available through September 30, 2021, for activities authorized by the Labor-Management Cooperation Act of 1978: Provided, That notwithstanding 31 U.S.C 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction. Federal Mine Safety and Health Review Commission salaries and expenses For expenses necessary for the Federal Mine Safety and Health Review Commission, $17,184,000. Institute of Museum and Library Services office of museum and library services: grants and administration For carrying out the Museum and Library Services Act of 1996 and the National Museum of African American History and Culture Act, $267,000,000. Medicaid and Chip Payment and Access Commission salaries and expenses For expenses necessary to carry out section 1900 of the Social Security Act, $8,480,000. Medicare Payment Advisory Commission salaries and expenses For expenses necessary to carry out section 1805 of the Social Security Act, $12,645,000, to be ***transferred*** to this appropriation from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. National Council on Disability salaries and expenses For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, $3,450,000. National Labor Relations Board salaries and expenses For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor- Management Relations Act, 1947, and other laws, $341,500,000. National Mediation Board salaries and expenses For expenses necessary to carry out the provisions of the Railway Labor Act, including emergency boards appointed by the President, $15,800,000. Occupational Safety and Health Review Commission salaries and expenses For expenses necessary for the Occupational Safety and Health Review Commission, $13,225,000. Railroad Retirement Board dual benefits payments account For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $16,000,000, which shall include amounts becoming available in fiscal year 2020 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year. federal payments to the railroad retirement accounts For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2021, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76. limitation on administration For necessary expenses for the Railroad Retirement Board (``Board'') for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $135,500,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund: Provided, That notwithstanding section 7(b)(9) of the Railroad Retirement Act this limitation may be used to hire attorneys only through the excepted service: Provided further, That the previous proviso shall not change the status under Federal employment laws of any attorney hired by the Railroad Retirement Board prior to January 1, 2013: Provided further, That notwithstanding section 7(b)(9) of the Railroad Retirement Act, this limitation may be used to hire students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs using current excepted hiring authorities established by the Office of Personnel Management: Provided further, That $13,460,000, to remain available until expended, shall be used to supplement, not supplant, existing resources devoted to operations and improvements for the Board's Information Technology Investment Initiatives. limitation on the office of inspector general For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, not more than $11,500,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account. Social Security Administration payments to social security trust funds For payment to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as provided under sections 201(m) and 1131(b)(2) of the Social Security Act, $11,000,000. supplemental security income program For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $41,938,540,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: Provided further, That not more than $101,000,000 shall be available for research and demonstrations under sections 1110, 1115, and 1144 of the Social Security Act, and remain available through September 30, 2022. For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary. For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2021, $19,900,000,000, to remain available until expended. limitation on administrative expenses For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $20,000 for official reception and representation expenses, not more than $12,940,945,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to in such section: Provided, That $2,400,000 shall be for the Social Security Advisory Board: Provided further, That $45,000,000 shall remain available until expended for information technology modernization, including related hardware and software infrastructure and equipment, and for administrative expenses directly associated with information technology modernization: Provided further, That $50,000,000 shall remain available through September 30, 2021, for activities to address the disability hearings backlog within the Office of Hearings Operations: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2020 not needed for fiscal year 2020 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That the Commissioner of Social Security shall ***notify*** the Committees on Appropriations of the House of Representatives and the Senate prior to making unobligated balances available under the authority in the previous proviso: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to 5 U.S.C 7131, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made. Of the total amount made available in the first paragraph under this heading, not more than $1,582,000,000, to remain available through March 31, 2021, is for the costs associated with continuing disability reviews under titles II and XVI of the Social Security Act, including work-related continuing disability reviews to determine whether earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act, for the cost of co-operative disability investigation units, and for the cost associated with the prosecution of fraud in the programs and operations of the Social Security Administration by Special Assistant United States Attorneys: Provided, That, of such amount, $273,000,000 is provided to meet the terms of section 251(b)(2)(B)(ii)(III) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and $1,309,000,000 is additional new budget authority specified for purposes of section 251(b)(2)(B) of such Act: Provided further, That, of the additional new budget authority described in the preceding proviso, up to $10,000,000 may be ***transferred*** to the ``Office of Inspector General'', Social Security Administration, for the cost of jointly operated co-operative disability investigation units: Provided further, That such ***transfer*** authority is in addition to [[Page H4479]] any other ***transfer*** authority provided by law: Provided further, That the Commissioner shall provide to the Congress (at the conclusion of the fiscal year) a report on the obligation and expenditure of these funds, similar to the reports that were required by section 103(d)(2) of Public Law 104-121 for fiscal years 1996 through 2002. In addition, $130,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended: Provided, That to the extent that the amounts collected pursuant to such sections in fiscal year 2020 exceed $130,000,000, the amounts shall be available in fiscal year 2021 only to the extent provided in advance in appropriations Acts. In addition, up to $1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act, which shall remain available until expended. office of inspector general (including ***transfer*** of funds) For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $30,000,000, together with not to exceed $75,500,000, to be ***transferred*** and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund. In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be ***transferred*** from the ``Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such ***transfers*** shall be transmitted promptly to the Committees on Appropriations of the House of Representatives and the Senate at least 15 days in advance of any ***transfer***. TITLE V GENERAL PROVISIONS (***transfer*** of funds) Sec. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to ***transfer*** unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act. Such ***transferred*** balances shall be used for the same purpose, and for the same periods of time, for which they were originally appropriated. Sec. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Sec. 503. (a) No part of any appropriation contained in this Act or ***transferred*** pursuant to section 4002 of Public Law 111-148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself. (b) No part of any appropriation contained in this Act or ***transferred*** pursuant to section 4002 of Public Law 111-148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government. (c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control. Sec. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for ``Federal Mediation and Conciliation Service, Salaries and Expenses''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for ``National Mediation Board, Salaries and Expenses''. Sec. 505. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state-- (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources. Sec. 506. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion. (b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion. (c) The term ``health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement. Sec. 507. (a) The limitations established in the preceding section shall not apply to an abortion-- (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. (b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). (c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds). (d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions. (2) In this subsection, the term ``health care entity'' includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan. Sec. 508. (a) None of the funds made available in this Act may be used for-- (1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C 289g(b)). (b) For purposes of this section, the term ``human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. Sec. 509. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive-congressional communications. (b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage. Sec. 510. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard. Sec. 511. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if-- (1) such entity is otherwise a contractor with the United States and is subject to the requirement in 38 U.S.C 4212(d) regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and (2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity. Sec. 512. None of the funds made available in this Act may be ***transferred*** to any department, agency, or instrumentality of the United States Government, except pursuant to a ***transfer*** made by, or ***transfer*** authority provided in, this Act or any other appropriation Act. Sec. 513. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act, as amended by the Children's Internet Protection Act, unless such library has made the certifications required by paragraph (4) of such section. Sec. 514. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2020, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the [[Page H4480]] agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that-- (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of the House of Representatives and the Senate are consulted 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier, and are ***notified*** in writing 10 days in advance of such reprogramming. (b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2020, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that-- (1) augments existing programs, projects (including construction projects), or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of the House of Representatives and the Senate are consulted 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier, and are ***notified*** in writing 10 days in advance of such reprogramming. (c) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2020, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure that-- (1) relocates an office or employees; (2) reorganizes or renames offices; or (3) reorganizes programs or activities; unless the relocation, renaming, or reorganization was included in the President's fiscal year 2020 budget proposal, including the accompanying justification documents submitted to the Committees on Appropriations of the House of Representatives and the Senate, and such committees are consulted at least 15 days in advance of such relocation, renaming, or reorganization. Sec. 515. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved. (b) None of the funds made available in this Act may be used to disseminate information that is deliberately false or misleading. Sec. 516. Within 45 days of enactment of this Act, each department and related agency funded through this Act shall submit an operating plan that details at the program, project, and activity level any funding allocations for fiscal year 2020 that are different than those specified in this Act, the accompanying detailed table in the joint explanatory statement accompanying this Act or the fiscal year 2020 budget request. Sec. 517. The Secretaries of Labor, Health and Human Services, and Education shall each prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate a report on the number and amount of contracts, grants, and cooperative agreements exceeding $500,000, individually or in total at the program, project, or activity level, in value and awarded by the Department on a non-competitive basis during each quarter of fiscal year 2020, but not to include grants awarded on a formula basis or directed by law. Such report shall include the name of the contractor or grantee, the amount of funding, the governmental purpose, including a justification for issuing the award on a non-competitive basis. Such report shall be transmitted to the Committees within 30 days after the end of the quarter for which the report is submitted. Sec. 518. None of the funds appropriated in this Act shall be expended or obligated by the Commissioner of Social Security, for purposes of administering Social Security benefit payments under title II of the Social Security Act, to process any claim for credit for a quarter of coverage based on work performed under a social security account number that is not the claimant's number and the performance of such work under such number has formed the basis for a conviction of the claimant of a violation of section 208(a)(6) or (7) of the Social Security Act. Sec. 519. None of the funds appropriated by this Act may be used by the Commissioner of Social Security or the Social Security Administration to pay the compensation of employees of the Social Security Administration to administer Social Security benefit payments, under any agreement between the United States and Mexico establishing totalization arrangements between the social security system established by title II of the Social Security Act and the social security system of Mexico, which would not otherwise be payable but for such agreement. Sec. 520. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. (b) Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Sec. 521. For purposes of carrying out Executive Order 13589, Office of Management and Budget Memorandum M-12-12 dated May 11, 2012, and requirements contained in the annual appropriations bills relating to conference attendance and expenditures: (1) the operating divisions of HHS shall be considered independent agencies; and (2) attendance at and support for scientific conferences shall be tabulated separately from and not included in agency totals. Sec. 522. Federal agencies funded under this Act shall clearly state within the text, audio, or video used for advertising or educational purposes, including emails or Internet postings, that the communication is printed, published, or produced and disseminated at U.S taxpayer expense. The funds used by a Federal agency to carry out this requirement shall be derived from amounts made available to the agency for advertising or other communications regarding the programs and activities of the agency. Sec. 523. (a) Federal agencies may use Federal discretionary funds that are made available in this Act to carry out up to 10 Performance Partnership Pilots. Such Pilots shall be governed by the provisions of section 526 of division H of Public Law 113-76, except that in carrying out such Pilots section 526 shall be applied by substituting ``Fiscal Year 2020'' for ``Fiscal Year 2014'' in the title of subsection (b) and by substituting ``September 30, 2024'' for ``September 30, 2018'' each place it appears: Provided, That such pilots shall include communities that have experienced civil unrest. (b) In addition, Federal agencies may use Federal discretionary funds that are made available in this Act to participate in Performance Partnership Pilots that are being carried out pursuant to the authority provided by section 526 of division H of Public Law 113-76, section 524 of division G of Public Law 113-235, section 525 of division H of Public Law 114-113, section 525 of division H of Public Law 115-31, and section 525 of division H of Public Law 115-141. (c) Pilot sites selected under authorities in this Act and prior appropriations Acts may be granted by relevant agencies up to an additional 5 years to operate under such authorities. Sec. 524. Not later than 30 days after the end of each ***calendar*** quarter, beginning with the first month of fiscal year 2020, the Departments of Labor, Health and Human Services and Education and the Social Security Administration shall provide the Committees on Appropriations of the House of Representatives and Senate a report on the status of balances of appropriations: Provided, That for balances that are unobligated and uncommitted, committed, and obligated but unexpended, the monthly reports shall separately identify the amounts attributable to each source year of appropriation (beginning with fiscal year 2012, or, to the extent feasible, earlier fiscal years) from which balances were derived. Sec. 525. Of the unobligated balances made available for purposes of carrying out section 2105(a)(3) of the Social Security Act, $7,715,000,000 shall not be available for obligation in this fiscal year. Sec. 526. (a)(1) The Secretary of Homeland Security, after appropriate consultation with the Secretary of Labor and appropriate employers, shall develop, through notice and comment rulemaking, a process to provide quarterly allocation of visas issued pursuant to petitions submitted by employers for individuals to be admitted under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C 1101(a)(15)(H)(ii)(b)). (2) In developing the process described in paragraph (1), the Secretary shall ensure that-- (A) all such petitions are submitted to the Secretary not later than 45 days before the first day of the quarter during which the requested beneficiaries are expected to begin their employment with the employer; and (B) all decisions to approve or deny a petition are made not later than 15 days before the first date of employment specified in the petition. (b) Subject to subsection (c), for fiscal year 2021, and every fiscal year thereafter, of the visas authorized under section 214(g)(1)(B) of the Immigration and Nationality Act (8 U.S.C 1184(g)(1)(B)), the Secretary of Homeland Security shall issue-- (1) not more than 14 percent to aliens whose employment is scheduled to begin during the first quarter of the fiscal year; (2) not more than 45 percent (plus any visas authorized, but not issued, under paragraph (1)) to aliens whose employment is scheduled to begin during the second quarter of the fiscal year; (3) not more than 39 percent (plus any visas authorized, but not issued, under paragraphs (1) and (2)) to aliens whose employment is scheduled to begin during the third quarter of the fiscal year; and (4) not more than 2 percent (plus any visas authorized, but not issued, under paragraph (1), (2), and (3)) to aliens whose employment is scheduled to begin during the fourth quarter of the fiscal year. (c) Not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, and after consultation with the Secretary of Labor, shall-- (1) compare the quarterly allocation of visas under subsection (b) to the actual need for individuals to be admitted under section [[Page H4481]] 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C 1101(a)(15)(H)(ii)(b)) in each quarter; and (2) adjust the quarterly allocation of such visas accordingly. (d) For each ***calendar*** quarter subject to the visa allocation process set forth in subsection (b) or (c), if the total number of visas requested by employers whose petitions meet the standards for approval exceeds the total number of visas available for such employers, the Secretary shall ensure that each such petition is approved for a minimum number of visas, which shall be calculated based on the ratio between the total number of visas requested by such employers and the total number of visas available. (e) Effective October 1, 2020, section 214(g)(10) of the Immigration and Nationality Act (8 U.S.C 1184(g)(10)) is repealed. (f) Section 214(c)(14)(C) of the Immigration and Nationality Act (8 U.S.C 1184(c)(14)(C)) is amended to read as follows: ``(C) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for-- ``(i) willful failures to meet any of the conditions of the petition that involve harm to United States workers; and ``(ii) willful misrepresentations of the number of necessary nonimmigrants in an application for temporary labor certification in support of a petition for nonimmigrants described in section 101(a)(15)(H)(ii)(b).''. Sec. 527. None of the funds made available by this Act may be used to replace or diminish the quality of care provided by Medicare Advantage (as established in Title 42, Chapter 7, Subchapter XVIII, Part C of the United States Code) and the TRICARE program (as defined in Section 1072 of Title 10 of the United States Code). Sec. 528. Except as expressly provided otherwise, any reference to ``this Act'' contained in this division shall be treated as referring only to the provisions of this division. Sec. 529. Any reference to a ``report accompanying this Act'' contained in this division shall be treated as a reference to House Report 116-62. The effect of such Report shall be limited to this division and shall apply for purposes of determining the allocation of funds provided by, and the implementation of, this division. This Act may be cited as the ``Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2020''. DIVISION C--DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2020 The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, for military functions administered by the Department of Defense and for other purposes, namely: TITLE I MILITARY PERSONNEL Military Personnel, Army For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C 402 note), and to the Department of Defense Military Retirement Fund, $42,314,762,000. Military Personnel, Navy For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C 402 note), and to the Department of Defense Military Retirement Fund, $31,679,229,000. Military Personnel, Marine Corps For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C 402 note), and to the Department of Defense Military Retirement Fund, $14,064,751,000. Military Personnel, Air Force For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C 402 note), and to the Department of Defense Military Retirement Fund, $31,082,769,000. Reserve Personnel, Army For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 7038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,847,321,000. Reserve Personnel, Navy For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,113,357,000. Reserve Personnel, Marine Corps For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $829,124,000. Reserve Personnel, Air Force For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 9038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,993,280,000. National Guard Personnel, Army For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $8,664,535,000. National Guard Personnel, Air Force For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,032,521,000. TITLE II OPERATION AND MAINTENANCE Operation and Maintenance, Army For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law, $41,449,293,000: Provided, That not to exceed $12,478,000 can be used for emergencies and extraordinary expenses, to be expended upon the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes. Operation and Maintenance, Navy For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law, $51,417,389,000: Provided, That not to exceed $15,055,000 can be used for emergencies and extraordinary expenses, to be expended upon the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes. Operation and Maintenance, Marine Corps For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $7,945,854,000. Operation and Maintenance, Air Force For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, $44,662,729,000: Provided, That not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended upon the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes. [[Page H4482]] Operation and Maintenance, Space Force For expenses, not otherwise provided for, necessary to study and refine plans for the potential establishment of a Space Force as a branch of the Armed Forces, $15,000,000: Provided, That nothing in this provision shall be construed to authorize the establishment of a Space Force. Operation and Maintenance, Defense-Wide (including ***transfer*** of funds) For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $37,238,522,000: Provided, That not more than $6,859,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: Provided further, That not to exceed $36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That of the funds provided under this heading, not less than $44,500,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $4,500,000 shall be available for centers defined in 10 U.S.C 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $17,732,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be ***transferred*** as necessary by the Secretary of Defense to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which ***transferred***: Provided further, That any ***ceiling*** on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That of the funds provided under this heading, $623,073,000, of which $155,768,000, to remain available until September 30, 2021, shall be available to provide support and assistance to foreign security forces or other groups or individuals to conduct, support or facilitate counterterrorism, crisis response, or other Department of Defense security cooperation programs: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act: Provided further, That of the funds made available under this heading for the Office of the Secretary of Defense, Policy, 10 percent shall be withheld from obligation until the Secretary of Defense submits the reports required under the heading ``Counter-ISIS Train and Equip Fund'' in the Department of Defense Appropriations Act, 2018 (Division C of Public Law 115-141) and the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245). Operation and Maintenance, Army Reserve For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $3,009,594,000. Operation and Maintenance, Navy Reserve For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,110,116,000. Operation and Maintenance, Marine Corps Reserve For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $294,076,000. Operation and Maintenance, Air Force Reserve For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $3,356,685,000. Operation and Maintenance, Army National Guard For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $7,448,536,000. Operation and Maintenance, Air National Guard For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $6,592,589,000. United States Court of Appeals for the Armed Forces For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $14,771,000, of which not to exceed $5,000 may be used for official representation purposes. Environmental Restoration, Army (including ***transfer*** of funds) For the Department of the Army, $235,809,000, to remain available until ***transferred***: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, ***transfer*** the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act. Environmental Restoration, Navy (including ***transfer*** of funds) For the Department of the Navy, $365,883,000, to remain available until ***transferred***: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, ***transfer*** the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act. Environmental Restoration, Air Force (including ***transfer*** of funds) For the Department of the Air Force, $365,808,000, to remain available until ***transferred***: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, ***transfer*** the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act. Environmental Restoration, Defense-Wide (including ***transfer*** of funds) For the Department of Defense, $19,002,000, to remain available until ***transferred***: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, ***transfer*** the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act. [[Page H4483]] Environmental Restoration, Formerly Used Defense Sites (including ***transfer*** of funds) For the Department of the Army, $260,499,000, to remain available until ***transferred***: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, ***transfer*** the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority provided elsewhere in this Act. Overseas Humanitarian, Disaster, and Civic Aid For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 407, 2557, and 2561 of title 10, United States Code), $117,663,000, to remain available until September 30, 2021. Cooperative Threat Reduction Account For assistance, including assistance provided by contract or by grants, under programs and activities of the Department of Defense Cooperative Threat Reduction Program authorized under the Department of Defense Cooperative Threat Reduction Act, $353,700,000, to remain available until September 30, 2022. Department of Defense Acquisition Workforce Development Fund For the Department of Defense Acquisition Workforce Development Fund, $400,000,000, to remain available for obligation until September 30, 2020: Provided, That no other amounts may be otherwise credited or ***transferred*** to the Fund, or deposited into the Fund, in fiscal year 2019 pursuant to section 1705(d) of title 10, United States Code. TITLE III PROCUREMENT Aircraft Procurement, Army For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,689,720,000, to remain available for obligation until September 30, 2022. Missile Procurement, Army For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,218,272,000, to remain available for obligation until September 30, 2022. Procurement of Weapons and Tracked Combat Vehicles, Army For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor- owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,849,373,000, to remain available for obligation until September 30, 2022. Procurement of Ammunition, Army For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,583,895,000, to remain available for obligation until September 30, 2022. Other Procurement, Army For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $7,583,678,000, to remain available for obligation until September 30, 2022. Aircraft Procurement, Navy For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor- owned equipment layaway, $18,971,913,000, to remain available for obligation until September 30, 2022. Weapons Procurement, Navy For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,061,797,000, to remain available for obligation until September 30, 2022. Procurement of Ammunition, Navy and Marine Corps For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $848,782,000, to remain available for obligation until September 30, 2022. Shipbuilding and Conversion, Navy For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long lead time components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows: Ohio Replacement Submarine (AP), $1,611,989,000; Carrier Replacement Program, $2,066,000,000; Virginia Class Submarine, $4,192,346,000; Virginia Class Submarine (AP), $4,266,552,000; CVN Refueling Overhauls, $667,926,000; CVN Refueling Overhauls (AP), $16,900,000; DDG-1000 Program, $155,944,000; DDG-51 Destroyer, $5,015,295,000; DDG-51 Destroyer (AP), $224,028,000; FFG-Frigate, $1,281,177,000; TAO Fleet Oiler, $981,215,000; TAO Fleet Oiler (AP), $73,000,000; Towing, Salvage, and Rescue Ship, $150,282,000; LCU 1700, $83,670,000; Ship to Shore Connector, $65,000,000; Service Craft, $56,289,000; For outfitting, post delivery, conversions, and first destination transportation, $736,243,000; and Completion of Prior Year Shipbuilding Programs, $55,700,000. In all: $21,699,556,000, to remain available for obligation until September 30, 2024: Provided, That additional obligations may be incurred after September 30, 2024, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards: Provided further, That funds appropriated or otherwise made available by this Act for production of the common missile compartment of nuclear- powered vessels may be available for multiyear procurement of critical [[Page H4484]] components to support continuous production of such compartments only in accordance with the provisions of subsection (i) of section 2218a of title 10, United States Code (as added by section 1023 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328)). Other Procurement, Navy For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,123,068,000, to remain available for obligation until September 30, 2022. Procurement, Marine Corps For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $2,838,151,000, to remain available for obligation until September 30, 2022. Aircraft Procurement, Air Force For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $18,082,933,000, to remain available for obligation until September 30, 2022. Missile Procurement, Air Force For construction, procurement, and modification of missiles, rockets, and related equipment, including spare parts and accessories therefor; ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $2,789,287,000, to remain available for obligation until September 30, 2022. Space Procurement, Air Force For construction, procurement, and modification of spacecraft, rockets, and related equipment, including spare parts and accessories therefor; ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $2,368,443,000, to remain available for obligation until September 30, 2022. Procurement of Ammunition, Air Force For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,602,761,000, to remain available for obligation until September 30, 2022. Other Procurement, Air Force For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $21,067,888,000, to remain available for obligation until September 30, 2022. Procurement, Defense-Wide For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $5,100,866,000, to remain available for obligation until September 30, 2022. Defense Production Act Purchases For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C 4518, 4531, 4532, and 4533), $64,393,000, to remain available until expended. TITLE IV RESEARCH, DEVELOPMENT, TEST AND EVALUATION Research, Development, Test and Evaluation, Army For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $12,046,783,000, to remain available for obligation until September 30, 2021. Research, Development, Test and Evaluation, Navy For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,140,865,000, to remain available for obligation until September 30, 2021. Provided, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces. Research, Development, Test and Evaluation, Air Force For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $44,554,256,000, to remain available for obligation until September 30, 2021. Research, Development, Test and Evaluation, Defense-wide For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $24,492,308,000, to remain available for obligation until September 30, 2021. Operational Test and Evaluation, Defense For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $221,200,000, to remain available for obligation until September 30, 2021. TITLE V REVOLVING AND MANAGEMENT FUNDS Defense Working Capital Funds For the Defense Working Capital Funds, $1,226,211,000. Defense Counterintelligence and Security Agency Working Capital Fund For the Defense Counterintelligence and Security Agency Working Capital Fund, $200,000,000. TITLE VI OTHER DEPARTMENT OF DEFENSE PROGRAMS Defense Health Program For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense as authorized by law, $33,476,039,000; of which $31,359,442,000, shall be for operation and maintenance, of which not to exceed one percent shall remain available for obligation until September 30, 2021, and of which up to $15,176,945,000 may be available for contracts entered into under the TRICARE program; of which $454,324,000, to remain available for obligation until September 30, 2022, shall be for procurement; and of which $1,662,273,000, to remain available for obligation until September 30, 2021, shall be for research, development, test and evaluation: Provided, That, notwithstanding any other provision of law, of the amount made available under this heading for research, development, test and evaluation, not less than $8,000,000 shall be available for HIV prevention educational activities undertaken in connection with United States military training, exercises, and humanitarian assistance activities conducted primarily in African nations: Provided further, That of the funds provided under this heading for research, development, test and evaluation, not less than $930,000,000 shall be made available to the United States Army Medical Research and Materiel Command to carry out the congressionally directed medical research programs: Provided further, That the Secretary of Defense shall submit to the House [[Page H4485]] and Senate Appropriations Committees quarterly reports on the current status of the deployment of the electronic health record: Provided further, That the Secretary of Defense shall provide notice to the House and Senate Appropriations Committees not later than 10 business days after delaying the proposed timeline of such deployment if such delay is longer than one week: Provided further, That the Comptroller General of the United States shall perform quarterly performance reviews of such deployment. Chemical Agents and Munitions Destruction, Defense For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $985,499,000, of which $107,351,000 shall be for operation and maintenance, of which no less than $52,452,000 shall be for the Chemical Stockpile Emergency Preparedness Program, consisting of $22,444,000 for activities on military installations and $30,008,000, to remain available until September 30, 2021, to assist State and local governments; $2,218,000 shall be for procurement, to remain available until September 30, 2022, of which not less than $2,218,000 shall be for the Chemical Stockpile Emergency Preparedness Program to assist State and local governments; and $875,930,000, to remain available until September 30, 2021, shall be for research, development, test and evaluation, of which $869,430,000 shall only be for the Assembled Chemical Weapons Alternatives program. Drug Interdiction and Counter-Drug Activities, Defense (including ***transfer*** of funds) For drug interdiction and counter-drug activities of the Department of Defense, for ***transfer*** to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for operation and maintenance; for procurement; and for research, development, test and evaluation, $816,755,000, of which $517,171,000 shall be for counter-narcotics support; $121,922,000 shall be for the drug demand reduction program; $172,291,000 shall be for the National Guard counter-drug program; and $5,371,000 shall be for the National Guard counter-drug schools program: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which ***transferred***: Provided further, That upon a determination that all or part of the funds ***transferred*** from this appropriation are not necessary for the purposes provided herein, such amounts may be ***transferred*** back to this appropriation: Provided further, That the ***transfer*** authority provided under this heading is in addition to any other ***transfer*** authority contained elsewhere in this Act: Provided further, That section 284 of title 10, United States Code, may only be carried out using amounts appropriated under this heading for counter-narcotics support: Provided further, That amounts appropriated under this heading for counter-narcotics support may not be used for the construction of fences pursuant to subsection (b)(7) of such section: Provided further, That the ***transfer*** authority contained in section 8005 in title VIII of this Act shall not apply to amounts made available under this heading: Provided further, That funds appropriated under this heading for counter-narcotics support may only be ***transferred*** 15 days following written ***notification*** to the congressional defense committees. Office of the Inspector General For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $363,499,000, of which $360,201,000 shall be for operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; of which $333,000 to remain available for obligation until September 30, 2022, shall be for procurement; and of which $2,965,000, to remain available until September 30, 2021, shall be for research, development, test and evaluation. TITLE VII RELATED AGENCIES Central Intelligence Agency Retirement and Disability System Fund For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $514,000,000. Intelligence Community Management Account For necessary expenses of the Intelligence Community Management Account, $558,000,000. TITLE VIII GENERAL PROVISIONS Sec. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress. Sec. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey. Sec. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein. Sec. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps. (***transfer*** of funds) Sec. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, ***transfer*** not to exceed a total of $1,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which ***transferred***: Provided, That such authority to ***transfer*** may not be used unless the Secretary of Defense and the head of each entity affected by such ***transfer*** certifies in writing to the congressional defense committees, as part of the applicable request for reprogramming required for such ***transfer***, that the funds will be used for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall ***notify*** the Congress promptly of all ***transfers*** made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section shall be made prior to June 30, 2020. Sec. 8006. (a) With regard to the list of specific programs, projects, and activities (and the dollar amounts and adjustments to budget activities corresponding to such programs, projects, and activities) contained in the tables titled Explanation of Project Level Adjustments in the explanatory statement regarding this Act, the obligation and expenditure of amounts appropriated or otherwise made available in this Act for those programs, projects, and activities for which the amounts appropriated exceed the amounts requested are hereby required by law to be carried out in the manner provided by such tables to the same extent as if the tables were included in the text of this Act. (b) Amounts specified in the referenced tables described in subsection (a) shall not be treated as subdivisions of appropriations for purposes of section 8005 of this Act: Provided, That section 8005 shall apply when ***transfers*** of the amounts described in subsection (a) occur between appropriation accounts. Sec. 8007. (a) Not later than 60 days after enactment of this Act, the Department of Defense shall submit a report to the congressional defense committees to establish the baseline for application of reprogramming and ***transfer*** authorities for fiscal year 2020: Provided, That the report shall include-- (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by budget activity and program, project, and activity as detailed in the Budget Appendix; and (3) an identification of items of special congressional interest. (b) Notwithstanding section 8005 of this Act, none of the funds provided in this Act shall be available for reprogramming or ***transfer*** until the report identified in subsection (a) is submitted to the congressional defense committees, unless the Secretary of Defense certifies in writing to the congressional defense committees that such reprogramming or ***transfer*** is necessary as an emergency requirement: Provided, That this subsection shall not apply to ***transfers*** from the following appropriations accounts: (1) ``Environmental Restoration, Army''; (2) ``Environmental Restoration, Navy''; (3) ``Environmental Restoration, Air Force''; (4) ``Environmental Restoration, Defense-Wide'' (5) ``Environmental Restoration, Formerly Used Defense Sites''. (***transfer*** of funds) Sec. 8008. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be [[Page H4486]] maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That ***transfers*** may be made between such funds: Provided further, That ***transfers*** may be made between working capital funds and the ``Foreign Currency Fluctuations, Defense'' appropriation and the ``Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such ***transfers*** may not be made unless the Secretary of Defense has ***notified*** the Congress of the proposed ***transfer***: Provided further, That except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has ***notified*** the Congress prior to any such obligation. Sec. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior ***notification*** 30 ***calendar*** days in advance to the congressional defense committees. Sec. 8010. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been ***notified*** at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 30- day prior ***notification*** to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract-- (1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year; (2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract; (3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and (4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract. Sec. 8011. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam. Sec. 8012. (a) During the current fiscal year, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year. (b) The fiscal year 2021 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2021 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2021. (c) As required by section 1107 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 10 U.S.C 2358 note) civilian personnel at the Department of Army Science and Technology Reinvention Laboratories may not be managed on the basis of the Table of Distribution and Allowances, and the management of the workforce strength shall be done in a manner consistent with the budget available with respect to such Laboratories. (d) Nothing in this section shall be construed to apply to military (civilian) technicians. Sec. 8013. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress. Sec. 8014. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this section applies only to active components of the Army. (***transfer*** of funds) Sec. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be ***transferred*** to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C 2302 note), as amended, under the authority of this provision or any other ***transfer*** authority contained in this Act. Sec. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section, the term ``manufactured'' shall include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the Service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes. Sec. 8017. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That, in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered. Sec. 8018. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols, or to demilitarize or destroy small arms ammunition or ammunition components that are not otherwise prohibited from commercial sale under Federal law, unless the small arms ammunition or ammunition components are certified by the Secretary of the Army or designee as unserviceable or unsafe for further use. Sec. 8019. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by- case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government. Sec. 8020. Of the funds made available in this Act, $25,000,000 shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under [[Page H4487]] section 4221(9) of title 25, United States Code, shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 1906 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part, by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code. Sec. 8021. Funds appropriated by this Act for the Defense Media Activity shall not be used for any national or international political or psychological activities. Sec. 8022. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations. Sec. 8023. (a) Of the funds made available in this Act, not less than $51,800,000 shall be available for the Civil Air Patrol Corporation, of which-- (1) $37,233,000 shall be available from ``Operation and Maintenance, Air Force'' to support Civil Air Patrol Corporation operation and maintenance, readiness, counter- drug activities, and drug demand reduction activities involving youth programs; (2) $11,000,000 shall be available from ``Aircraft Procurement, Air Force''; and (3) $3,567,000 shall be available from ``Other Procurement, Air Force'' for vehicle and communication equipment procurement. (b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies. Sec. 8024. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities. (b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties. (c) Notwithstanding any other provision of law, none of the funds available to the department from any source during the current fiscal year may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings not located on a military installation, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development. (d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2020, not more than 6,100 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP). (e) The Secretary of Defense shall, with the submission of the Department's fiscal year 2021 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year and the associated budget estimates. (f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby increased by $26,800,000: Provided, That this subsection shall not apply to appropriations for the National Intelligence Program (NIP) and the Military Intelligence Program (MIP). Sec. 8025. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy, or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act. Sec. 8026. For the purposes of this Act, the term ``congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives. Sec. 8027. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section. Sec. 8028. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country. (2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country. (b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2020. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C 2501 et seq.), or any international agreement to which the United States is a party. (c) For purposes of this section, the term ``Buy American Act'' means chapter 83 of title 41, United States Code. Sec. 8029. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act. Sec. 8030. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of Nevada, Idaho, North Dakota, South Dakota, Montana, Oregon, Minnesota, and Washington relocatable military housing units located at Grand Forks Air Force Base, Malmstrom Air Force Base, Mountain Home Air Force Base, Ellsworth Air Force Base, and Minot Air Force Base that are excess to the needs of the Air Force. (b) The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of Nevada, Idaho, North Dakota, South Dakota, Montana, Oregon, Minnesota, and Washington. Any such conveyance shall be subject to the condition that the housing units shall be removed within a reasonable period of time, as determined by the Secretary. (c) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b). (d) In this section, the term ``Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C 5131). Sec. 8031. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000. Sec. 8032. None of the funds made available by this Act may be used to-- (1) disestablish, or prepare to disestablish, a Senior Reserve Officers' Training Corps program in accordance with Department of Defense Instruction Number 1215.08, dated June 26, 2006; or (2) close, downgrade from host to extension center, or place on probation a Senior Reserve Officers' Training Corps program in accordance with the information paper of the Department of the Army titled ``Army Senior Reserve Officer's Training Corps (SROTC) Program Review and Criteria'', dated January 27, 2014. Sec. 8033. Up to $14,000,000 of the funds appropriated under the heading ``Operation and Maintenance, Navy'' may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and payment [[Page H4488]] of incremental and personnel costs of training and exercising with foreign security forces: Provided, That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: Provided further, That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law. Sec. 8034. The Secretary of Defense shall issue regulations to prohibit the sale of any tobacco or tobacco- related products in military resale outlets in the United States, its territories and possessions at a price below the most competitive price in the local community: Provided, That such regulations shall direct that the prices of tobacco or tobacco-related products in overseas military retail outlets shall be within the range of prices established for military retail system stores located in the United States. Sec. 8035. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement. (b) The fiscal year 2021 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2021 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2021 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds. Sec. 8036. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2021: Provided, That funds appropriated, ***transferred***, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or ***transferred*** to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947 (50 U.S.C 3093) shall remain available until September 30, 2021. Sec. 8037. Of the funds appropriated to the Department of Defense under the heading ``Operation and Maintenance, Defense-Wide'', not less than $12,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities. Sec. 8038. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ``Buy American Act'' means chapter 83 of title 41, United States Code. (b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ``Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense. (c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality competitive, and available in a timely fashion. Sec. 8039. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used-- (1) to establish a field operating agency; or (2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is ***transferred*** or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters. (b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and the Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department. (c) This section does not apply to-- (1) field operating agencies funded within the National Intelligence Program; (2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats; (3) an Army field operating agency established to improve the effectiveness and efficiencies of biometric activities and to integrate common biometric technologies throughout the Department of Defense; or (4) an Air Force field operating agency established to administer the Air Force Mortuary Affairs Program and Mortuary Operations for the Department of Defense and authorized Federal entities. Sec. 8040. (a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by Department of Defense civilian employees unless-- (1) the conversion is based on the result of a public- private competition that includes a most efficient and cost effective organization plan developed by such activity or function; (2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of-- (A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or (B) $10,000,000; and (3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by-- (A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or (B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code. (b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that-- (A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (section 8503 of title 41, United States Code); (B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self- Determination and Education Assistance Act (25 U.S.C 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C 637(a)(15)). (2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code. (c) The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities. (rescissions) Sec. 8041. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: Provided, That no amounts may be rescinded from amounts that were designated by the Congress for Overseas Contingency Operations/Global War on Terrorism or as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: ``Shipbuilding and Conversion, Navy: DDG-51 Destroyer'', 2012/2020, $86,000,000; ``Shipbuilding and Conversion, Navy: LCAC SLEP'', 2013/ 2020, $2,000,000; ``Missile Procurement, Army'', 2018/2020, $14,056,000; ``Procurement of Weapons and Tracked Combat Vehicles, Army'', 2018/2020, $97,000,000; ``Other Procurement, Army'', 2018/2020, $10,685,000; ``Aircraft Procurement, Navy'', 2018/2020, $126,079,000; ``Other Procurement, Navy'', 2018/2020, $34,087,000; ``Procurement, Marine Corps'', 2018/2020, $9,046,000; ``Aircraft Procurement, Air Force'', 2018/2020, $160,200,000; ``Other Procurement, Air Force'', 2018/2020, $26,000,000; ``Operation and Maintenance, Defense-Wide: DSCA Security Cooperation Account'', 2019/2020, $21,314,000; ``Aircraft Procurement, Army'', 2019/2021, $58,600,000; ``Procurement of Weapons and Tracked Combat Vehicles'', 2019/2021, $87,567,000; ``Other Procurement, Army'', 2019/2021, $75,173,000; ``Aircraft Procurement, Navy'', 2019/2021, $501,616,000; [[Page H4489]] ``Procurement of Ammunition, Navy and Marine Corps'', 2019/ 2021, $22,000,000; ``Other Procurement, Navy'', 2019/2021, $44,964,000; ``Procurement, Marine Corps'', 2019/2021, $74,456,000; ``Aircraft Procurement, Air Force'', 2019/2021, $629,300,000; ``Missile Procurement, Air Force'', 2019/2021, $76,000,000; ``Space Procurement, Air Force'', 2019/2021, $214,509,000; ``Procurement of Ammunition, Air Force'', 2019/2021, $236,100,000; ``Research, Development, Test and Evaluation, Army'', 2019/ 2020, $65,933,000; ``Research, Development, Test and Evaluation, Navy'', 2019/ 2020, $240,088,000; and ``Research, Development, Test and Evaluation, Air Force'', 2019/2020, $131,200,000. Sec. 8042. None of the funds available in this Act may be used to reduce the authorized positions for military technicians (dual status) of the Army National Guard, Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ***ceiling***, freeze, or reduction on military technicians (dual status), unless such reductions are a direct result of a reduction in military force structure. Sec. 8043. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of Korea unless specifically appropriated for that purpose. Sec. 8044. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures. Sec. 8045. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be ***transferred*** to any other department or agency of the United States. (b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction or counter- drug activities may be ***transferred*** to any other department or agency of the United States. Sec. 8046. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of ``commercial items'', as defined by section 103 of title 41, United States Code, except that the restriction shall apply to ball or roller bearings purchased as end items. Sec. 8047. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $44,000,000 is hereby appropriated to the Department of Defense: Provided, That upon the determination of the Secretary of Defense that it shall serve the national interest, the Secretary shall make grants in the amounts specified as follows: $20,000,000 to the United Service Organizations and $24,000,000 to the Red Cross. Sec. 8048. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers. Sec. 8049. Notwithstanding any other provision in this Act, the Small Business Innovation Research program and the Small Business Technology ***Transfer*** program set-asides shall be taken proportionally from all programs, projects, or activities to the extent they contribute to the extramural budget. Sec. 8050. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when-- (1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and (2) such bonus is part of restructuring costs associated with a business combination. (including ***transfer*** of funds) Sec. 8051. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ``Operation and Maintenance, Defense-Wide'' may be ***transferred*** to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which ***transferred***, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code. Sec. 8052. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if-- (1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account; (2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and (3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account. Sec. 8053. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis. (b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation. (including ***transfer*** of funds) Sec. 8054. Of the funds appropriated in this Act under the heading ``Operation and Maintenance, Defense-Wide'', $35,000,000 shall be for continued implementation and expansion of the Sexual Assault Special Victims' Counsel Program: Provided, That the funds are made available for ***transfer*** to the Department of the Army, the Department of the Navy, and the Department of the Air Force: Provided further, That funds ***transferred*** shall be merged with and available for the same purposes and for the same time period as the appropriations to which the funds are ***transferred***: Provided further, That this ***transfer*** authority is in addition to any other ***transfer*** authority provided in this Act. Sec. 8055. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That the Secretary of Defense shall, with submission of the Department's fiscal year 2021 budget request, submit a report detailing the use of funds requested in research, development, test and evaluation accounts for end-items used in development, prototyping and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by- case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so. Sec. 8056. (a) The Secretary of Defense may, on a case-by- case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country. (b) Subsection (a) applies with respect to-- (1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and (2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a). (c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section XI (chapters 50-65) of the Harmonized Tariff Schedule of the United States and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404. Sec. 8057. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, [[Page H4490]] including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business. Sec. 8058. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ``Research, Development, Test and Evaluation, Defense-Wide'' for any new start advanced concept technology demonstration project or joint capability demonstration project may only be obligated 45 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees. Sec. 8059. The Secretary of Defense shall continue to provide a classified quarterly report to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act. Sec. 8060. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32, United States Code, may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System. Sec. 8061. None of the funds provided in this Act may be used to ***transfer*** to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of ``armor penetrator'', ``armor piercing (AP)'', ``armor piercing incendiary (API)'', or ``armor-piercing incendiary tracer (API-T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State. Sec. 8062. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal nonprofit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis. (including ***transfer*** of funds) Sec. 8063. Of the amounts appropriated in this Act under the heading ``Operation and Maintenance, Army'', $138,103,000 shall remain available until expended: Provided, That, notwithstanding any other provision of law, the Secretary of Defense is authorized to ***transfer*** such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense. Sec. 8064. (a) None of the funds appropriated in this or any other Act may be used to take any action to modify-- (1) the appropriations account structure for the National Intelligence Program budget, including through the creation of a new appropriation or new appropriation account; (2) how the National Intelligence Program budget request is presented in the unclassified P-1, R-1, and O-1 documents supporting the Department of Defense budget request; (3) the process by which the National Intelligence Program appropriations are apportioned to the executing agencies; or (4) the process by which the National Intelligence Program appropriations are allotted, obligated and disbursed. (b) Nothing in section (a) shall be construed to prohibit the merger of programs or changes to the National Intelligence Program budget at or below the Expenditure Center level, provided such change is otherwise in accordance with paragraphs (a)(1)-(3). (c) The Director of National Intelligence and the Secretary of Defense may jointly, only for the purposes of achieving auditable financial statements and improving fiscal reporting, study and develop detailed proposals for alternative financial management processes. Such study shall include a comprehensive counterintelligence risk assessment to ensure that none of the alternative processes will adversely affect counterintelligence. (d) Upon development of the detailed proposals defined under subsection (c), the Director of National Intelligence and the Secretary of Defense shall-- (1) provide the proposed alternatives to all affected agencies; (2) receive certification from all affected agencies attesting that the proposed alternatives will help achieve auditability, improve fiscal reporting, and will not adversely affect counterintelligence; and (3) not later than 30 days after receiving all necessary certifications under paragraph (2), present the proposed alternatives and certifications to the congressional defense and intelligence committees. Sec. 8065. In addition to amounts provided elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: Provided, That notwithstanding any other provision of law, that upon the determination of the Secretary of Defense that it shall serve the national interest, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary. Sec. 8066. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command operational and administrative control of United States Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force until a written modification has been proposed to the House and Senate Appropriations Committees: Provided further, That the proposed modification may be implemented 30 days after the ***notification*** unless an objection is received from either the House or Senate Appropriations Committees: Provided further, That any proposed modification shall not preclude the ability of the commander of United States Indo- Pacific Command to meet operational requirements. Sec. 8067. Any notice that is required to be submitted to the Committees on Appropriations of the Senate and the House of Representatives under section 806(c)(4) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C 2302 note) after the date of the enactment of this Act shall be submitted pursuant to that requirement concurrently to the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives. (including ***transfer*** of funds) Sec. 8068. Of the amounts appropriated in this Act under the headings ``Procurement, Defense-Wide'' and ``Research, Development, Test and Evaluation, Defense-Wide'', $500,000,000 shall be for the Israeli Cooperative Programs: Provided, That of this amount, $95,000,000 shall be for the Secretary of Defense to provide to the Government of Israel for the procurement of the Iron Dome defense system to counter short-range rocket threats, subject to the U.S - Israel Iron Dome Procurement Agreement, as amended; $191,000,000 shall be for the Short Range Ballistic Missile Defense (SRBMD) program, including cruise missile defense research and development under the SRBMD program, of which $50,000,000 shall be for co-production activities of SRBMD systems in the United States and in Israel to meet Israel's defense requirements consistent with each nation's laws, regulations, and procedures, subject to the U.S -Israeli co- production agreement for SRBMD, as amended; $55,000,000 shall be for an upper-tier component to the Israeli Missile Defense Architecture, of which $55,000,000 shall be for co-production activities of Arrow 3 Upper Tier systems in the United States and in Israel to meet Israel's defense requirements consistent with each nation's laws, regulations, and procedures, subject to the U.S -Israeli co-production agreement for Arrow 3 Upper Tier, as amended; and $159,000,000 shall be for the Arrow System Improvement Program including development of a long range, ground and airborne, detection suite: Provided further, That the ***transfer*** authority provided under this provision is in addition to any other ***transfer*** authority contained in this Act. (including ***transfer*** of funds) Sec. 8069. Of the amounts appropriated in this Act under the heading ``Shipbuilding and Conversion, Navy'', $55,700,000 shall be available until September 30, 2020, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall ***transfer*** funds to the following appropriations in the amounts specified: Provided further, That the amounts ***transferred*** shall be merged with and be available for the same purposes as the appropriations to which ***transferred*** to: (1) Under the heading ``Shipbuilding and Conversion, Navy'', 2016/2020: Littoral Combat Ship $14,000,000; (2) Under the heading ``Shipbuilding and Conversion, Navy'', 2016/2020: Expeditionary Sea Base $38,000,000; and (3) Under the heading ``Shipbuilding and Conversion, Navy'', 2018/2020: TAO Fleet Oiler $3,700,000. Sec. 8070. Funds appropriated by this Act, or made available by the ***transfer*** of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C 3094) during fiscal year 2020 until the enactment of the Intelligence Authorization Act for Fiscal Year 2020. Sec. 8071. None of the funds provided in this Act shall be available for obligation or expenditure through a reprogramming of funds that creates or initiates a new program, project, or activity, unless the Secretary of Defense ***notifies*** the congressional defense committees not less that 30 days in advance (or in an emergency, as far in advance as is practicable) that such program, project, or activity must be undertaken immediately to address a documented requirement in ongoing or anticipated contingency operations that if left unfulfilled could potentially result in loss of life. Sec. 8072. The budget of the President for fiscal year 2021 submitted to the Congress pursuant to section 1105 of title 31, United States Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, the Procurement accounts, and the Research, Development, [[Page H4491]] Test and Evaluation accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP-5 and OP-32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years. Sec. 8073. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system. Sec. 8074. The Secretary of Defense may use up to $500,000,000 of the amounts appropriated or otherwise made available in this Act to the Department of Defense for the rapid acquisition and deployment of supplies and associated support services pursuant to section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C 2302 note): Provided, That the Secretary of Defense shall ***notify*** the congressional defense committees promptly of all uses of this authority. Sec. 8075. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non- hurricane season. Sec. 8076. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333. Sec. 8077. (a) None of the funds appropriated by this Act may be used to ***transfer*** research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army. (b) The Army shall retain responsibility for and operational control of the MQ-1C Gray Eagle Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles. Sec. 8078. None of the funds appropriated by this Act for programs of the Office of the Director of National Intelligence shall remain available for obligation beyond the current fiscal year, except for funds appropriated for research and technology, which shall remain available until September 30, 2021. Sec. 8079. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ``Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ``Shipbuilding and Conversion, Navy'' appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation. Sec. 8080. (a) Not later than 60 days after the date of enactment of this Act, the Director of National Intelligence shall submit a report to the congressional intelligence committees to establish the baseline for application of reprogramming and ***transfer*** authorities for fiscal year 2020: Provided, That the report shall include-- (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation by Expenditure Center and project; and (3) an identification of items of special congressional interest. (b) None of the funds provided for the National Intelligence Program in this Act shall be available for reprogramming or ***transfer*** until the report identified in subsection (a) is submitted to the congressional intelligence committees, unless the Director of National Intelligence certifies in writing to the congressional intelligence committees that such reprogramming or ***transfer*** is necessary as an emergency requirement. Sec. 8081. Notwithstanding any other provision of law, any ***transfer*** of funds, appropriated or otherwise made available by this Act, for support to friendly foreign countries in connection with the conduct of operations in which the United States is not participating, pursuant to section 331(d) of title 10, United States Code, shall be made in accordance with sections 8005 or 9002 of this Act, as applicable. Sec. 8082. Any ***transfer*** of amounts appropriated to, credited to, or deposited in the Department of Defense Acquisition Workforce Development Fund in or for fiscal year 2020 to a military department or Defense Agency pursuant to section 1705(e)(1) of title 10, United States Code, shall be covered by and subject to sections 8005 or 9002 of this Act, as applicable. Sec. 8083. None of the funds made available by this Act for excess defense articles, assistance under section 333 of title 10, United States Code, or peacekeeping operations for the countries designated annually to be in violation of the standards of the Child Soldiers Prevention Act of 2008 (Public Law 110-457; 22 U.S.C 2370c-1) may be used to support any military training or operation that includes child soldiers, as defined by the Child Soldiers Prevention Act of 2008, unless such assistance is otherwise permitted under section 404 of the Child Soldiers Prevention Act of 2008. Sec. 8084. (a) None of the funds provided for the National Intelligence Program in this or any prior appropriations Act shall be available for obligation or expenditure through a reprogramming or ***transfer*** of funds in accordance with section 102A(d) of the National Security Act of 1947 (50 U.S.C 3024(d)) that-- (1) creates a new start effort; (2) terminates a program with appropriated funding of $10,000,000 or more; (3) ***transfers*** funding into or out of the National Intelligence Program; or (4) ***transfers*** funding between appropriations, unless the congressional intelligence committees are ***notified*** 30 days in advance of such reprogramming of funds; this ***notification*** period may be reduced for urgent national security requirements. (b) None of the funds provided for the National Intelligence Program in this or any prior appropriations Act shall be available for obligation or expenditure through a reprogramming or ***transfer*** of funds in accordance with section 102A(d) of the National Security Act of 1947 (50 U.S.C 3024(d)) that results in a cumulative increase or decrease of the levels specified in the classified annex accompanying the Act unless the congressional intelligence committees are ***notified*** 30 days in advance of such reprogramming of funds; this ***notification*** period may be reduced for urgent national security requirements. Sec. 8085. The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future- years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years. Sec. 8086. For the purposes of this Act, the term ``congressional intelligence committees'' means the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Defense of the Committee on Appropriations of the Senate. (including ***transfer*** of funds) Sec. 8087. During the current fiscal year, not to exceed $11,000,000 from each of the appropriations made in title II of this Act for ``Operation and Maintenance, Army'', ``Operation and Maintenance, Navy'', and ``Operation and Maintenance, Air Force'' may be ***transferred*** by the military department concerned to its central fund established for Fisher Houses and Suites pursuant to section 2493(d) of title 10, United States Code. Sec. 8088. None of the funds appropriated by this Act may be available for the purpose of making remittances to the Department of Defense Acquisition Workforce Development Fund in accordance with section 1705 of title 10, United States Code. Sec. 8089. (a) Any agency receiving funds made available in this Act, shall, subject to subsections (b) and (c), post on the public Web site of that agency any report required to be submitted by the Congress in this or any other Act, upon the determination by the head of the agency that it shall serve the national interest. (b) Subsection (a) shall not apply to a report if-- (1) the public posting of the report compromises national security; or (2) the report contains proprietary information. (c) The head of the agency posting such report shall do so only after such report has been made available to the requesting Committee or Committees of Congress for no less than 45 days. Sec. 8090. (a) None of the funds appropriated or otherwise made available by this Act may be expended for any Federal contract for an amount in excess of $1,000,000, unless the contractor agrees not to-- (1) enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or (2) take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention. (b) None of the funds appropriated or otherwise made available by this Act may be expended for any Federal contract unless the contractor certifies that it requires each covered subcontractor to agree not to enter into, and not to take any action to enforce any provision of, any agreement as described in paragraphs (1) [[Page H4492]] and (2) of subsection (a), with respect to any employee or independent contractor performing work related to such subcontract. For purposes of this subsection, a ``covered subcontractor'' is an entity that has a subcontract in excess of $1,000,000 on a contract subject to subsection (a). (c) The prohibitions in this section do not apply with respect to a contractor's or subcontractor's agreements with employees or independent contractors that may not be enforced in a court of the United States. (d) The Secretary of Defense may waive the application of subsection (a) or (b) to a particular contractor or subcontractor for the purposes of a particular contract or subcontract if the Secretary or the Deputy Secretary personally determines that the waiver is necessary to avoid harm to national security interests of the United States, and that the term of the contract or subcontract is not longer than necessary to avoid such harm. The determination shall set forth with specificity the grounds for the waiver and for the contract or subcontract term selected, and shall state any alternatives considered in lieu of a waiver and the reasons each such alternative would not avoid harm to national security interests of the United States. The Secretary of Defense shall transmit to Congress, and simultaneously make public, any determination under this subsection not less than 15 business days before the contract or subcontract addressed in the determination may be awarded. (including ***transfer*** of funds) Sec. 8091. From within the funds appropriated for operation and maintenance for the Defense Health Program in this Act, up to $129,000,000, shall be available for ***transfer*** to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund in accordance with the provisions of section 1704 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84: Provided, That for purposes of section 1704(b), the facility operations funded are operations of the integrated Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veterans Affairs Medical Center, the Navy Ambulatory Care Center, and supporting facilities designated as a combined Federal medical facility as described by section 706 of Public Law 110-417: Provided further, That additional funds may be ***transferred*** from funds appropriated for operation and maintenance for the Defense Health Program to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund upon written ***notification*** by the Secretary of Defense to the Committees on Appropriations of the House of Representatives and the Senate. Sec. 8092. None of the funds appropriated or otherwise made available by this Act may be used by the Department of Defense or a component thereof in contravention of the provisions of section 130h of title 10, United States Code. Sec. 8093. Appropriations available to the Department of Defense may be used for the purchase of heavy and light armored vehicles for the physical security of personnel or for force protection purposes up to a limit of $450,000 per vehicle, notwithstanding price or other limitations applicable to the purchase of passenger carrying vehicles. (including ***transfer*** of funds) Sec. 8094. Upon a determination by the Director of National Intelligence that such action is necessary and in the national interest, the Director may, with the approval of the Office of Management and Budget, ***transfer*** not to exceed $1,000,000,000 of the funds made available in this Act for the National Intelligence Program: Provided, That such authority to ***transfer*** may not be used unless for higher priority items, based on unforeseen intelligence requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section shall be made prior to June 30, 2020. Sec. 8095. None of the funds appropriated or otherwise made available in this or any other Act may be used to ***transfer***, release, or assist in the ***transfer*** or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed or any other detainee who-- (1) is not a United States citizen or a member of the Armed Forces of the United States; and (2) is or was held on or after June 24, 2009, at United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense. Sec. 8096. None of the funds appropriated or otherwise made available in this Act may be used to ***transfer*** any individual detained at United States Naval Station Guantanamo Bay, Cuba, to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity except in accordance with section 1034 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) and section 1035 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232). Sec. 8097. None of the funds made available by this Act may be used in contravention of the War Powers Resolution (50 U.S.C 1541 et seq.). Sec. 8098. (a) None of the funds appropriated or otherwise made available by this or any other Act may be used by the Secretary of Defense, or any other official or officer of the Department of Defense, to enter into a contract, memorandum of understanding, or cooperative agreement with, or make a grant to, or provide a loan or loan guarantee to Rosoboronexport or any subsidiary of Rosoboronexport. (b) The Secretary of Defense may waive the limitation in subsection (a) if the Secretary, in consultation with the Secretary of State and the Director of National Intelligence, determines that it is in the vital national security interest of the United States to do so, and certifies in writing to the congressional defense committees that, to the best of the Secretary's knowledge: (1) Rosoboronexport has ceased the ***transfer*** of lethal military equipment to, and the maintenance of existing lethal military equipment for, the Government of the Syrian Arab Republic; (2) The armed forces of the Russian Federation have withdrawn from Crimea, other than armed forces present on military bases subject to agreements in force between the Government of the Russian Federation and the Government of Ukraine; and (3) Agents of the Russian Federation have ceased taking active measures to destabilize the control of the Government of Ukraine over eastern Ukraine. (c) The Inspector General of the Department of Defense shall conduct a review of any action involving Rosoboronexport with respect to a waiver issued by the Secretary of Defense pursuant to subsection (b), and not later than 90 days after the date on which such a waiver is issued by the Secretary of Defense, the Inspector General shall submit to the congressional defense committees a report containing the results of the review conducted with respect to such waiver. Sec. 8099. None of the funds made available in this Act may be used for the purchase or manufacture of a flag of the United States unless such flags are treated as covered items under section 2533a(b) of title 10, United States Code. Sec. 8100. (a) Of the funds appropriated in this Act for the Department of Defense, amounts may be made available, under such regulations as the Secretary of Defense may prescribe, to local military commanders appointed by the Secretary, or by an officer or employee designated by the Secretary, to provide at their discretion ex gratia payments in amounts consistent with subsection (d) of this section for damage, personal injury, or death that is incident to combat operations of the Armed Forces in a foreign country. (b) An ex gratia payment under this section may be provided only if-- (1) the prospective foreign civilian recipient is determined by the local military commander to be friendly to the United States; (2) a claim for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the ``Foreign Claims Act''); and (3) the property damage, personal injury, or death was not caused by action by an enemy. (c) Any payments provided under a program under subsection (a) shall not be considered an admission or acknowledgement of any legal obligation to compensate for any damage, personal injury, or death. (d) If the Secretary of Defense determines a program under subsection (a) to be appropriate in a particular setting, the amounts of payments, if any, to be provided to civilians determined to have suffered harm incident to combat operations of the Armed Forces under the program should be determined pursuant to regulations prescribed by the Secretary and based on an assessment, which should include such factors as cultural appropriateness and prevailing economic conditions. (e) Local military commanders shall receive legal advice before making ex gratia payments under this subsection. The legal advisor, under regulations of the Department of Defense, shall advise on whether an ex gratia payment is proper under this section and applicable Department of Defense regulations. (f) A written record of any ex gratia payment offered or denied shall be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense. (g) The Secretary of Defense shall report to the congressional defense committees on an annual basis the efficacy of the ex gratia payment program including the number of types of cases considered, amounts offered, the response from ex gratia payment recipients, and any recommended modifications to the program. Sec. 8101. The Secretary of Defense shall post grant awards on a public website in a searchable format. Sec. 8102. The Secretary of each military department, in reducing each research, development, test and evaluation and procurement account of the military department as required under paragraph (1) of section 828(d) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C 2430 note), as amended by section 825(a)(3) of the National Defense Authorization Act for Fiscal Year 2018, shall allocate the percentage reduction determined under paragraph (2) of such section 828(d) proportionally from all programs, projects, or activities under such account: Provided, That the authority under section 804(d)(2) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C 2302 note) to ***transfer*** amounts available in the Rapid Prototyping Fund shall be subject to section 8005 or 9002 of this Act, as applicable. Sec. 8103. None of the funds made available by this Act may be used by the National Security Agency to-- (1) conduct an acquisition pursuant to section 702 of the Foreign Intelligence Surveillance Act of 1978 for the purpose of targeting a United States person; or (2) acquire, monitor, or store the contents (as such term is defined in section 2510(8) of title 18, United States Code) of any electronic communication of a United States person from a provider of electronic communication services to the public pursuant to section 501 of the Foreign Intelligence Surveillance Act of 1978. Sec. 8104. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of any agency funded by this Act who approves or implements [[Page H4493]] the ***transfer*** of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to ***transfers*** of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense. Sec. 8105. Of the amounts appropriated in this Act for ``Operation and Maintenance, Navy'', $352,044,000, to remain available until expended, may be used for any purposes related to the National Defense Reserve Fleet established under section 11 of the Merchant Ship Sales Act of 1946 (46 U.S.C 57100): Provided, That such amounts are available for reimbursements to the Ready Reserve Force, Maritime Administration account of the United States Department of Transportation for programs, projects, activities, and expenses related to the National Defense Reserve Fleet. Sec. 8106. None of the funds made available in this Act may be obligated for activities authorized under section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 112-81; 125 Stat. 1621) to initiate support for, or expand support to, foreign forces, irregular forces, groups, or individuals unless the congressional defense committees are ***notified*** in accordance with the direction contained in the classified annex accompanying this Act, not less than 15 days before initiating such support: Provided, That none of the funds made available in this Act may be used under section 1208 for any activity that is not in support of an ongoing military operation being conducted by United States Special Operations Forces to combat terrorism: Provided further, That the Secretary of Defense may waive the prohibitions in this section if the Secretary determines that such waiver is required by extraordinary circumstances and, by not later than 72 hours after making such waiver, ***notifies*** the congressional defense committees of such waiver. Sec. 8107. None of the funds made available by this Act may be used with respect to Iraq in contravention of the War Powers Resolution (50 U.S.C 1541 et seq.), including for the introduction of United States armed forces into hostilities in Iraq, into situations in Iraq where imminent involvement in hostilities is clearly indicated by the circumstances, or into Iraqi territory, airspace, or waters while equipped for combat, in contravention of the congressional consultation and reporting requirements of sections 3 and 4 of such Resolution (50 U.S.C 1542 and 1543). Sec. 8108. None of the funds provided in this Act for the TAO Fleet Oiler program or the FFG-Frigate program shall be used to award a new contract that provides for the acquisition of the following components unless those components are manufactured in the United States: Auxiliary equipment (including pumps) for shipboard services; propulsion equipment (including engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes. Sec. 8109. No amounts credited or otherwise made available in this or any other Act to the Department of Defense Acquisition Workforce Development Fund may be ***transferred*** to: (1) the Rapid Prototyping Fund established under section 804(d) of the National Defense Authorization Act for Fiscal Year 2016 (10 U.S.C 2302 note); or (2) credited to a military-department specific fund established under section 804(d)(2) of the National Defense Authorization Act for Fiscal Year 2016 (as amended by section 897 of the National Defense Authorization Act for Fiscal Year 2017). Sec. 8110. None of the funds made available by this Act may be used for Government Travel Charge Card expenses by military or civilian personnel of the Department of Defense for gaming, or for entertainment that includes topless or nude entertainers or participants, as prohibited by Department of Defense FMR, Volume 9, Chapter 3 and Department of Defense Instruction 1015.10 (enclosure 3, 14a and 14b). Sec. 8111. None of the funds appropriated by this or any other Act may be made available to deliver F-35 air vehicles or any other F-35 weapon system equipment to the Republic of Turkey. (including ***transfer*** of funds) Sec. 8112. Of the amounts appropriated in this Act, the Secretary of Defense may use up to $82,046,000 under the heading ``Operation and Maintenance, Defense-Wide'', and up to $44,001,000 under the heading ``Research, Development, Test and Evaluation, Defense-Wide'' to develop, replace, and sustain Federal Government security and suitability background investigation information technology systems of the Office of Personnel Management or other Federal agency responsible for conducting such investigations: Provided, That the Secretary may ***transfer*** additional amounts into these headings or into ``Procurement, Defense-Wide'' using established reprogramming procedures prescribed in the Department of Defense Financial Management Regulation 7000.14, Volume 3, Chapter 6, dated September 2015: Provided further, That such funds shall supplement, not supplant any other amounts made available to other Federal agencies for such purposes. Sec. 8113. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network is designed to block access to pornography websites. (b) Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities, or for any activity necessary for the national defense, including intelligence activities. Sec. 8114. Notwithstanding any other provision of law, any ***transfer*** of funds appropriated or otherwise made available by this Act to the Global Engagement Center established by section 1287 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 22 U.S.C 2656 note) shall be made in accordance with section 8005 or 9002 of this Act, as applicable. Sec. 8115. In addition to amounts provided elsewhere in this Act, there is appropriated $270,000,000, for an additional amount for ``Operation and Maintenance, Defense- Wide'', to remain available until expended: Provided, That such funds shall only be available to the Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, or for ***transfer*** to the Secretary of Education, notwithstanding any other provision of law, to make grants, conclude cooperative agreements, or supplement other Federal funds to construct, renovate, repair, or expand elementary and secondary public schools on military installations in order to address capacity or facility condition deficiencies at such schools: Provided further, That in making such funds available, the Office of Economic Adjustment or the Secretary of Education shall give priority consideration to those military installations with schools having the most serious capacity or facility condition deficiencies as determined by the Secretary of Defense: Provided further, That as a condition of receiving funds under this section a local educational agency or State shall provide a matching share as described in the notice titled ``Department of Defense Program for Construction, Renovation, Repair or Expansion of Public Schools Located on Military Installations'' published by the Department of Defense in the Federal Register on September 9, 2011 (76 Fed. Reg. 55883 et seq.): Provided further, That these provisions apply to funds provided under this section, and to funds previously provided by Congress to construct, renovate, repair, or expand elementary and secondary public schools on military installations in order to address capacity or facility condition deficiencies at such schools to the extent such funds remain unobligated on the date of enactment of this section. Sec. 8116. In carrying out the program described in the memorandum on the subject of ``Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members'' issued by the Assistant Secretary of Defense for Health Affairs on April 3, 2012, and the guidance issued to implement such memorandum, the Secretary of Defense shall apply such policy and guidance, except that-- (1) the limitation on periods regarding embryo cryopreservation and storage set forth in part III(G) and in part IV(H) of such memorandum shall not apply; and (2) the term ``assisted reproductive technology'' shall include embryo cryopreservation and storage without limitation on the duration of such cryopreservation and storage. Sec. 8117. None of the funds made available by this Act may be used to provide arms, training, or other assistance to the Azov Battalion. Sec. 8118. None of the funds provided for, or otherwise made available, in this or any other Act, may be obligated or expended by the Secretary of Defense to provide motorized vehicles, aviation platforms, munitions other than small arms and munitions appropriate for customary ceremonial honors, operational military units, or operational military platforms if the Secretary determines that providing such units, platforms, or equipment would undermine the readiness of such units, platforms, or equipment. Sec. 8119. The Secretary of Defense may obligate and expend funds made available under this Act for procurement or for research, development, test and evaluation for the F-35 Joint Strike Fighter to modify up to six F-35 aircraft, including up to two F-35 aircraft of each variant, to a test configuration: Provided, That the Secretary of Defense shall, with the concurrence of the Secretary of the Air Force and the Secretary of the Navy, ***notify*** the congressional defense committees not fewer than 30 days prior to obligating and expending funds under this section: Provided further, That any ***transfer*** of funds pursuant to the authority provided in this section shall be made in accordance with sections 8005 or 9002 of this Act, as appropriate, if applicable: Provided further, That aircraft referred to previously in this section are not additional to aircraft referred to in section 8135 of the Department of Defense Appropriations Act, 2019. Sec. 8120. Amounts appropriated for ``Defense Health Program'' in this Act and hereafter may be obligated to make death gratuity payments, as authorized in subchapter II of chapter 75 of title 10, United States Code, if no appropriation for ``Military Personnel'' is available for obligation for such payments: Provided, That such obligations may subsequently be recorded against appropriations available for ``Military Personnel''. Sec. 8121. (a) None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting such tax liability, provided that the applicable Federal agency is aware of the unpaid Federal tax liability. (b) Subsection (a) shall not apply if the applicable Federal agency has considered suspension [[Page H4494]] or debarment of the corporation described in such subsection and has made a determination that such suspension or debarment is not necessary to protect the interests of the Federal Government. Sec. 8122. None of the funds made available by this Act may be used in contravention of-- (1) Executive Order No. 13175 (65 Fed. Reg. 67249; relating to consultation and coordination with Indian Tribal governments); or (2) section 1501.2(d)(2) of title 40, Code of Federal Regulations. Sec. 8123. Funds appropriated for the Next Generation Aerial Refueling Aircraft (KC-46), Missile Segment Enhancement (MSE) Missile, and Trident missile programs by the Department of Defense Appropriations Act, 2014 (division C of Public Law 113-76) and the Department of Defense Appropriations Act, 2015 (division C of Public Law 113-235) are to remain available through fiscal year 2024 for the liquidation of valid obligations incurred for the programs specified in this section as of September 30, 2016. Sec. 8124. During fiscal year 2020, any advance billing for background investigation services and related services purchased from activities financed using Defense Working Capital Funds shall be excluded from the calculation of cumulative advance billings under section 2208(l)(3) of title 10, United States Code. Sec. 8125. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Department of Defense for the Space Development Agency (SDA), and not more than 50 percent of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Department of Defense for the Next Generation Overhead Persistent Infrared program (PE 1206442F) until a period of 90 days has elapsed following the date on which the Secretary of Defense, in consultation with the Secretary of the Air Force and the Under Secretary of Defense for Research and Engineering, submits to the congressional defense committees-- (1) the proposed plan to establish the SDA, and a description of the programs and projects the SDA plans to carry out over the next three years, including associated funding requirements; (2) a description of how the Air Force and the SDA will coordinate and cooperate to develop an agreed-upon integrated space architecture that will guide both SDA and Air Force investments; (3) the process by which the SDA and the Air Force will cooperate in demonstrating and prototyping new capabilities, and transition to programs of record; (4) the proposed physical location of the SDA and the proposed number of government and contractor personnel expected to comprise the SDA in the first three years; and (5) a plan to transition the SDA into the Air Force not later than fiscal year 2022, or into a Space Force. Sec. 8126. None of the funds appropriated or otherwise made available by this or any other Act may be used to ***transfer*** any element, personnel, property, or resources of the intelligence community, as defined in section 3 of the National Security Act of 1947 (50 U.S.C 3003), to the Space Force. Sec. 8127. None of the funds appropriated or otherwise made available by this Act or any prior Department of Defense appropriations Acts may be used to construct a wall, fence, border barriers, or border security infrastructure along the southern land border of the United States. TITLE IX OVERSEAS CONTINGENCY OPERATIONS MILITARY PERSONNEL Military Personnel, Army For an additional amount for ``Military Personnel, Army'', $2,743,132,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Military Personnel, Navy For an additional amount for ``Military Personnel, Navy'', $356,392,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Military Personnel, Marine Corps For an additional amount for ``Military Personnel, Marine Corps'', $104,213,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Military Personnel, Air Force For an additional amount for ``Military Personnel, Air Force'', $1,007,594,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Reserve Personnel, Army For an additional amount for ``Reserve Personnel, Army'', $34,812,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Reserve Personnel, Navy For an additional amount for ``Reserve Personnel, Navy'', $11,370,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Reserve Personnel, Marine Corps For an additional amount for ``Reserve Personnel, Marine Corps'', $3,599,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Reserve Personnel, Air Force For an additional amount for ``Reserve Personnel, Air Force'', $16,428,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. National Guard Personnel, Army For an additional amount for ``National Guard Personnel, Army'', $202,644,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. National Guard Personnel, Air Force For an additional amount for ``National Guard Personnel, Air Force'', $5,624,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. OPERATION AND MAINTENANCE Operation and Maintenance, Army For an additional amount for ``Operation and Maintenance, Army'', $18,507,827,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Navy For an additional amount for ``Operation and Maintenance, Navy'', $6,561,650,000, of which up to $190,000,000 may be ***transferred*** to the Coast Guard ``Operating Expenses'' account: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Marine Corps For an additional amount for ``Operation and Maintenance, Marine Corps'', $1,124,791,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Air Force For an additional amount for ``Operation and Maintenance, Air Force'', $9,314,379,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Defense-Wide For an additional amount for ``Operation and Maintenance, Defense-Wide'', $8,105,206,000: Provided, That of the funds provided under this heading, not to exceed $450,000,000, to remain available until September 30, 2021, shall be for payments to reimburse key cooperating nations for logistical, military, and other support, including access, provided to United States military and stability operations in Afghanistan and to counter the Islamic State of Iraq and Syria: Provided further, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following written ***notification*** to the appropriate congressional committees: Provided further, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non- reimbursable basis to coalition forces supporting United States military and stability operations in Afghanistan and to counter the Islamic State of Iraq and Syria, and 15 days following written ***notification*** to the appropriate congressional committees: Provided further, That these funds may be used to support the Government of Jordan in such amounts as the Secretary of Defense may determine, to enhance the ability of the armed forces of Jordan to increase or sustain security along its borders, upon 15 days prior written ***notification*** to the congressional defense committees outlining the amounts intended to be provided and the nature of the expenses incurred: Provided further, That of the funds provided under this heading, not to exceed $749,178,000 to remain available until September 30, 2021, shall be available to provide support and assistance to foreign security forces or other groups or individuals to conduct, support or facilitate counterterrorism, crisis response, or other Department of Defense security cooperation programs: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: Provided further, That such amount is designated [[Page H4495]] by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Army Reserve For an additional amount for ``Operation and Maintenance, Army Reserve'', $37,592,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Navy Reserve For an additional amount for ``Operation and Maintenance, Navy Reserve'', $23,036,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Marine Corps Reserve For an additional amount for ``Operation and Maintenance, Marine Corps Reserve'', $8,707,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Air Force Reserve For an additional amount for ``Operation and Maintenance, Air Force Reserve'', $29,758,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Army National Guard For an additional amount for ``Operation and Maintenance, Army National Guard'', $83,291,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Operation and Maintenance, Air National Guard For an additional amount for ``Operation and Maintenance, Air National Guard'', $176,909,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Afghanistan Security Forces Fund For the ``Afghanistan Security Forces Fund'', $4,503,978,000, to remain available until September 30, 2021: Provided, That such funds shall be available to the Secretary of Defense for the purpose of allowing the Commander, Combined Security Transition Command--Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funding: Provided further, That the Secretary of Defense may obligate and expend funds made available to the Department of Defense in this title for additional costs associated with existing projects previously funded with amounts provided under the heading ``Afghanistan Infrastructure Fund'' in prior Acts: Provided further, That such costs shall be limited to contract changes resulting from inflation, market fluctuation, rate adjustments, and other necessary contract actions to complete existing projects, and associated supervision and administration costs and costs for design during construction: Provided further, That the Secretary may not use more than $50,000,000 under the authority provided in this section: Provided further, That the Secretary shall ***notify*** in advance such contract changes and adjustments in annual reports to the congressional defense committees: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary of Defense shall ***notify*** the congressional defense committees in writing upon the receipt and upon the obligation of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to obligating from this appropriation account, ***notify*** the congressional defense committees in writing of the details of any such obligation: Provided further, That the Secretary of Defense shall ***notify*** the congressional defense committees in writing and not fewer than 15 days prior to obligating funds for any proposed new projects or ***transfer*** of funds between budget sub-activity groups in excess of $20,000,000: Provided further, That the United States may accept equipment procured using funds provided under this heading in this or prior Acts that was ***transferred*** to the security forces of Afghanistan and returned by such forces to the United States: Provided further, That equipment procured using funds provided under this heading in this or prior Acts, and not yet ***transferred*** to the security forces of Afghanistan or ***transferred*** to the security forces of Afghanistan and returned by such forces to the United States, may be treated as stocks of the Department of Defense upon written ***notification*** to the congressional defense committees: Provided further, That of the funds provided under this heading, not less than $10,000,000 shall be for recruitment and retention of women in the Afghanistan National Security Forces, and the recruitment and training of female security personnel: Provided further, That funds appropriated under this heading and made available for the salaries and benefits of personnel of the Afghanistan Security Forces may only be used for personnel who are enrolled in the Afghanistan Personnel and Pay System: Provided further, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Counter-ISIS Train and Equip Fund For the ``Counter-Islamic State of Iraq and Syria Train and Equip Fund'', $1,295,000,000, to remain available until September 30, 2021: Provided, That such funds shall be available to the Secretary of Defense in coordination with the Secretary of State, to provide assistance, including training; equipment; logistics support, supplies, and services; stipends; infrastructure repair and renovation; and sustainment, to foreign security forces, irregular forces, groups, or individuals participating, or preparing to participate in activities to counter the Islamic State of Iraq and Syria, and their affiliated or associated groups: Provided further, That these funds may be used in such amounts as the Secretary of Defense may determine to enhance the border security of nations adjacent to conflict areas including Jordan, Lebanon, Egypt, and Tunisia resulting from actions of the Islamic State of Iraq and Syria: Provided further, That amounts made available under this heading shall be available to provide assistance only for activities in a country designated by the Secretary of Defense, in coordination with the Secretary of State, as having a security mission to counter the Islamic State of Iraq and Syria, and following written ***notification*** to the congressional defense committees of such designation: Provided further, That the Secretary of Defense shall ensure that prior to providing assistance to elements of any forces or individuals, such elements or individuals are appropriately vetted, including at a minimum, assessing such elements for associations with terrorist groups or groups associated with the Government of Iran; and receiving commitments from such elements to promote respect for human rights and the rule of law: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to obligating from this appropriation account, ***notify*** the congressional defense committees in writing of the details of any such obligation: Provided further, That the Secretary of Defense may accept and retain contributions, including assistance in-kind, from foreign governments, including the Government of Iraq and other entities, to carry out assistance authorized under this heading: Provided further, That contributions of funds for the purposes provided herein from any foreign government or other entity may be credited to this Fund, to remain available until expended, and used for such purposes: Provided further, That the Secretary of Defense may waive a provision of law relating to the acquisition of items and support services or sections 40 and 40A of the Arms Export Control Act (22 U.S.C 2780 and 2785) if the Secretary determines that such provision of law would prohibit, restrict, delay or otherwise limit the provision of such assistance and a notice of and justification for such waiver is submitted to the congressional defense committees, the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives: Provided further, That the United States may accept equipment procured using funds provided under this heading, or under the heading, ``Iraq Train and Equip Fund'' in prior Acts, that was ***transferred*** to security forces, irregular forces, or groups participating, or preparing to participate in activities to counter the Islamic State of Iraq and Syria and returned by such forces or groups to the United States, and such equipment may be treated as stocks of the Department of Defense upon written ***notification*** to the congressional defense committees: Provided further, That equipment procured using funds provided under this heading, or under the heading, ``Iraq Train and Equip Fund'' in prior Acts, and not yet ***transferred*** to security forces, irregular forces, or groups participating, or preparing to participate in activities to counter the Islamic State of Iraq and Syria may be treated as stocks of the Department of Defense when determined by the Secretary to no longer be required for ***transfer*** to such forces or groups and upon written ***notification*** to the congressional defense committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided under this heading, including, but not limited to, the number of individuals trained, the nature and scope of support and sustainment provided to each group or individual, the area of operations for each group, and the contributions of other countries, groups, or individuals: Provided further, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. PROCUREMENT Aircraft Procurement, Army For an additional amount for ``Aircraft Procurement, Army'', $482,091,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War [[Page H4496]] on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Missile Procurement, Army For an additional amount for ``Missile Procurement, Army'', $1,414,218,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement of Weapons and Tracked Combat Vehicles, Army For an additional amount for ``Procurement of Weapons and Tracked Combat Vehicles, Army'', $353,454,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement of Ammunition, Army For an additional amount for ``Procurement of Ammunition, Army'', $148,682,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Other Procurement, Army For an additional amount for ``Other Procurement, Army'', $1,105,850,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Aircraft Procurement, Navy For an additional amount for ``Aircraft Procurement, Navy'', $119,045,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Weapons Procurement, Navy For an additional amount for ``Weapons Procurement, Navy'', $116,429,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement of Ammunition, Navy and Marine Corps For an additional amount for ``Procurement of Ammunition, Navy and Marine Corps'', $204,814,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Other Procurement, Navy For an additional amount for ``Other Procurement, Navy'', $351,300,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement, Marine Corps For an additional amount for ``Procurement, Marine Corps'', $20,589,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Aircraft Procurement, Air Force For an additional amount for ``Aircraft Procurement, Air Force'', $513,310,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Missile Procurement, Air Force For an additional amount for ``Missile Procurement, Air Force'', $201,671,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement of Ammunition, Air Force For an additional amount for ``Procurement of Ammunition, Air Force'', $939,433,000 to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Other Procurement, Air Force For an additional amount for ``Other Procurement, Air Force'', $4,011,201,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Procurement, Defense-Wide For an additional amount for ``Procurement, Defense-Wide'', $465,987,000, to remain available until September 30, 2022: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. National Guard and Reserve Equipment Account For procurement of rotary-wing aircraft; combat, tactical and support vehicles; other weapons; and other procurement items for the reserve components of the Armed Forces, $1,300,000,000, to remain available for obligation until September 30, 2022: Provided, That the Chiefs of National Guard and Reserve components shall, not later than 30 days after enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective National Guard or Reserve component: Provided further, That none of the funds made available by this paragraph may be used to procure manned fixed wing aircraft, or procure or modify missiles, munitions, or ammunition: Provided further, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. RESEARCH, DEVELOPMENT, TEST AND EVALUATION Research, Development, Test and Evaluation, Army For an additional amount for ``Research, Development, Test and Evaluation, Army'', $169,074,000, to remain available until September 30, 2021: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Research, Development, Test and Evaluation, Navy For an additional amount for ``Research, Development, Test and Evaluation, Navy'', $164,410,000, to remain available until September 30, 2021: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Research, Development, Test and Evaluation, Air Force For an additional amount for ``Research, Development, Test and Evaluation, Air Force'', $128,248,000, to remain available until September 30, 2021: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Research, Development, Test and Evaluation, Defense-Wide For an additional amount for ``Research, Development, Test and Evaluation, Defense-Wide'', $382,636,000 , to remain available until September 30, 2021: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. REVOLVING AND MANAGEMENT FUNDS Defense Working Capital Funds For an additional amount for ``Defense Working Capital Funds'', $20,100,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. OTHER DEPARTMENT OF DEFENSE PROGRAMS Defense Health Program For an additional amount for ``Defense Health Program'', $347,746,000, which shall be for operation and maintenance: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Drug Interdiction and Counter-Drug Activities, Defense For an additional amount for ``Drug Interdiction and Counter-Drug Activities, Defense'', $153,100,000: Provided, That the ***transfer*** authority contained in section 9002 in title IX of this Act shall not apply to amounts made available under this heading: Provided further, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Office of the Inspector General For an additional amount for the ``Office of the Inspector General'', $24,254,000: Provided, That such amount is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. GENERAL PROVISIONS--THIS TITLE Sec. 9001. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2020. (including ***transfer*** of funds) Sec. 9002. Upon the determination of the Secretary of Defense that such action is necessary [[Page H4497]] in the national interest, the Secretary may, with the approval of the Office of Management and Budget, ***transfer*** up to $500,000,000 between the appropriations or funds made available to the Department of Defense in this title: Provided, That the Secretary shall ***notify*** the Congress promptly of each ***transfer*** made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other ***transfer*** authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act. Sec. 9003. Supervision and administration costs and costs for design during construction associated with a construction project funded with appropriations available for operation and maintenance or the ``Afghanistan Security Forces Fund'' provided in this Act and executed in direct support of overseas contingency operations in Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That, for the purpose of this section, supervision and administration costs and costs for design during construction include all in-house Government costs. Sec. 9004. From funds made available in this title, the Secretary of Defense may purchase for use by military and civilian employees of the Department of Defense in the United States Central Command area of responsibility: (1) passenger motor vehicles up to a limit of $75,000 per vehicle; and (2) heavy and light armored vehicles for the physical security of personnel or for force protection purposes up to a limit of $450,000 per vehicle, notwithstanding price or other limitations applicable to the purchase of passenger carrying vehicles. Sec. 9005. Not to exceed $5,000,000 of the amounts appropriated by this title under the heading ``Operation and Maintenance, Army'' may be used, notwithstanding any other provision of law, to fund the Commanders' Emergency Response Program (CERP), for the purpose of enabling military commanders in Afghanistan to respond to urgent, small-scale, humanitarian relief and reconstruction requirements within their areas of responsibility: Provided, That each project (including any ancillary or related elements in connection with such project) executed under this authority shall not exceed $2,000,000: Provided further, That not later than 45 days after the end of each 6 months of the fiscal year, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that 6-month period that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes described herein: Provided further, That, not later than 30 days after the end of each fiscal year quarter, the Army shall submit to the congressional defense committees quarterly commitment, obligation, and expenditure data for the CERP in Afghanistan: Provided further, That, not less than 15 days before making funds available pursuant to the authority provided in this section or under any other provision of law for the purposes described herein for a project with a total anticipated cost for completion of $500,000 or more, the Secretary shall submit to the congressional defense committees a written notice containing each of the following: (1) The location, nature and purpose of the proposed project, including how the project is intended to advance the military campaign plan for the country in which it is to be carried out. (2) The budget, implementation timeline with milestones, and completion date for the proposed project, including any other CERP funding that has been or is anticipated to be contributed to the completion of the project. (3) A plan for the sustainment of the proposed project, including the agreement with either the host nation, a non- Department of Defense agency of the United States Government or a third-party contributor to finance the sustainment of the activities and maintenance of any equipment or facilities to be provided through the proposed project. Sec. 9006. Funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to allied forces participating in a combined operation with the armed forces of the United States and coalition forces supporting military and stability operations in Afghanistan and to counter the Islamic State of Iraq and Syria: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section. Sec. 9007. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows: (1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq. (2) To exercise United States control over any oil resource of Iraq. (3) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan. Sec. 9008. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984): (1) Section 2340A of title 18, United States Code. (2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-822; 8 U.S.C 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations. (3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148). Sec. 9009. None of the funds provided for the ``Afghanistan Security Forces Fund'' (ASFF) may be obligated prior to the approval of a financial and activity plan by the Afghanistan Resources Oversight Council (AROC) of the Department of Defense: Provided, That the AROC must approve the requirement and acquisition plan for any service requirements in excess of $50,000,000 annually and any non- standard equipment requirements in excess of $100,000,000 using ASFF: Provided further, That the Department of Defense must certify to the congressional defense committees that the AROC has convened and approved a process for ensuring compliance with the requirements in the preceding proviso and accompanying report language for the ASFF. Sec. 9010. Funds made available in this title to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: Provided, That, upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000. Sec. 9011. Up to $500,000,000 of funds appropriated by this Act for the Defense Security Cooperation Agency in ``Operation and Maintenance, Defense-Wide'' may be used to provide assistance to the Government of Jordan to support the armed forces of Jordan and to enhance security along its borders. Sec. 9012. None of the funds made available by this Act under the heading ``Counter-ISIS Train and Equip Fund'' may be used to procure or ***transfer*** man-portable air defense systems. Sec. 9013. For the ``Ukraine Security Assistance Initiative'', $250,000,000 is hereby appropriated, to remain available until September 30, 2020: Provided, That such funds shall be available to the Secretary of Defense, in coordination with the Secretary of State, to provide assistance, including training; equipment; lethal assistance; logistics support, supplies and services; sustainment; and intelligence support to the military and national security forces of Ukraine, and for replacement of any weapons or articles provided to the Government of Ukraine from the inventory of the United States: Provided further, That of the amounts made available in this section, $50,000,000 shall be available only for lethal assistance described in paragraphs (2) and (3) of section 1250(b) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1068): Provided further, That the Secretary of Defense shall, not less than 15 days prior to obligating funds provided under this heading, ***notify*** the congressional defense committees in writing of the details of any such obligation: Provided further, That the United States may accept equipment procured using funds provided under this heading in this or prior Acts that was ***transferred*** to the security forces of Ukraine and returned by such forces to the United States: Provided further, That equipment procured using funds provided under this heading in this or prior Acts, and not yet ***transferred*** to the military or National Security Forces of Ukraine or returned by such forces to the United States, may be treated as stocks of the Department of Defense upon written ***notification*** to the congressional defense committees: Provided further, That amounts made available by this section are designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. Sec. 9014. Funds appropriated in this title shall be available for replacement of funds for items provided to the Government of Ukraine from the inventory of the United States to the extent specifically provided for in section 9013 of this Act. Sec. 9015. None of the funds made available by this Act under section 9013 may be used to procure or ***transfer*** man- portable air defense systems. Sec. 9016. Equipment procured using funds provided in prior Acts under the heading ``Counterterrorism Partnerships Fund'' for the program authorized by section 1209 of the Carl Levin and Howard P. ``Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291), and not yet ***transferred*** to authorized recipients may be ***transferred*** to foreign security forces, irregular forces, groups, or individuals, authorized to receive assistance using amounts provided under the heading ``Counter-ISIS Train and Equip Fund'' in this Act: Provided, That such equipment may be ***transferred*** 15 days following written ***notification*** to the congressional defense committees. Sec. 9017. (a) None of the funds appropriated or otherwise made available by this Act under the heading ``Operation and Maintenance, Defense-Wide'' for payments under section 1233 of Public Law 110-181 for reimbursement to the Government of Pakistan may be made available unless the Secretary of Defense, in coordination with the Secretary of State, certifies to the congressional defense committees that the Government of Pakistan is-- (1) cooperating with the United States in counterterrorism efforts against the Haqqani Network, the Quetta Shura Taliban, Lashkar e-Tayyiba, Jaish-e-Mohammed, Al Qaeda, and other domestic and foreign terrorist organizations, including taking steps to end support for [[Page H4498]] such groups and prevent them from basing and operating in Pakistan and carrying out cross border attacks into neighboring countries; (2) not supporting terrorist activities against United States or coalition forces in Afghanistan, and Pakistan's military and intelligence agencies are not intervening extra- judicially into political and judicial processes in Pakistan; (3) dismantling improvised explosive device (IED) networks and interdicting precursor chemicals used in the manufacture of IEDs; (4) preventing the proliferation of nuclear-related material and expertise; (5) implementing policies to protect judicial independence and due process of law; (6) issuing visas in a timely manner for United States visitors engaged in counterterrorism efforts and assistance programs in Pakistan; and (7) providing humanitarian organizations access to detainees, internally displaced persons, and other Pakistani civilians affected by the conflict. (b) The Secretary of Defense, in coordination with the Secretary of State, may waive the restriction in subsection (a) on a case-by-case basis by certifying in writing to the congressional defense committees that it is in the national security interest to do so: Provided, That if the Secretary of Defense, in coordination with the Secretary of State, exercises such waiver authority, the Secretaries shall report to the congressional defense committees on both the justification for the waiver and on the requirements of this section that the Government of Pakistan was not able to meet: Provided further, That such report may be submitted in classified form if necessary. (including ***transfer*** of funds) Sec. 9018. In addition to amounts otherwise made available in this Act, $500,000,000 is hereby appropriated to the Department of Defense and made available for ***transfer*** only to the operation and maintenance, military personnel, and procurement accounts, to improve near-term intelligence, surveillance, and reconnaissance capabilities and related processing, exploitation, and dissemination functions of the Department of Defense: Provided, That the ***transfer*** authority provided in this section is in addition to any other ***transfer*** authority provided elsewhere in this Act: Provided further, That not later than 30 days prior to exercising the ***transfer*** authority provided in this section, the Secretary of Defense shall submit a report to the congressional defense committees on the proposed uses of these funds: Provided further, That the funds provided in this section may not be ***transferred*** to any program, project, or activity specifically limited or denied by this Act: Provided further, That such funds may not be obligated for new start efforts: Provided further, That amounts made available by this section are designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the authority to provide funding under this section shall terminate on September 30, 2020. Sec. 9019. None of the funds made available by this Act may be used with respect to Syria in contravention of the War Powers Resolution (50 U.S.C 1541 et seq.), including for the introduction of United States armed or military forces into hostilities in Syria, into situations in Syria where imminent involvement in hostilities is clearly indicated by the circumstances, or into Syrian territory, airspace, or waters while equipped for combat, in contravention of the congressional consultation and reporting requirements of sections 3 and 4 of that law (50 U.S.C 1542 and 1543). Sec. 9020. None of the funds in this Act may be made available for the ***transfer*** of additional C-130 cargo aircraft to the Afghanistan National Security Forces or the Afghanistan Air Force until the Department of Defense provides a report to the congressional defense committees of the Afghanistan Air Force's medium airlift requirements. The report should identify Afghanistan's ability to utilize and maintain existing medium lift aircraft in the inventory and the best alternative platform, if necessary, to provide additional support to the Afghanistan Air Force's current medium airlift capacity. Sec. 9021. Funds available for the Afghanistan Security Forces Fund may be used to provide limited training, equipment, and other assistance that would otherwise be prohibited by 10 U.S.C 362 to a unit of the security forces of Afghanistan only if the Secretary certifies to the congressional defense committees, within 30 days of a decision to provide such assistance, that (1) a denial of such assistance would present significant risk to U.S or coalition forces or significantly undermine United States national security objectives in Afghanistan; and (2) the Secretary has sought a commitment by the Government of Afghanistan to take all necessary corrective steps: Provided, That such certification shall be accompanied by a report describing: (1) the information relating to the gross violation of human rights; (2) the circumstances that necessitated the provision of such assistance; (3) the Afghan security force unit involved; (4) the assistance provided and the assistance withheld; and (5) the corrective steps to be taken by the Government of Afghanistan: Provided further, That every 120 days after the initial report an additional report shall be submitted detailing the status of any corrective steps taken by the Government of Afghanistan: Provided further, That if the Government of Afghanistan has not initiated necessary corrective steps within one year of the certification, the authority under this section to provide assistance to such unit shall no longer apply: Provided further, That the Secretary shall submit a report to such committees detailing the final disposition of the case by the Government of Afghanistan. Sec. 9022. None of the funds made available by this Act may be used to pay the expenses of any member of the Taliban to participate in any meeting that does not include the participation of members of the Government of Afghanistan or that restricts the participation of women. (rescissions) Sec. 9023. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: Provided, That such amounts are designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985: ``Operation and Maintenance, Defense-Wide: Defense Security Cooperation Account'', 2019/2020, $7,000,000; ``Afghanistan Security Forces Fund'', 2019/2020, $30,000,000; ``Counter-ISIS Train and Equip Fund'', 2019/2020, $13,000,000; and ``Procurement of Ammunition, Navy and Marine Corps'', 2019/ 2021, $16,574,000. Sec. 9024. Each amount designated in this Act by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress. Sec. 9025. (a) The Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C 1541 note) is hereby repealed. (b) The repeal contained in subsection (a)-- (1) takes effect on the date that is 240 days after the date of the enactment of this Act; and (2) applies with respect to each operation or other action that is being carried out pursuant to the Authorization for Use of Military Force initiated before such effective date. Sec. 9026. Nothing in this Act may be construed as authorizing the use of force against Iran. TITLE X--TO DIRECT THE REMOVAL OF UNITED STATES ARMED FORCES FROM HOSTILITIES IN THE REPUBLIC OF YEMEN THAT HAVE NOT BEEN AUTHORIZED BY CONGRESS SEC. 10001. FINDINGS. Congress makes the following findings: (1) Congress has the sole power to declare war under article I, section 8, clause 11 of the United States Constitution. (2) Congress has not declared war with respect to, or provided a specific statutory authorization for, the conflict between military forces led by Saudi Arabia, including forces from the United Arab Emirates, Bahrain, Kuwait, Egypt, Jordan, Morocco, Senegal, and Sudan (the Saudi-led coalition), against the Houthis, also known as Ansar Allah, in the Republic of Yemen. (3) Since March 2015, members of the United States Armed Forces have been introduced into hostilities between the Saudi-led coalition and the Houthis, including providing to the Saudi-led coalition aerial targeting assistance, intelligence sharing, and mid-flight aerial refueling. (4) The United States has established a Joint Combined Planning Cell with Saudi Arabia, in which members of the United States Armed Forces assist in aerial targeting and help to coordinate military and intelligence activities. (5) In December 2017, Secretary of Defense James N. Mattis stated, ``We have gone in to be very--to be helpful where we can in identifying how you do target analysis and how you make certain you hit the right thing.''. (6) The conflict between the Saudi-led coalition and the Houthis constitutes, within the meaning of section 4(a) of the War Powers Resolution (50 U.S.C 1543(a)), either hostilities or a situation where imminent involvement in hostilities is clearly indicated by the circumstances into which United States Armed Forces have been introduced. (7) Section 5(c) of the War Powers Resolution (50 U.S.C 1544(c)) states that ``at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs''. (8) Section 8(c) of the War Powers Resolution (50 U.S.C 1547(c)) defines the introduction of United States Armed Forces to include ``the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities,'' and activities that the United States is conducting in support of the Saudi- led coalition, including aerial refueling and targeting assistance, fall within this definition. (9) Section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C 1546a) provides that any joint resolution or bill to require the removal of United States Armed Forces engaged in hostilities without a declaration of war or specific statutory authorization shall be considered in accordance with the expedited procedures of section 601(b) of the International Security and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 765). (10) No specific statutory authorization for the use of United States Armed Forces with respect to the conflict between the Saudi-led coalition and the Houthis in Yemen has been enacted, and no provision of law explicitly authorizes the provision of targeting assistance or of [[Page H4499]] midair refueling services to warplanes of Saudi Arabia or the United Arab Emirates that are engaged in such conflict. SEC. 10002. REMOVAL OF UNITED STATES ARMED FORCES FROM HOSTILITIES IN THE REPUBLIC OF YEMEN THAT HAVE NOT BEEN AUTHORIZED BY CONGRESS. Pursuant to section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C 1546a) and in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 765), Congress hereby directs the President to remove United States Armed Forces from hostilities in or affecting the Republic of Yemen, except United States Armed Forces engaged in operations directed at al Qaeda or associated forces, by not later than the date that is 30 days after the date of the enactment of this Act (unless the President requests and Congress authorizes a later date), and unless and until a declaration of war or specific authorization for such use of United States Armed Forces has been enacted. For purposes of this title, in this section, the term ``hostilities'' includes in-flight refueling of non-United States aircraft conducting missions as part of the ongoing civil war in Yemen. SEC. 10003. RULE OF CONSTRUCTION REGARDING CONTINUED MILITARY OPERATIONS AND COOPERATION WITH ISRAEL. Nothing in this title shall be construed to influence or disrupt any military operations and cooperation with Israel. SEC. 10004. RULE OF CONSTRUCTION REGARDING INTELLIGENCE SHARING. Nothing in this title may be construed to influence or disrupt any intelligence, counterintelligence, or investigative activities relating to threats in or emanating from Yemen conducted by, or in conjunction with, the United States Government involving-- (1) the collection of intelligence; (2) the analysis of intelligence; or (3) the sharing of intelligence between the United States and any coalition partner if the President determines such sharing is appropriate and in the national security interests of the United States. SEC. 10005. REPORT ON RISKS POSED BY CEASING SAUDI ARABIA SUPPORT OPERATIONS. Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report assessing the risks posed to United States citizens and the civilian population of Saudi Arabia and the risk of regional humanitarian crises if the United States were to cease support operations with respect to the conflict between the Saudi-led coalition and the Houthis in Yemen. SEC. 10006. REPORT ON INCREASED RISK OF TERRORIST ATTACKS TO UNITED STATES ARMED FORCES ABROAD, ALLIES, AND THE CONTINENTAL UNITED STATES IF SAUDI ARABIA CEASES YEMEN-RELATED INTELLIGENCE SHARING WITH THE UNITED STATES. Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report assessing the increased risk of terrorist attacks on United States Armed Forces abroad, allies, and to the continental United States if the Government of Saudi Arabia were to cease Yemen-related intelligence sharing with the United States. SEC. 10007. RULE OF CONSTRUCTION REGARDING NO AUTHORIZATION FOR USE OF MILITARY FORCE. Consistent with section 8(a)(1) of the War Powers Resolution (50 U.S.C 1547(a)(1)), nothing in this title may be construed as authorizing the use of military force. TITLE XI--ADDITIONAL GENERAL PROVISIONS Sec. 11001. Except as expressly provided otherwise, any reference to ``this Act'' contained in this division shall be treated as referring only to the provisions of this division. Sec. 11002. Any reference to a ``report accompanying this Act'' contained in this division shall be treated as a reference to House Report 116-84. The effect of such Report shall be limited to this division and shall apply for purposes of determining the allocation of funds provided by, and the implementation of, this division. This Act may be cited as the ``Department of Defense Appropriations Act, 2020''. DIVISION D--DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2020 The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2020, and for other purposes, namely: TITLE I DEPARTMENT OF STATE AND RELATED AGENCY DEPARTMENT OF STATE Administration of Foreign Affairs diplomatic programs For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, $9,245,766,000, of which up to $772,480,000 may remain available until September 30, 2021, and of which up to $4,095,899,000 may remain available until expended for Worldwide Security Protection: Provided, That of the amount made available under this heading for Worldwide Security Protection, $2,626,122,000 is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provide further, That designated funds made available under this heading shall be allocated in accordance with paragraphs (1) through (4) as follows: (1) Human resources.--For necessary expenses for training, human resources management, and salaries, including employment without regard to civil service and classification laws of persons on a temporary basis (not to exceed $700,000), as authorized by section 801 of the United States Information and Educational Exchange Act of 1948, $2,900,417,000, of which up to $509,782,000 is for Worldwide Security Protection. (2) Overseas programs.--For necessary expenses for the regional bureaus of the Department of State and overseas activities as authorized by law, $1,955,868,000. (3) Diplomatic policy and support.--For necessary expenses for the functional bureaus of the Department of State, including representation to certain international organizations in which the United States participates pursuant to treaties ratified pursuant to the advice and consent of the Senate or specific Acts of Congress, general administration, and arms control, nonproliferation and disarmament activities as authorized, $780,057,000. (4) Security programs.--For necessary expenses for security activities, $3,609,424,000, of which up to $3,586,117,000 is for Worldwide Security Protection. (5) Fees and payments collected.--In addition to amounts otherwise made available under this heading-- (A) as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed $5,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs and from fees from educational advising and counseling and exchange visitor programs; and (B) not to exceed $15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities. (6) ***Transfer*** of funds, reprogramming, and other matters.-- (A) Notwithstanding any other provision of this Act, funds may be reprogrammed within and between paragraphs (1) through (4) under this heading subject to section 7015 of this Act. (B) Of the amount made available under this heading, not to exceed $10,000,000 may be ***transferred*** to, and merged with, funds made available by this Act under the heading ``Emergencies in the Diplomatic and Consular Service'', to be available only for emergency evacuations and rewards, as authorized. (C) Funds appropriated under this heading are available for acquisition by exchange or purchase of passenger motor vehicles as authorized by law and, pursuant to section 1108(g) of title 31, United States Code, for the field examination of programs and activities in the United States funded from any account contained in this title. (7) Clarification.--References to the ``Diplomatic and Consular Programs'' account in any provision of law shall in this fiscal year, and each fiscal year thereafter, be construed to include the ``Diplomatic Programs'' account. capital investment fund For necessary expenses of the Capital Investment Fund, as authorized, $140,000,000, to remain available until expended. office of inspector general For necessary expenses of the Office of Inspector General, $90,829,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (22 U.S.C 3929(a)(1)), as it relates to post inspections: Provided, That of the funds appropriated by this paragraph, $13,624,000 may remain available until September 30, 2021. In addition, for the Special Inspector General for Afghanistan Reconstruction (SIGAR) for reconstruction oversight, $54,900,000, which is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, of which up to $8,235,000 may remain available until September 30, 2021. educational and cultural exchange programs For expenses of educational and cultural exchange programs, as authorized, $730,000,000, to remain available until expended, of which not less than $272,000,000 shall be for the Fulbright Program and not less than $111,961,000 shall be for Citizen Exchange Program: Provided, That fees or other payments received from, or in connection with, English teaching, educational advising and counseling programs, and exchange visitor programs as authorized may be credited to this account, to remain available until expended: Provided further, That a portion of the Fulbright awards from the Eurasia and Central Asia regions shall be designated as Edmund S. Muskie Fellowships, following consultation with the Committees on Appropriations: Provided further, That any substantive modifications from the prior fiscal year to programs funded by this Act under this heading shall be subject to prior consultation with, and the regular ***notification*** procedures of, the Committees on Appropriations. representation expenses For representation expenses as authorized, $7,212,000. protection of foreign missions and officials For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, $30,890,000, to remain available until September 30, 2021. embassy security, construction, and maintenance For necessary expenses for carrying out the Foreign Service Buildings Act of 1926 (22 U.S.C 292 et seq.), preserving, maintaining, repairing, [[Page H4500]] and planning for real property that are owned or leased by the Department of State, and renovating, in addition to funds otherwise available, the Harry S Truman Building, $781,562,000, to remain available until September 30, 2024, of which not to exceed $25,000 may be used for overseas representation expenses as authorized: Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture, furnishings, or generators for other departments and agencies of the United States Government. In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, $1,205,649,000, to remain available until expended, of which $424,087,000 is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985. emergencies in the diplomatic and consular service For necessary expenses to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, as authorized, $7,885,000, to remain available until expended, of which not to exceed $1,000,000 may be ***transferred*** to, and merged with, funds appropriated by this Act under the heading ``Repatriation Loans Program Account''. repatriation loans program account For the cost of direct loans, $1,300,000, as authorized: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $5,563,619. payment to the american institute in taiwan For necessary expenses to carry out the Taiwan Relations Act (Public Law 96-8), $31,963,000. international center, washington, district of columbia Not to exceed $1,806,600 shall be derived from fees collected from other executive agencies for lease or use of facilities at the International Center in accordance with section 4 of the International Center Act (Public Law 90- 553), and, in addition, as authorized by section 5 of such Act, $743,000, to be derived from the reserve authorized by such section, to be used for the purposes set out in that section. payment to the foreign service retirement and disability fund For payment to the Foreign Service Retirement and Disability Fund, as authorized, $158,900,000. International Organizations contributions to international organizations For necessary expenses, not otherwise provided for, to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress, $1,520,285,000, of which $96,240,000 is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided, That the Secretary of State shall, at the time of the submission of the President's budget to Congress under section 1105(a) of title 31, United States Code, transmit to the Committees on Appropriations the most recent biennial budget prepared by the United Nations for the operations of the United Nations: Provided further, That any payment of arrearages under this heading shall be directed to activities that are mutually agreed upon by the United States and the respective international organization and shall be subject to the regular ***notification*** procedures of the Committees on Appropriations: Provided further, That none of the funds appropriated under this heading shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. contributions for international peacekeeping activities For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $2,128,414,000, of which $988,656,000 is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided, That of the funds made available under this heading up to $1,159,620,000 may remain available until September 30, 2021: Provided further, That none of the funds made available by this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for such mission in the United Nations Security Council (or in an emergency as far in advance as is practicable), the Committees on Appropriations are ***notified*** of: (1) the estimated cost and duration of the mission, the objectives of the mission, the national interest that will be served, and the exit strategy; and (2) the sources of funds, including any reprogrammings or ***transfers***, that will be used to pay the cost of the new or expanded mission, and the estimated cost in future fiscal years: Provided further, That none of the funds appropriated under this heading may be made available for obligation unless the Secretary of State certifies and reports to the Committees on Appropriations on a peacekeeping mission-by-mission basis that the United Nations is implementing effective policies and procedures to prevent United Nations employees, contractor personnel, and peacekeeping troops serving in such mission from trafficking in persons, exploiting victims of trafficking, or committing acts of sexual exploitation and abuse or other violations of human rights, and to hold accountable individuals who engage in such acts while participating in such mission, including prosecution in their home countries and making information about such prosecutions publicly available on the website of the United Nations: Provided further, That the Secretary of State shall work with the United Nations and foreign governments contributing peacekeeping troops to implement effective vetting procedures to ensure that such troops have not violated human rights: Provided further, That funds shall be available for peacekeeping expenses unless the Secretary of State determines that United States manufacturers and suppliers are not being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used for any United Nations peacekeeping mission that will involve United States Armed Forces under the command or operational control of a foreign national, unless the President's military advisors have submitted to the President a recommendation that such involvement is in the national interest of the United States and the President has submitted to Congress such a recommendation: Provided further, That the Secretary of State shall work with the United Nations and members of the United Nations Security Council to evaluate and prioritize peacekeeping missions, and to consider a draw down when mission goals have been substantially achieved:

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[***Council of the European Union:ANNEXES to the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL 12th FINANCIAL REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the EUROPEAN AGRICULTURAL GUARANTEE FUND 2018 FINANCIAL YEAR PDF document ST 11628 2019 ADD 113-08-2019***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5WTP-M081-F0YC-N4JD-00000-00&context=1516831)

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11628/19 ADD 2 HVW/ikLIFE.1.B ENCouncil of theEuropean UnionBrussels, 13 August 2019(OR. en)11628/19ADD 2AGRI 406AGRIFIN 47FIN 540COVER NOTEFrom: Secretary-General of the European Commission,signed by Mr Jordi AYET PUIGARNAU, Directordate of receipt: 7 August 2019To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council ofthe European UnionNo. Cion doc.: SWD(2019) 317 finalSubject: COMMISSION STAFF WORKING DOCUMENT Accompanying thedocument REPORT FROM THE COMMISSION TO THE EUROPEANPARLIAMENT AND THE COUNCIL 12th FINANCIAL REPORT FROMTHE COMMISSION TO THE EUROPEAN PARLIAMENT AND THECOUNCIL on the EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND2018 FINANCIAL YEARDelegations will find attached document SWD(2019) 317 final.Encl.: SWD(2019) 317 finalEN ENEUROPEANCOMMISSIONBrussels, 7.8.2019SWD(2019) 317 finalCOMMISSION STAFF WORKING DOCUMENTAccompanying the documentREPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT ANDTHE COUNCIL12th FINANCIAL REPORT FROM THE COMMISSION TO THE EUROPEANPARLIAMENT AND THE COUNCIL on theEUROPEAN ***AGRICULTURAL*** GUARANTEE FUND2018 FINANCIAL YEAR{COM(2019) 366 final}1TABLE OF CONTENTS1. 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BUDGET PROCEDURE11.1 Financial Framework 2014-2020CAP expenditure is funded within the financial framework for 2014-2020 as provided for in Council Regulation (EU) No 1311/20132. Specifically, CAP expenditure is part of the ***ceiling*** fixed for Heading 2 - Sustainable growth: natural resources. Within that overall ***ceiling***, a specific sub-***ceiling*** has been fixed for market related expenditure and direct payments financed by the European ***Agricultural*** Guarantee Fund (EAGF).The ***ceiling*** for market related expenditure and direct payments had to be adjusted following the ***transfer*** of certain amounts of direct payments to rural development (financed by the European ***Agricultural*** Fund for Rural Development - EAFRD) for the years 2015-2020 (flexibility between CAP pillars and reduction of direct payments), the ***transfer*** of the aids for cotton in Greece, the unspent amounts by Germany and Sweden and the voluntary adjustment of the United Kingdom as well as the ***transfer*** from rural development (EAFRD) for the years 2015-2020 to direct payments (flexibility). Therefore, on the basis of Commission Implementing Regulation (EU) No 367/20143 setting the net balance available for expenditure of the EAGF, the CAP amounts included in heading 2 of the financial framework (2014-2020) are:(in EUR million; current prices) Heading 2\* 2014 2015 2016 2017 2018 2019 2020Totalof which:- Market related expenditure and direct payments, a), b), c), d), f), g)49 85743 778.164 69244 189.864 26243 950.260 19144 145.760 26744 162.460 34443 880.360 42143 887.1- Rural development a), b), c), d), e), f), g)5 298.918 183.718 683.714 371.214 381.014 690.614 709.4\*) Sustainable growth: natural resourcesa) After ***transfer*** of EUR 622 million between EAGF and EAFRD for the financial year 2015 on the basis of Articles 136a(1) of Regulation (EC) No 73/2009 and article 14(1) of Regulation (EU) No 1307/2013;b) After ***transfer*** of EUR 51.6 million between EAGF and EAFRD for the financial year 2015 for unspent amounts ***transferred*** each year for financial years 2014 and 2015 (SE and DE) on the basis of Articles 136 and 136b of Regulation (EC) No 73/2009;c) After ***transfer*** of EUR 4 million between EAGF and EAFRD for the financial years 2014-2020 from the cotton sector (EL) on the basis of Article 66(1) of Regulation (EU) No 1307/2013;d) After ***transfer*** of EUR 499.4 million between EAFRD and EAGF for the financial year 2015 on the basis of Articles 136a(2) of Regulation (EC) No 73/2009 and article 14(2) of Regulation (EU) No 1307/2013;e) The EAFRD amounts reflect the re-programming carried out in 2015, ***transferring*** unused allocations for the year 2014 to 2015 and 2016 in accordance with article 19 of Regulation (EU) No 1311/2013;f) After ***transfer*** of additional EUR 735.9 million from EAGF to EAFRD for the financial years 2019 and 2020 on the basis of Article 14(2) of Regulation (EU) No 1307/2013.g) After ***transfer*** of additional EUR 0.4 million from EAGF to EAFRD for the financial year 2020 on the basis of Article 14(2) of Regulation (EU) No 1307/2013.1 This procedure is presented in annex 1.2 OJ L 347 of 20.12.2013, p. 884.3 OJ L 108 of 11.4.2014, p. 13.51.2 Draft Budget 2018 and Amending Letter 1/2018The Draft Budget 2018 was published by the Commission and proposed to the Budgetary Authority on 29 June 2017. The commitment appropriations proposed for the EAGF totalled EUR 43 518.3 million.The Council published its position on the Draft Budget 2018 on 4 September 2017, reducing the commitment appropriations for the EAGF by EUR 269.4 million. The European Parliament adopted its position on 25 October 2017, increasing the commitment appropriations for the EAGF by EUR 56.9 million compared to the Draft Budget.On 16 October 2017 the Commission published Amending Letter (AL) No 1 to the Draft Budget 2018 increasing the needs in commitments by EUR 188.1 million compared to the Draft Budget. However, these additional needs were more than compensated by the EUR 242 million increase in the assigned revenue expected to be available in 2018. As a result, the requested commitment appropriations for the EAGF in the AL decreased by EUR 53.9 million compared to the Draft Budget.1.3 Adoption of the 2018 budgetThe Conciliation Committee, composed of members of the European Parliament and of the Council, agreed on a Joint Text on 27 November 2017. Finally, the 2018 budget was declared as adopted by the European Parliament and by the Council on 30 November 2017. The budget's total commitment appropriations for the EAGF amounted to EUR 43 234.5 million and its payment appropriations amounted to EUR 43 188.7 million.The difference between commitment and payment appropriations is due to the fact, that for certain measures, which are directly implemented by the Commission, differentiated appropriations are used. These measures relate mainly to the promotion of ***agricultural*** products, to policy strategy and coordination measures for ***agriculture***.Specifically, of the voted EAGF commitment appropriations for policy area 05 (***Agriculture*** and Rural Development) amounting to EUR 43 234.5 million: EUR 2 358.1 million were foreseen for interventions in ***agricultural*** markets under chapter 05 02; EUR 40 668.7 million were foreseen for direct payments under chapter 05 03; EUR 160.2 million were foreseen for audit of ***agricultural*** expenditure under chapter 05 07; and EUR 36.4 million for policy strategy and coordination under chapter 05 08.Further details are provided in annex 1.Subsequently, during the financial year 2018, EAGF appropriations for articles 05 01 04 (support expenditure) and 05 08 09 (operational technical assistance) were reduced by respectively EUR 0.4 million and EUR 1.0 million through Amending Budget No 6.61.4 Revenue assigned to the EAGF4In accordance with Article 43 of Regulation (EC) No 1306/2013 on the financing of the Common ***Agricultural*** Policy5, revenue originating from financial corrections under accounting or conformity clearance decisions, from irregularities and from the milk levy are designated as revenue assigned to the financing of EAGF expenditure. According to these rules, assigned revenue can be used to cover the financing of any EAGF expenditure. If a part of this revenue is not used, then this part will be automatically carried forward to the following budget year.At the time of establishing the 2018 budget, an estimate of the revenue was made both for the amount expected to be collected in the course of the 2018 budget year as well as of the amount which was expected to be carried over from the budget year 2017 into 2018. This estimate amounted to EUR 1 475.9 million and it was taken into consideration when the Budgetary Authority adopted the 2018 budget. In particular:– revenue from clearance corrections and from irregularities was estimated at EUR 733.9 million and EUR 132 million respectively while no revenue from the milk levy was anticipated. Thus, the total amount of assigned revenue expected to be collected in the course of the 2018 budget year was estimated at EUR 865.9 million;– The amount of assigned revenue expected to be carried over from the budget year 2017 into 2018 was estimated at EUR 610 million.In the 2018 budget, this initially estimated revenue of EUR 1 475.9 million was assigned to two schemes, i.e :– EUR 400 million for the operational funds for producer organisations in the fruits and vegetables sector;– EUR 1 075.9 million for the basic payment scheme (direct payments).For these schemes, the sum of the voted appropriations by the Budgetary Authority and the assigned revenue corresponds to a total estimate of available appropriations of:– EUR 872 million for the operational funds for producer organisations in the fruits and vegetables sector;– EUR 17 402 million for the basic payment scheme (direct payments).4 These amounts are not entered in the revenue lines of the budget (article 670 for the revenue assigned to the EAGF), which mention 'p.m ' ('pro memoria'), but the forecast amount is mentioned in the budgetary remarks for this article.5 OJ L 347 of 20.12.2013, p. 549.72. CASH POSITION AND MANAGEMENT OF APPROPRIATIONS2.1 Management of appropriations2.1.1 Appropriations available for the 2018 financial yearIn EUR Expenditure section of budget (1) Commitment appropriations Payment appropriations Revenue section of budget (AR) (2) Forecasts1. Initial appropriations for EAGF of which43 234 516 899.0043 188 677 466.001. Clearance decisions733 900 000.001a. Appropriations under shared management43 089 300 000.0043 089 300 000.002. Irregularities132 000 000.001b. Appropriations under direct management145 216 899.0099 377 466.003. Super levy from milk producers-2. Amending Budget-1 400 000.00-1 400 000.00Total forecast of AR865 900 000.003. ***Transfer*** to / out of EAGF in the year-7 525 000.004. Final appropriations for EAGF of which43 233 116 899.0043 179 752 466.004a. Appropriations under shared management43 089 150 000.0043 089 150 000.004b. Appropriations under direct management143 966 899.0090 602 466.00(1) Appropriations entered in the 2018 budget after deducting the expected assigned revenue to be collected in 2018 and the one carried over from 2018 to 2019 in accordance with Article 14 of Regulation (EU, EURATOM) No 966/2012.(2) AR: Assigned revenue to be collected. There are no amounts of revenue entered on the revenue line (p.m ), but the forecast amount is indicated in the budget remarks.2.1.2 Expenditure section of the EU budget in relation to EAGFThe initial commitment appropriations for 2018 totalled EUR 43 234 516 899. This was a net amount after deducting the expected assigned revenue to be collected in 2018 and the one carried over from 2017 to 2018. The initial payment appropriations amounted to EUR 43 188 677 466.In financial year 2018, there was an Amending Budget for commitment and payment appropriations and ***transfers*** of payment appropriations out of EAGF. The commitment and payment appropriations finally available to the EAGF, after the Amending Budget and the ***transfers***, amounted to EUR 43 233 116 899 and EUR 43 179 752 466 respectively.Part of the appropriations coming from assigned revenue received in 2017 was not used in that financial year and it was automatically carried over to 2018. The amount of these appropriations totalled EUR 603 292 064.36 Also appropriations for an amount of EUR 450 500 000 were made available for the reimbursement of direct payments in relation to financial ***discipline*** following Commission Decision8C(2018)776 relating to the non-automatic carry-over of appropriations from the 2017 budget to the 2018 budget.2.1.3 Assigned revenue section of the EU budget in relation to EAGFFor more details, please see point 1.4 2.1.4 Budget execution of appropriations available for the 2018 financial yearIn EUR Execution of commitment appropriations Execution of payment appropriationsShared management (1)44 223 038 392.8844 223 038 392.88Expenditure under direct management141 443 524.1371 180 250.83Total44 364 481 917.0144 294 218 643.71(1) Committed amounts. Commitments and payments less assigned revenue of EUR 997 361 033.56 (see point 4 and annex 6) received for shared management: EUR 43 225 677 359.32 For the financial year 2018, the actual amount of commitment appropriations used amounted to EUR 44 364 481 917.01 while that for payment appropriations amounted to EUR 44 294 218 643.71 The amount paid out (EUR 43 225 151 242.49) under shared management was less than EUR 43 225 677 359.32 due to suspended amounts for Poland (see 2.2.1.3.b).2.1.5 Assigned revenue received under shared managementIn EUR Assigned revenueForecasted revenue865 900 000.00Revenue received997 361 033.56Difference131 461 033.56For details, please see points 1.4 and 4.92.1.6 Budget executionIn EUR Expenditure under shared management (1)Final appropriations (C1)Non automatic carry-over of 2017 C1 appropriations (C2)Assigned revenue appropriations (C4)Carry-over of assigned revenue appropriations (C5) from 2017Appropriations43 089 150 000.00450 500 000.00997 361 033.56603 292 064.36Execution (2)42 629 536 522.13441 680 298.76548 529 507.63603 292 064.36Appropriations cancelled113 477.878 819 701.24-0.00Carry-over to 2019459 500 000.000.00448 831 525.93-(1) Commitment appropriations = Payment appropriations (2) Including suspended amounts (see 2.2.1.3)Appropriations available for the financing of the measures under shared management with Member States (excluding expenditure under direct management by the Commission) amounted to EUR 43 089 million compared to actual expenditure of EUR 42 630 million. In order to make it available for the reimbursement of direct payments in relation with financial ***discipline***, an amount of EUR 459.5 million was carried over to budget year 2019 with Commission Decision C(2019)1102 of 12 February 2019 on non-automatic carry-over of appropriations from the 2018 budget to the 2019 budget.The 2018 appropriations coming from assigned revenue amounted to EUR 997.4 million of which an amount of EUR 102.2 million was used in chapter 05 02 and an amount of EUR 446.3 million was used in chapter 05 03. The remaining amount of EUR 448.8 million was automatically carried over to budget year 2019.Part of the appropriations coming from assigned revenue received in 2017 was not used in financial year 2017 and was automatically carried forward to 2018. These appropriations amounted to EUR 603.3 million and had to be used in accordance with Article 12 of Regulation (EU, Euratom) 2018/1046 (former Article 14 of Regulation (EU, Euratom) 966/2012) within that year. All these appropriations carried over from the previous financial year were fully used in 2018 in accordance with the Financial Regulation.2.1.7 Budget execution of voted appropriations - Expenditure under direct management made by the CommissionIn EUR Expenditure under direct management Commitment appropriations Payment appropriations Carry-over to 2019 (2)Appropriations (C1) (1)143 966 899.0090 602 466.00-Execution (C1)141 443 524.1371 180 250.8317 517 431.10Appropriations cancelled2 523 374.871 904 784.07-10(1) C1 denotes the budget's voted appropriations. This amount includes ***transfers*** from ''shared management'' for an amount of EUR 150 000.00 for commitment and payment appropriations, ***transfers*** ''out'' of EAGF for a total amount of EUR -7 525 000.00 for payment appropriations and an Amending Budget of EUR -1 400 000.00 for commitment and payment appropriations.(2) Carry-over to 2019 only for non-differentiated appropriations.The available commitment appropriations for expenditure under direct management in the 2018 budget were EUR 144.0 million. An amount of EUR 141.4 million was committed in 2018. The balance of these appropriations, EUR 2.5 million, was cancelled.The majority of EAGF appropriations for expenditure under direct management made by the Commission are differentiated appropriations.The automatic carry-over to 2019, which relates only to non-differentiated appropriations, amounts to EUR 17.5 million.For details, please see annexes 3 and 4.2.1.8 Budget execution - Expenditure under direct management made by the Commission - Automatic carry-overcarry-over from 2017In EUR Carry-over from 2017 to 2018 Commitments De-commitments Payments Cancelled appropriationsCarried over appropriations17 671 686.06899 616.4816 745 648.8426 420.74The automatic carry-over from 2017 to 2018 only concerned expenditure under direct management for non-differentiated appropriations. As indicated in the table above, an amount of EUR 17.7 million was carried over from 2017 to 2018. In 2018 an amount of EUR 0.9 million from this carry-over was de-committed. The payments made amounted to EUR 16.7 million.For details, please see annex 4.2.2 Monthly payments2.2.1 Monthly payments to Member States under shared management2.2.1.1 Monthly payments on the provision for expenditureArticle 18(1) of Regulation (EU) No 1306/2013 states that 'monthly payments shall be made by the Commission for expenditure effected by Member States' accredited paying agencies during the reference month'. Monthly payments shall be made to each Member State at the latest on the third working day of the second month following that in which the expenditure is incurred.The monthly payments are a reimbursement of net expenditure (after deduction of revenue) which has been already carried out and are made available on the basis of the monthly declarations forwarded by the Member States6. The monthly booking of expenditure and revenue is subject to checks and corrections on the basis of these6 These monthly declarations of expenditure are transmitted by the Member States by the declaration of the 12th of the month N+1.11declarations. Moreover, these payments will become final following the Commission's verifications under the accounting clearance of accounts procedure.Payments made by the Member States from 16 October 2017 to 15 October 2018 are covered by the system for monthly payments.For the whole financial year, the total net amount of monthly payments decided, after deduction of clearance and other corrections, was EUR 43 225 677 359.32 Taking into account the suspended amounts (see below 2.2.1.3.b), EUR 43 225 151 242.49 have effectively been paid to Member States.2.2.1.2 Decisions on monthly paymentsThe Commission adopted a payment decision for each of the twelve periods of the financial year. Furthermore, an additional decision was adopted in December, adjusting the total expenditure chargeable to the year. For details, please see annex 2.2.2.1.3 Reductions and suspensions of monthly paymentsa. Reductions of the monthly paymentsIn 2018, reductions for a net amount of EUR 58.4 million were made to the monthly payments effected to the Member States. The categories of corrections are detailed in the following points:– reductions of the monthly payments as a result of the non-compliance with the payment deadlinesPursuant to Article 40 of Regulation (EU) No 1306/2013, certain Member States did not always respect the payment deadlines fixed by the Union legislation for the payment of aids to beneficiaries.The payment deadlines ensure an equal treatment between the beneficiaries in all Member States and avoid the situation in which delays of payments would result in aids no longer having the intended economic effect. In addition, the deadlines help budgetary ***discipline*** by ensuring that the expenditure which falls in each budget year is more easily forecast.As a result of non-respecting the set payment deadlines, the Commission decided reductions for a total amount of EUR 50.9 million.– reductions of the monthly payments as a result of overspending the financial ceilingsFor some aid measures financed by the EAGF, financial ***ceilings*** are determined in the sectoral regulations. Expenditure exceeding these ***ceilings*** is considered as 'non eligible expenditure' and has to be corrected.These corrections lead to reductions of the monthly payments. As a result of overspending these financial ***ceilings***, the Commission made financial corrections for a total amount of EUR 7.5 million.– reductions of the monthly payments as a result of non-eligibility12For some measures, expenditure paid after the deadline is not eligible. In previous years, the Commission executed financial corrections for non-respect of these deadlines. In 2018, no such corrections were made as Member States were not any longer able to declare positive amounts for the concerned measures once the deadline had been passed.b. Suspensions of the monthly paymentsFollowing Commission Decision C(2017)2104 of 4 April 2017, the Commission has suspended for Poland the monthly payments for expenditure effected in financial year 2018 for a total amount of EUR 526 116.83 2.2.2 Direct management expenditure by the CommissionIn certain cases, the Commission makes payments directly for certain measures. These concern payments for actions for instance related to controls, to promotion actions and to information actions on the ***agricultural*** policy.For details, please see annexes 3 and 4.3. THE IMPLEMENTATION OF THE 2018 EAGF BUDGET3.1 The uptake of the EAGF budget appropriationsThe implementation of the budget amounted to EUR 44 364.5 million7. This expenditure was funded by the budget's initial appropriations and by using the revenue assigned to policy area 05, composed of the entire amount of EUR 603.3 million carried over from 2017 and of a part of the assigned revenue collected in 2018 amounting to EUR 548.50 million out of a total EUR 997.4 million.Within policy area 05, the expenditure for market measures amounted to EUR 2.709.4 million and for direct payments to EUR 41 496.5 million.For details of the budget's implementation by policy area, please see annex 5.Annex 9 presents a breakdown of the expenditure on market measures, direct payments and audit of ***agricultural*** expenditure by item, by fund source and by Member State.3.2 Comments on the budget implementationA brief commentary on the implementation of the appropriations as well as on the use of the assigned revenue is presented hereafter based on details given in the attached tables:– Annex 5: Analysis of the execution of the 2018 EAGF budget. The expenditure incurred for each budget item appears in column 6. Columns 1, 2, 3 and 4 indicate, respectively, the source and amount of funding which originates either from voted appropriations or from ***transfers*** of assigned revenue and of voted appropriations from other items of the budget;– Annex 6: Assigned revenue (C4) collected and used in 2018;– Annex 7: Assigned revenue (C5) carried over from 2017 and used in 2018;7 This figure includes the reimbursement of the financial ***discipline*** related to the ***agricultural*** crisis reserve carried over from financial year 2017.13– Annex 9: Expenditure by Member State, by fund source and by item.This presentation is made at the level of chapter, article and item of the ***agricultural*** budget.3.2.1 Chapter 05 02: Interventions in ***agricultural*** markets3.2.1.1 IntroductionTotal payments for this chapter amounted to EUR 2 709.4 million and they were funded by the voted appropriations amounting to EUR 2 358.1 million and by assigned revenue amounting to EUR 400 million. The latter was used to cover the expenditure incurred in the fruit and vegetables sector (for details, see point 3.2.1.2). In items where the needs exceeded the budgetary appropriations, the additional expenditure was covered through ***transfers*** from other items of the budget. For the market measures where the budget's appropriations were under-spent, the resulting available appropriations were ***transferred*** to other budget lines within the EAGF to cover additional expenditure as needed.Annex 5 presents these details at the level of each budget item. In case the execution was close to the foreseen level in the 2018 budget, no further remarks are made.3.2.1.2 Article 05 02 08: Fruits and vegetablesThe budget foresaw total available appropriations of EUR 931.8 million to cover the needs of all the measures for this sector. The Budgetary Authority voted appropriations of EUR 531.8 million as it took into account the estimated revenue assigned to this sector (EUR 400.0 million). Moreover, EUR 27.3 million was ***transferred*** from other budget lines within the same chapter. The expenditure incurred by Member States in 2018 amounted to EUR 865.1 million. The balance of the unused assigned revenue of EUR 93.9 million was carried over to the budget year 2019 to cover the needs of that year.In particular, the total needs in the budget for the operational funds for producer organisations were estimated at EUR 872 million. The expenditure incurred by Member States amounted to EUR 830.9 million and it was funded by voted appropriations amounting to EUR 472.0 million, by assigned revenue of EUR 306.1 million and by ***transfers*** of appropriations of EUR 52.8 million. Lower than forecasted expenditure in the budget was incurred for the operational funds, for the temporary exceptional measures, the National Financial Assistance as well as the aid to producer groups for preliminary recognition .Expenditure for the former school fruit scheme was very close to the amount of the budget appropriations.Finally, the forecasted needs in the budget for the temporary exceptional measures for producers who are not members of producer organisations in view of the prolongation of the Russian ban on imports amounted to EUR 39.8 million. However, Member States declared expenditure of EUR 19.5 million only.3.2.1.3 Article 05 02 09: Products of the wine-growing sectorThe budget foresaw total available appropriations at EUR 1 058 million to cover the needs of all the measures for this sector. The under-execution of EUR 89.9 million,14compared to the forecasted budget needs, was due to the lower expenditure incurred by some Member States, particularly for the promotion and restructuring components of their national wine programmes.3.2.1.4 Article 05 02 10: PromotionAs regards promotion measures – payments by Member States, the under-execution of EUR 10.4 million compared to the forecasted budget needs was due to the lower expenditure incurred by some Member States for their promotion programmes approved by the Commission compared to the expenditure foreseen in the budget.As regards direct payments made by the European Union, the Commission committed appropriations for the total amount foreseen (EUR 88.6 million) in the budget for these actions.3.2.1.5 Article 05 02 12: Milk and milk productsThe budget foresaw total available appropriations amounting to EUR 34.1 million to cover the needs of all the measures for this sector. Expenditure incurred by Member States amounted to EUR 201.1 million. Budget ***transfers*** from other articles have been made to cover the extra needs.In particular, the needs for storage measures for skimmed milk powder had been estimated at EUR 12.0 million in the budget, while expenditure incurred amounted to EUR 182.3 million. The difference is merely due to an end-of-year depreciation of the public stocks of skimmed milk powder amounting to EUR 126.5 million following Commission Decision C(2018)6591 of 12 December 2018. Furthermore, EUR 42.9 million was spent on sales of quantities of skimmed milk powder in public storage (difference between a sales price that is lower than the buying-in price), EUR 11.7 million on technical costs for public storage and EUR 1.2 million for private storage of skimmed milk powder (which was estimated in the budget at EUR 0.9 million).For the former school milk scheme, Member States incurred expenditure amounting to EUR 19.1 million compared to the forecasted needs of EUR 22 million.Finally, the needs for other measures were estimated at EUR 0.1 million. It concerns temporary and exceptional measures taken in previous years, for which Member States only declared corrections of previous expenditure. The available amount of EUR 0.4 million has been ***transferred*** to other budget articles.3.2.1.6 Article 05 02 13: Beef and vealThe budget foresaw no appropriations while minor expenditure was incurred by Member States (EUR 0.1 million) for residual payments related to export refunds linked to certificates issued before 2014. This residual expenditure was covered via a ***transfer*** of appropriations available in the same chapter.3.2.1.7 Article 05 02 15: Pigmeat, eggs and poultry, bee-keeping and other animal productsThe budget foresaw total available appropriations amounting to EUR 95.0 million to cover the needs of all the measures for this sector. However, the expenditure incurred by Member States amounted only to EUR 64.0 million. The difference of EUR 31 million has been ***transferred*** to other budget articles.15The expenditure for specific aid for beekeeping amounted to EUR 33.9 million compared to forecasted needs of EUR 35.0 million included in the budget.Under the “other” measures, EUR 9.3 million was foreseen for an exceptional measure related to swine fever in Poland, of which only EUR 1 million has been effectively used. Expenditure for an exceptional support measure on avian influenza in France amounted to EUR 29.1 million, while EUR 51 million had been budgeted.3.2.1.8 Article 05 02 18: School schemesThe expenditure incurred for school schemes amounted to EUR 155.8 million compared to forecasted needs of EUR 188.0 million included in the budget. The lower uptake reflects the fact that 2017/2018 was the first school year of the integration of the previously separate fruit and milk schemes into one school scheme, with Member States declaring less expenditure than anticipated when drawing up the budget.3.2.2 Chapter 05 03: Direct paymentsFinancial year 2018 was the third year of implementation of the reformed direct payments as decided in the 2013 reform of the Common ***Agricultural*** Policy. Total payments for this budget chapter amounted to EUR 41 496.5 million. This includes an amount of EUR 441.7 million paid for the reimbursement of direct payments to farmers in relation to financial ***discipline***, financed from EUR 450.5 million carried over from 2017 (for details, see point 3.2.2.4). The rest of the payments made, EUR 41 054.8 million, was funded by voted appropriations (EUR 40 668.7 million) and by assigned revenue (EUR 1 200.7 million). The latter was used to cover part of the expenditure incurred for the basic payment scheme (for details, see point 3.2.2.1).The total unused appropriations amounted to EUR 823.3 million, of which EUR 814.4 million have been carried over to financial year 2019. Moreover, the unused amount of the crisis reserve (EUR 459.5 million), which was established from the proposed financial ***discipline*** in 2018, was ***transferred*** to budget article 05 03 09 so that the amount of the effectively applied financial ***discipline*** (EUR 459.5 million) could be carried over to 2019 for the reimbursement to the Member States concerned (see point 3.2.2.5). The remaining balance of assigned revenue collected in 2018 (EUR 354.9 million) was carried over to 2019. In items where the needs exceeded the budget’s voted appropriations, the additional expenditure was covered through ***transfers*** of voted appropriations from other items of the budget or of assigned revenue. Equally, for direct payments where the budget's appropriations were under-spent, the resulting available appropriations were ***transferred*** to other budget lines within the EAGF in order to cover additional expenditure as needed.Annex 5 presents these details at the level of each budget item.3.2.2.1 Article 05 03 01: Decoupled direct paymentsThe main schemes funded by this article's appropriations are the single area payment scheme (SAPS), the basic payment scheme (BPS), the payment for ***agricultural*** practices beneficial for the climate and the environment, the redistributive payment and the payment for young farmers. All aid schemes in this article are paid independently of production but on certain conditions, e.g the respect of cross-compliance. The 2018 budgetary needs for decoupled direct16payments amounted to EUR 35 960.3 million for which the Budgetary Authority voted appropriations amounting to EUR 34 309.1 million after taking into consideration assigned revenue amounting to EUR 1 651.2 million. The expenditure incurred by Member States for all schemes in this article amounted to EUR 35 304.8 million, which corresponds to 98.2% of the needs foreseen in the budget for these schemes.As regards the BPS, the budgetary needs were estimated at EUR 17 402 million. To cover these needs, the Budgetary Authority voted appropriations amounting to EUR 16 326.1 million after taking into account the revenue of EUR 1 075.9 million assigned to this scheme. The expenditure declared by Member States for this scheme amounted to EUR 17 300.8 million and covered 99.4% of the estimated needs.As regards SAPS, the appropriations in the budget amounted to EUR 4 162.0 million and Member States incurred payments amounting to EUR 4 177.3 million. The extra EUR 15.3 million needed have been ***transferred*** from budget items within the same article.As regards the payment for ***agricultural*** practices beneficial for the climate and the environment, the so-called greening, the expenditure incurred by Member States amounted to EUR 11 774.6 million whereas appropriations in the budget were at EUR 11 739.0 million giving an execution rate of 100.3%.The needs for the redistributive payment amounted to EUR 1 666.0 million and the expenditure declared by Member States was EUR 1 650.8 million or 99.1% of the budgeted needs.For the payment for young farmers, needs were estimated at EUR 391.0 million in the budget. Expenditure amounted to EUR 381.6 or 97.6% of the budgeted needs.The remaining lines covered mostly smaller amounts, including also the residual payments for the schemes which expired further to the 2013 reform.3.2.2.2 Article 05 03 02: Other direct paymentsThe appropriations of this article covered expenditure for 'other direct payments'. This includes schemes for which there may still be a link between the payment and the production, under well defined conditions and within clear limits. As a consequence of the 2013 reform, schemes financed under this Article were the voluntary coupled support and the small farmers scheme and a number of lines only covered relatively minor residual payments for expired schemes.The 2018 budget included appropriations amounting to EUR 5 900.0 million for this budget article. Member States incurred expenditure amounting to EUR 5 750.0 million hence lower than the appropriations entered in the budget.For the crop-specific payment for cotton, needs were estimated at EUR 242.0 million in the budget. Expenditure was EUR 243.8 million, i.e 100.7% of the budgeted amount.The execution for the POSEI-EU support programmes ran up to 100.5% of the needs (EUR 420.0 million) foreseen in the budget.17For the voluntary coupled support scheme, needs were estimated at EUR 3 993.0 million in the budget. Expenditure was EUR 4 033.2 million, i.e 101.0% of the needs.For the small farmers scheme, needs were estimated at EUR 1 224.0 million in the budget. Expenditure was EUR 1 035.6 million, i.e only 84.6% of the needs.As regards item 05 03 02 99 – Other (direct payments), the budget included appropriations of EUR 2.0 million intended to cover expenditure and corrections for older schemes which were not covered under other budget items of the coupled direct payments sector. There was a negative expenditure of around EUR – 2.1 million and in order to cover the funding needs of other items of the budget, appropriations amounting to EUR 4.1 million were ***transferred*** out of this budget item.3.2.2.3 Article 05 03 03: Additional amounts of aidWhile appropriations foreseen in the budget for this article amounted to EUR 0.1 million, Member States incurred insignificant expenditure and thus under-executed the budget’s appropriations by almost a similar amount.3.2.2.4 Article 05 03 09: Reimbursement of direct payments in relation to financial disciplineNo appropriations are allocated to this article by the Budgetary Authority. This article serves the purpose of collecting the non-committed voted appropriations including in particular the appropriations of the unused crisis reserve in order to be carried over into budget year N+1 and finance the reimbursement of the financial ***discipline*** applied to direct payments in respect of ***calendar*** year N8.Each year, if applicable, a Commission Implementing Regulation sets the amounts that each Member State has to reimburse to farmers and, in accordance with the introductory phrase of Article 12(2) of Regulation (EU, Euratom) 2018/1046, determines that the expenditure in relation to this reimbursement shall only be eligible for Union financing if the amounts have been paid to the beneficiaries before 16 October of the financial year to which the appropriations are carried over. From the amount of EUR 450.5 million, corresponding to the financial ***discipline*** applied during financial year 2017 and which was carried over to budget 2018 for reimbursement, Member States reimbursed EUR 441.7 million. The difference of EUR 8.8 million reverted to the 2018 budget for its return to Member States via an Amending Budget in the following budget year.For financial year 2019, Commission Implementing Regulation (EU) 2018/18489 sets the amount of reimbursement at EUR 459.5 million. This amount corresponds to the amount of financial ***discipline*** effectively applied for claim year 2018 and this amount was carried over into the 2019 budget.8 These appropriations may be carried over, in accordance with point (d) of the first subparagraph and the third subparagraph of Article 12(2) of Regulation (EU, Euratom) 2018/1046, and, in accordance with Article 26(5) of Regulation (EU) No 1306/2013, are made available to the Member States for the reimbursement of the final recipients who are subject, in the financial year to which the appropriations are carried over, to the application of financial ***discipline*** in accordance with Article 26, paragraphs (1) to (4) thereof.9 OJ L 300, 27.11.2018, p. 4183.2.2.5 Article 05 03 10: Reserve for crises in the ***agricultural*** sectorThe appropriations of this article are intended to cover expenditure for measures which have to be taken in order to cope with major crises affecting ***agricultural*** production or distribution. The crisis reserve is established by applying, at the beginning of each year, a reduction to the direct payments through the financial ***discipline*** mechanism in accordance with Articles 25 and 26 of Regulation (EU) No 1306/2013 as well as Article 8 of Regulation (EU) No 1307/201310. This reserve shall be set up with an annual amount of EUR 400 million (in 2011 prices). For the budget year 2018, the equivalent amount of the crisis reserve in current prices was EUR 459.5 million. The reserve was not used in financial year 2018.For the 2017 claim year, the financial ***discipline*** was calculated exclusively for the constitution of the crisis reserve of EUR 459.5 million. However, by the end of the financial year, non-committed voted appropriations corresponding to the amount of financial ***discipline*** effectively applied for claim year 2017 (taking into account the unused amount of the crisis reserve) was ***transferred*** to budget article 05 03 09 in order to be carried over to the next financial year and, in this way, fund the reimbursement of financial ***discipline*** imposed on farmers in the ***calendar*** year 2018 (please see point 3.2.2.4).3.2.3 Chapter 05 04: Rural DevelopmentFor Article 05 04 01 – Completion of Rural Development financed by the EAGGF-Guarantee section – Programming period 2000 to 2006, the final net amount recovered was EUR 0.5 million.3.2.4 Chapter 05 07: Audit of ***agricultural*** expenditure3.2.4.1 Article 05 07 01: Control of ***agricultural*** expenditureThis article involves the measures taken to reinforce the means of on-the-spot controls and to improve the systems of verification so as to limit the risk of fraud and irregularities to the detriment of the Union budget. It also includes the expenditure to finance possible accounting and conformity corrections in favour of Member States.The European Union directly funded the purchase of satellite images within the framework of the Integrated Administration and Control System (IACS) for an amount of EUR 9.3 million.The corrections in favour of the Member States following conformity clearance of accounts turned out to be lower than expected (EUR 12.2 million instead of EUR 21.4 million foreseen in the budget), while the corrections in favour of Member States following accounting clearance of accounts were in line with the budgeted amount (EUR 5.2 million).3.2.4.2 Article 05 07 02: Settlement of disputesThe appropriations in this article are intended to cover expenditure for which the Commission could be held liable by decision of a court of justice, including the cost of settling claims for damages and interest. The 2018 budget foresaw appropriations10 OJ L 347, 20.12.2013, p. 60819amounting to EUR 124.5 million, of which EUR 88.8 million were executed. The remainder of appropriations has been ***transferred*** to other items of the budget.3.2.5 Chapter 05 08: Policy strategy and coordination3.2.5.1 Article 05 08 01: Farm accountancy data network (FADN)Appropriations committed for data collection on farm holdings under this network amounted to EUR 14.7 million, while the budget foresaw appropriations amounting to EUR 14.9 million.3.2.5.2 Article 05 08 03: Restructuring of systems for ***agricultural*** surveysAppropriations committed for the restructuring of systems of ***agricultural*** surveys amounted to EUR 1.9 million, while the budget foresaw appropriations amounting to EUR 2.8 million.3.2.5.3 Article 05 08 06: Enhancing public awareness of the common ***agricultural*** policyThis article entails actions, fairs and publications aimed at enhancing public awareness of the CAP, including actions under Corporate Communication. Almost all appropriations (EUR 14.6 million) were committed.3.2.5.4 Article 05 08 09: EAGF – Operational technical assistanceAppropriations committed for operational technical assistance for the EAGF amounted to approximately EUR 2.5 million, while the budget foresaw appropriations amounting to EUR 4.1 million. EUR 1.0 million of the voted appropriations was reallocated outside EAGF through Amending Budget No 6.4. IMPLEMENTATION OF REVENUE ASSIGNED TO EAGFThe assigned revenue actually carried over from 2017 into 2018, amounted to EUR 603.3 million and was entirely used in financing expenditure of the 2018 budget year in accordance with article 14 of the Financial Regulation. As presented in annex 7, this amount covered expenditure of EUR 203.8 million for the operational funds for producer organisations in the fruits and vegetables sector and of EUR 399.4 million for the basic payment scheme.As regards the assigned revenue collected in 2018, annex 6 shows that this revenue amounted to EUR 997.4 million and it originated from:– the clearance corrections procedure, EUR 861.9 million;– the receipts from irregularities, EUR 131.6 million;– the milk levy collections, EUR 3.9 million.The assigned revenue collected in 2018 was used to cover expenditure incurred for the following measures:– EUR 102.2 million for the operational funds for producer organisations in the fruits and vegetables sector;– EUR 446.3 million for the basic payment scheme (BPS) (direct payments).The balance of the assigned revenue collected in 2018 (EUR 448.8 million) was automatically carried over into the 2019 budget to fund budgetary needs of that year.205. CONTROL MEASURES5.1 IntroductionIn accordance with the EU legislation and as in previous years, 2018 ***agricultural*** expenditure was submitted to a comprehensive system of control measures.This system includes, on the one hand, all the necessary building blocks to guarantee a sound administration of the expenditure at Member States’ level and, on the other hand, allows the Commission to counter the risk of financial losses as a result of any deficiencies in the set-up and operation of those building blocks through the clearance of accounts procedure.Member States have to ensure that the transactions are carried out and executed correctly, to prevent and deal with irregularities and to recover amounts unduly paid.In complement to this general obligation, there is a system of controls and dissuasive sanctions of final beneficiaries which reflects the specific features of the regime and the risk involved in its administration.The controls are carried out by the paying agencies or by delegated bodies operating under their supervision and effective, dissuasive and proportionate sanctions are imposed if the controls reveal non-compliance with EU rules. The system generally provides for exhaustive administrative controls of 100% of the aid applications, cross-checks with other databases where this is considered appropriate as well as pre-payment on-the-spot controls of a sample of transactions ranging between 1% and 100%, depending on the risk associated with the regime in question.In addition, for most regimes which are not subject to the Integrated Administration and Control System (IACS), on top of the primary and secondary control levels, ex-post controls must be carried out.5.2 Integrated Administration and Control System (IACS)Regulation (EU) No 1306/2013, Regulation (EU) No 1307/2013, Commission Delegated Regulation (EU) No 639/201411 and Commission Delegated Regulation (EU) No 640/201412 contain the rules on the IACS.A fully operational IACS consists of: a computerised database, an identification system for ***agricultural*** parcels and farmers claiming aid, a system for identification and registration of payment entitlements, aid applications and integrated controls system (claim processing, on-the-spot checks and sanctioning mechanisms) and a system for identifying and registering animals where applicable. The IACS is fully automated.This system foresees a 100% administrative control covering the eligibility of the claim, complemented by administrative cross-controls with standing databases ensuring that only areas or animals that fulfil all eligible requirements are paid the11 OJ L 181, 20.6.2014, p. 112 OJ L 181, 20.6.2014, p.4821premium and by a minimum 5% of on-the-spot checks to check the existence and eligibility of the area or the animals claimed.For the financial year 2018, the IACS covered 94% of the EAGF expenditure. Furthermore, the relevant components of the IACS are applicable to the rural development measures, which are based on area or number of animals. Such measures include, inter alia, agri-environment and animal welfare measures, less-favoured areas and areas with environmental restrictions and afforestation of ***agricultural*** land. For financial year 2018, 54% of payments made under the EAFRD were also covered.The Commission services verify the effectiveness of Member States' IACS and homogenous implementation by means of both on-the-spot auditing and general supervision based on annually supplied financial and statistical data. It has been established already for some years now that the IACS provides an excellent and cost effective means of ensuring the proper use of EU funds.5.3 Market measuresMarket interventions, for example storage aid or aid to producer organisations, are not covered by IACS but they are governed by specific rules as regards controls and sanctions which are set out in horizontal and sector-based regulations.Aids are paid on the basis of claims, often involving the lodging of administrative and/or end-use securities, which are systematically (100%) checked administratively for completeness and correctness. The more financially important aid schemes are also subject to regular accounting controls performed in situ on commercial and financial documents.5.4 Application of Chapter III of Title V Regulation (EU) No 1306/2013 (ex-post scrutiny)An ex-post control system is provided for under Regulation (EU) No 1306/2013 in Title V, Chapter III. It provides for an ex-post control system which is a complement to the sectoral control systems described above. The system constitutes an extra layer of control which contributes to the assurance that transactions have been carried out in conformity with the rules or otherwise allows recovering the unduly paid amounts.The ex-post scrutiny is to be carried out by a body in the Member State, which is independent of the departments within the paying agency responsible for the pre-payment controls and the payments. It covers a wide range of CAP subsidies including sector schemes for fruit and vegetables, wine and POSEI aids. In fact, the ex-post scrutiny covers all aids paid to beneficiaries from EAGF (except payments covered by IACS and those excluded by Article 14 of Regulation (EU) No 907/2014).In 2018, Member States scrutiny services completed ex-post controls in respect of undertakings to which payments were made in financial year 2016. The annual reports in respect of the respective scrutiny period (July 2016-June 2017) shows that Member States completed more than 90% of the planned scrutinies. The regulation also foresees Member States providing mutual assistance in the performance of scrutinies. In the 2017/2018 scrutiny period, around 30 such requests were fulfilled.226. CLEARANCE OF ACCOUNTS6.1 Conformity clearance6.1.1 IntroductionIt is primarily the Member States' responsibility to check that transactions are carried out and executed correctly via a system of control and dissuasive sanctions. Where Member States fail to meet this requirement, the Commission applies financial corrections to protect the financial interests of the EU.The conformity clearance relates to the legality and regularity of transactions. It is designed to exclude expenditure from EU financing which has not been effected in compliance with EU rules, thus shielding the EU budget from expenditure that should not be charged to it (financial corrections). In contrast, it is not a mechanism by which irregular payments to beneficiaries are recovered, which according to the principle of shared management is the sole responsibility of Member States.Financial corrections are determined on the basis of the nature and gravity of the infringement and the financial damage caused to the EU. Where possible, the amount is calculated on the basis of the loss actually caused or on the basis of an extrapolation. Where this is not possible, flat-rates are used which take account of the severity of the deficiencies in the national control systems in order to reflect the financial risk for the EU.Where undue payments are or can be identified as a result of the conformity clearance procedures, Member States are required to follow them up by recovery actions against the final beneficiaries. However, even where this is not possible because the financial corrections only relate to deficiencies in the Member States' management and control systems, financial corrections are an important means to improve these systems and thus to prevent or detect and recover irregular payments to final beneficiaries. The conformity clearance, thereby, contributes to the legality and regularity of the transactions at the level of the final beneficiaries.6.1.2 Audits and decisions adopted in 20186.1.2.1 AuditsThe following table presents an overview of the conformity audits with missions and their coverage in respect of financial year 2018, broken down per Activity Based Budgeting (ABB):23Financial Year 2018 ABB 02 ABB 03 ABB 04(1) Total(2)Number of conformity audits with missions carried out(3)233640122(1) concerns only EAFRD.(2) The total figure includes 101 conformity audits, of which 87 audits targeted the 3 ABBs areas (audits targeting more than one ABBs are counted only once) and 14 other conformity audits (8 audits on cross compliance and 6 IT audits). In addition, 21 other audit missions not subject to conformity clearance procedure have been carried out (1 audit on IPARD, 1 audit on direct expenditure, 1 financial audit, 16 audits on the Certification Bodies as regards legality and regularity and 2 pre-accession audits).(3) if an audit covers more than one ABB, it is allocated to all ABBs covered by that audit. However, these audits are counted only once in the total.6.1.2.2 Conformity decisionsThree conformity clearance decisions having an impact on the financial year 2018 were adopted involving financial corrections in a number of sectors. These decisions had an overall financial impact for EAGF by excluding from EU financing a total of EUR 400 million:• Decision 2017/2014/EU of 8 November 2017 – 55th Decision, financial impact of EUR 282.65 million;• Decision 2018/304/EU of 27 February 2018 – 56th Decision, financial impact of EUR 28.13 million;• Decision 2018/873/EU of 13 June 2018 – 57th Decision, financial impact of EUR 89.70 million.For the decisions 55 (2017/2014/EU) and 57 (2018/873/EU) due to the relative magnitude of corrections compared to certain Member State’s GDP, the Commission decided that corrections amounting to EUR 17.12 million could be paid in 3 equal annual instalments. In addition, financial corrections for Greece in decisions 56 and 57 are included in the deferral decisions (C(2015)4122 of 22 June 2015 and C(2017)3780 of 08/06/2017) amounting to EUR 4.9 million for EAGF.The breakdown of financial impact according to sectors is as follows (in EUR): Sector Decision 55 Decision 56 Decision 57Area aids / Arable crops-183 621 437.99-10 754 184.94-32 776 245.27Financial Audit-7 853 190.29-947 249.83-23 477 666.16Fruit and vegetables-79 775 824.55-13 220 640.72-17 090 624.75Intervention storage-178 013.36-1 178 488.62Irregularities-1 898 801.98Livestock premiums-109 171.15Milk Products-279 321.42-256 772.80POSEI-6 393 217.16Specific support (Art.68 of Reg.73/2009)-9 327 823.15-738 537.05-6 392 751.82Voluntary Coupled Support-8 878.5324Wine-2 067 324.72-2 127 261.99Grand Total-282 645 600.70-28 125 920.45-89 701 907.10Under Regulation (EU) No 1306/2013, an automatic clearing mechanism is applied to irregular payments not recovered 4 years after the establishment of the irregularity, or 8 years after the establishment of the irregularity when the recovery is challenged in national courts. The financial consequences of non recovery are shared by the Member State concerned and the EU on a 50% - 50% basis. Even after the application of this mechanism, Member States are, however, obliged to pursue their recovery procedures and, if they fail to do so with the necessary diligence, the Commission may decide to charge the entire outstanding amounts to the Member States concerned.Regarding financial year 2018, Member States reported the information about recovery cases by 15 February 2019. The Member States recovered during financial year 2018 around EUR 136 million for EAGF. Recovered amounts were EUR 128.2 million for EAFRD and EUR 0.4 million for Transitional Rural Development Instrument (TRDI). The outstanding amount still to be recovered from beneficiaries at the end of the financial year 2018 was EUR 1 039 million for EAGF, EUR 645.3 million for EAFRD and EUR 11.3 million for TRDI. The financial consequences to the Member States for non recovery of EAGF, EAFRD and TRDI cases dating from 2012 or 2008 account to EUR 16.3 million. During financial year 2018, around EUR 17.7 million was borne at 100% by the EU budget for EAGF, EAFRD and TRDI.6.2 Financial clearance6.2.1 IntroductionThe financial clearance covers the completeness, accuracy and veracity of paying agencies' accounts, the internal control systems set up by these paying agencies and the legality and regularity of the expenditure for which reimbursement has been requested from the Commission. Within this framework, Directorate-General for ***Agriculture*** and Rural Development (DG AGRI) pays particular attention to the certifying bodies’ conclusions and recommendations (where weaknesses are found), following their reviews of the paying agencies’ compliance with the accreditation criteria. As part of this review, DG AGRI also covers aspects relating to conformity issues and protecting the financial interests of the EU as regards advances paid, securities obtained and intervention stocks.The Commission adopts an annual clearance of accounts decision clearing the paying agencies' annual accounts on the basis of the certificates and reports from the certifying bodies, but without prejudice to any subsequent decisions to recover expenditure which proves not to have been in accordance with the EU rules. As from financial year 2014, these accounts are received by the Commission by 15 February of the year following the financial year in question. The Commission decides whether the accounts of each paying agency are cleared and adopts its clearance decision by 31 May of the year following the financial year in question. The accounts not cleared by 31 May are cleared later in a future decision, once assurance on the completeness, accuracy and veracity of the accounts is obtained.256.2.2 Decisions6.2.2.1 Financial clearance decision for the financial year 2015On 30 May 2016, the Commission adopted a Decision (2016/941) clearing the annual accounts of all paying agencies, except for the paying agencies State Fund ***Agriculture*** (Bulgaria), France Agrimer (France) and AGEA (Italy). This decision cleared EUR 40 111 million. The accounts of the disjoined paying agencies will be cleared in a later decision (amount involved EUR 3 307 million).On 2 August 2018, the Commission adopted Decision C(2018)5001 where the accounts of AGEA (Italy) were cleared for an amount of EUR 2 263 million.6.2.2.2 Financial clearance decision for the financial year 2016On 29 May 2017, the Commission adopted a Decision (2017/927) clearing the annual accounts of all paying agencies, except for the paying agencies Zollamt Salzburg (Austria), State Fund ***Agriculture*** (Bulgaria), Cyprus ***Agricultural*** Payments Organization (Cyprus), Danish AgriFish Agency(Denmark), FranceAgriMer (France), Agenzia per le Erogazioni in Agricoltura (Italy) and ***Agriculture*** and Rural Payments Agency (Malta). This decision cleared EUR 37 384 million. The accounts of the disjoined paying agencies will be cleared in a later decision (relevant amount EUR 4 326 million).On 15 February 2018, the Commission adopted Decision C(2018)801 where the accounts of State Fund ***Agriculture*** (Bulgaria), Danish AgriFish Agency (Denmark) and ***Agriculture*** and Rural Payments Agency (Malta) were cleared for a total amount of EUR 1 583 million.6.2.2.5 Financial clearance decision for the financial year 2017On 28 May 2018, the Commission adopted a Decision (2018/794) clearing the annual accounts of all paying agencies, except for the paying agencies FranceAgriMer (France), EU-Zahlstelle der Freien und Hansestadt Hamburg (Germany), ***Agriculture*** and Rural Payments Agency (Malta) and Fondo Español de Garantía Agraria (Spain). This decision cleared EUR 43 121 million. The accounts of the disjoined paying agencies will be cleared in a later decision (relevant amount EUR 321 million).6.3 Appeals brought before the Court of Justice against clearance decisions6.3.1 Judgments handed downIn the financial year 2018, the Court handed down 12 judgments in appeals brought by the Member States against conformity clearance decisions.In financial year 2018, the Court partially annulled: Case Number MS Date of Judgment Challenged Decision Lodging DateT-505/15HU14-12-20174802-09-2015T-627/16CZ13-09-20185131-08-2016In financial year 2018, the Court annulled:26Case Number MS Date of Judgment Challenged Decision Lodging DateC-4/17PCZ06-09-20184704-01-2017T-260/16SE25-09-20185024-05-2016In financial year 2018, the Court rejected appeals brought in the following cases: Case Number MS Date of Judgment Challenged Decision Lodging DateT-502/15ES19-10-20174801-09-2017T-26/16EL25-10-20174922-01-2016T-506/15EL01-02-20184829-08-2015T-462/16PT09-03-20185122-08-2016T-507/15PL15-03-20184802-09-2015T-233/17PT25-09-20185320-04-2017T-463/16PT26-09-20185122-08-2016T-272/16EL04-10-20185025-05-20166.3.2 New appealsIn the financial year 2018, 11 new appeals were brought by the Member States against clearance decisions: Case Number MS Lodging Date Challenged DecisionT-14/18EL16-01-201855T-19/18LT19-01-201855T-21/18PL19-01-201855T-26/18FR19-01-201855C-6/18PEL02-02-201849T-292/18PT07-05-201856C-252/18PEL18-05-201848T-295/18EL07-06-201856C-358/18PPL20-07-201848T-506/18PL24-08-201857T-507/18FR12-09-2018576.3.3 Appeals pendingThe situation as at 15 October 2018 with regard to appeals pending together with the amounts concerned is shown in annex 15.7. RELATIONS WITH PARLIAMENT AND WITH THE EUROPEAN COURT OF AUDITORS7.1 Relations with ParliamentThe European Parliament is, together with the Council, part of the EU’s Budgetary Authority. It is, thus, one of the most important discussion partners of the Commission on budgetary matters and, therefore, on the EAGF.27Three EP committees are involved in the discussions and the preparation for the plenary on ***agricultural*** budgetary matters. These are the Committee on ***Agriculture*** and Rural Development, the Committee on Budgets and the Committee on Budgetary Control.Since 2014 the Committee on ***Agriculture*** and Rural Development provides an opinion on the discharge procedure to the Committee on Budgetary Control.The Committee on Budgetary Control monitors the correct implementation of the budget and drafts the opinion proposing to the Parliament to grant the discharge and making recommendations to the Commission or Member States.The European Parliament granted discharge to the Commission, in respect to the implementation of the general budget of the European Union for the 2016 financial year, by a vote in plenary on a Parliamentary Decision which took place on 18 April 2018.The same procedure applied in relation with financial year 2017 and the discharge was granted to the Commission by a vote in plenary on a Parliamentary Decision which took place on 27 March 2019.7.2 Relations with the European Court of Auditors7.2.1 Mission of the European Court of AuditorsThe European Court of Auditors is the external auditor of the European Union. Articles 285 to 287 of the Treaty on the Functioning of the European Union provide that the Court shall audit the Union finances with a view to improving financial management and reporting on the use of public funds. The Court of Auditors should provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions. This statement, which can be complemented by specific assessments for various policy areas, is of prime importance to the European Parliament in its deliberations on granting discharge to the Commission for the implementation of the budget.As part of its work, the Court carries out numerous audits within the Commission services. Court officials frequently visit the Directorate-General for ***Agriculture*** and Rural Development to gather facts and figures needed for the Court's opinions, as well as for its annual and special reports. In the light of these investigations the Court frequently makes suggestions and recommendations to the Commission on how to improve its financial management and make supervisory and control systems more effective.7.2.2 Annual Report for financial year 2017Every year the Court of Auditors publishes its Annual report on the implementation of the EU budget in which it gives a statement of assurance on the reliability of the consolidated accounts of the EU as well as on the legality and regularity of transactions. This is supplemented with specific assessments of each major area of EU activity. The report is published along with the Institutions' replies and is presented to the European Parliament after the summer break of year N+1.28In line with International Audit Standards, adversarial meetings take place between the auditor (the Court of Auditors) and the auditee (the Commission and the other Institutions and bodies) before the report is published. In these meetings, the Court's findings and conclusions are discussed to ensure agreement on the underlying facts or existing interpretation of legislation. The wording of the auditee's replies is also discussed.In the Annual report for financial year 2017, the activities relevant for the Directorate-General for ***Agriculture*** and Rural development are considered together with other policy areas relevant to “natural resources” under one single chapter, Chapter 7 – Natural Resources. Within this chapter, direct payment transactions financed under the EAGF are assessed separately from market measures transactions financed under the EAGF, transactions financed under the EAFRD and transactions financed under other policy areas (environment, climate action and fisheries).Whilst a breakdown of the level of error per type of transaction is not provided, the Court states that its estimate of the level of error for EAGF direct payments is below the materiality threshold of 2%. The Court tested 121 direct payment transactions, of which 103 were unaffected by error.For EAGF market measures, the Court tested 19 transactions, of which 12 were unaffected by errors and only 2 presented an error with financial impact. Market measures are considered together with rural development and other policy areas (environment, climate and fisheries) as higher risk spending areas.The level of error estimated by the Court for ‘Natural resources’ as a whole was 2.4%, which confirm the descending trend over time.The audit conclusion of the Court is consistent with the error rates reported in DG AGRI’s AAR2017.The Court considered, as was already the case for 2016, that the Land Parcel Identification System (LPIS) contributes significantly to preventing and reducing the error level. For 2017, the Court adds that the preliminary cross-checks which the paying agencies have started to conduct on direct aid applications alert farmers of certain errors in their application and give them the chance to correct. The Court also surveyed farmers and paying agencies about the use of the Geo-Spatial Aid Application (GSAA), with an overall conclusion that both (farmers and paying agencies) considered that the GSAA helped to prevent errors at applicant level and enabled them to correct mistakes in their claims. Furthermore, the GSAA generated time savings both at applicant and paying agency level, and most beneficiaries considered the GSAA more user-friendy than previous systems.The recommendations addressed to the Commission are (para 7.43):The Court made two recommendations in relation to EAGF:– Assess the effectiveness of the Member States’ actions to address the causes of errors for payments for market measures and rural development, and issue further guidance where necessary.29– Monitor progress made by the paying agencies in supporting farmers not yet using the GSAA and promote best practices, in order to maximise the benefits and achieve full implementation of the new system within the regulatory deadlines.The Commission has accepted the recommendations. It will continue to request the Member State to establish remedial action plans when serious deficienies and weaknesses are identified and to monitor the effectiveness of their implementation. The Commission is monitoring the progress made in the Member States. The GSAA has been implemented promptly in most Member States, in accordance with the regulatory timeline.7.2.3 Special Reports by the Court of AuditorsIn ***calendar*** year 2018, the Court published eight special reports covering DG AGRI's activities:• Special report No 33/2018: Combating desertification in the EU: a growing threat in need of more action (published 18 December 2018)• Special report No 25/2018: Floods Directive: progress in assessing risks, while planning and implementation need to improve (published 20 November 2018)• Special report No 31/2018: Animal welfare in the EU: closing the gap between ambitious goals and practical implementation• Special report No 17/2018: Commission’s and Member States’ actions in the last years of the 2007-2013 programmes tackled low absorption but had insufficient focus on results (published 13 September 2018)• Special report No 23/2018: Air pollution: Our health still insufficiently protected (published 11 September 2018)• Special report No 11/2018: New options for financing rural development projects: Simpler but not focused on results (published 26 April 2018)• Special report No 10/2018: Basic Payment Scheme for farmers – operationally on track, but limited impact on simplification, targeting and the convergence of aid levels (published 15 March 2018)• Special report No 05/2018: Renewable energy for sustainable rural development: significant potential synergies, but mostly unrealised (published 1 March 2018).308. ANNEXESGeneral1. EAGF budgetary procedure for 2018Cash position and management of appropriations2. Monthly reimbursements to Member States decided for the 2018 financial year3. Payments under direct management by the European Commission in the 2018 financial year (Differentiated Appropriations)4. Payments under direct management by the European Commission in the 2018 financial year (Non-Differentiated Appropriations)Budget outturn5. EAGF 2018 Analysis of budget execution6. EAGF 2018 Analysis of execution of assigned revenue C47. EAGF 2018 Analysis of execution of assigned revenue C58. EAGF 2018 Expenditure for intervention in storage9. EAGF 2018 Expenditure by Member State, by item and by fund source10. Evolution of EAGF Expenditure by article of the budget. Financial years 2012 to 201811. Evolution of EAGF Expenditure by Member State & in % terms. Financial years 2012 to 201812. Evolution of EAGF Direct payments expenditure by measure. Financial years 2012 to 201813. Evolution of EAGF Storage expenditure. Financial years 2011 to 201814. Evolution of the breakdown of EAGF expenditure. Financial years 2012 to 2018Clearance of accounts15. Appeals against Clearance Decisions pending on 15 October 201816. Financial corrections (Decisions 1 - 57) by decision and financial year31cDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCA\*PA\*\*CA\*PA\*\*CA\*PA\*\*CA\*PA\*\*CA\*PA\*\*050111,0811,0810,8410,8411,0811,0811,0811,0811,0811,08050104Support expenditure for operations of Policy Area ***Agriculture*** (1)8,008,007,767,768,008,008,008,008,008,00050106Consumer, Health, ***Agriculture*** and Food Executive Agency (2)3,083,083,083,083,083,083,083,083,083,0805022 276,302 215,102 235,302 174,102 358,102 296,902 283,202 222,002 358,102 296,90050201Cerealspmpmpmpmpmpmpmpmpmpm050202Ricepmpmpmpmpmpmpmpmpmpm050203Refunds on non-Annex 1 productspmpmpmpmpmpmpmpmpmpm050204Food programmespmpmpmpmpmpmpmpmpmpm050205Sugar pmpmpmpmpmpmpmpmpmpm050206Olive oil46,1046,1043,1043,1046,1046,1047,0047,0046,1046,10050207Textile plants0,100,100,100,100,100,100,100,100,100,10050208Fruit and vegetables519,00519,00481,00481,00531,80531,80519,00519,00531,80531,80050209Products of wine-growing sector1 051,001 051,001 051,001 051,001 058,001 058,001 051,001 051,001 058,001 058,00050210Promotion171,60110,40171,60110,40171,60110,40171,60110,40171,60110,40050211Other plant products/measures233,40233,40233,40233,40233,40233,40233,40233,40233,40233,40050212Milk and milk products32,1032,1032,1032,1034,1034,1038,1038,1034,1034,10050213Beef and vealpmpmpmpmpmpmpmpmpmpm050214Sheepmeat and goatmeatpmpmpmpmpmpmpmpmpmpm050215Pigmeat, eggs and poultry, bee-keeping and other animal products35,0035,0035,0035,0095,0095,0035,0035,0095,0095,00050218School schemes188,00188,00188,00188,00188,00188,00188,00188,00188,00188,00050341 143,1041 143,1040 935,1040 935,1040 898,6040 898,6041 193,1041 193,1040 668,7040 668,70050301Decoupled direct payments (4)34 668,5034 668,5034 480,5034 480,5034 539,0034 539,0034 718,5034 718,5034 309,1034 309,10050302Other direct payments6 015,006 015,005 995,005 995,005 900,005 900,006 015,006 015,005 900,005 900,00050303Additional amount of aid0,100,100,100,100,100,100,100,100,100,10050310Reserve for crisis in the ***agricultural*** sector459,50459,50459,50459,50459,50459,50459,50459,50459,50459,500504pmpmpmpmpmpmpmpmpmpm050401Rural development financed by the EAGGF-Guarantee section - Programming period 2000-2006 (5)pmpmpmpmpmpmpmpmpmpm050403Other measures; Plant and animal genetic resourcespmpmpmpmpmpmpmpmpmpm050751,4352,1835,4338,18160,23160,9851,4352,18160,23160,98050701Control of ***agricultural*** expenditure29,1329,8815,1317,8835,7336,4829,1329,8835,7336,48050702Settlement of disputes22,3022,3020,3020,30124,50124,5022,3022,30124,50124,50050836,4151,0232,2848,9036,4151,0236,4151,0236,4151,02050801Farm Accountancy Data Network (FADN) 14,9014,1111,9013,1114,9014,1114,9014,1114,9014,11050802Surveys on the structure of ***agricultural*** holdingspm10,61pm10,61pm10,61pm10,61pm10,61050803Restructuring of systems for ***agricultural*** surveys2,817,602,817,602,817,602,817,602,817,60050806Enhancing public awareness of the common ***agricultural*** policy14,5614,5613,5613,5614,5614,5614,5614,5614,5614,56050809EAGF - Operational technical assistance4,144,144,024,024,144,144,144,144,144,14TOTAL 2018 EAGF APPROPRIATIONS43 518,3243 472,4843 248,9543 207,1143 464,4243 418,5843 575,2243 529,3843 234,5243 188,68(1)The budget item concerning EAGF is 05 01 04 01.\*CA : Commitment Appropriations(2)The budget item concerning EAGF is 05 01 06 01.\*\*PA: Payment Appropriations(3)Additional needs to be covered by assigned revenue: for the DB, the AL and the Budget estimated at EUR 400 million. (4)Additional needs to be covered by assigned revenue: for the DB estimated at EUR 604 million, for the AL estimated at EUR 846 million and for the Budget estimated at EUR 1 076 million.(5)Rural Development financed by the ex-European ***Agricultural*** Guidance and Guarantee Fund-Guarantee section (EAGGF) - Programming period 2000-2006DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 1EAGF Budgetary procedure for 2018In EUR MillionTitleChapterArticleHeadingDraft Budget Draft Budget Council positionAmending Letter 1Draft Budget European parliament positionBUDGET POLICY STRATEGY AND COORDINATION OF POLICY AREA ***AGRICULTURE*** & RURAL DEVELOPMENTADMINISTRATIVE EXPENDITURE OF POLICY AREA ***AGRICULTURE*** AND RURAL DEVELOPMENTINTERVENTIONS IN ***AGRICULTURAL*** MARKETS (3)DIRECT PAYMENTSRURAL DEVELOPMENT AUDIT OF ***AGRICULTURAL*** EXPENDITURE32DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. Management of resourcesR.1 Budget management / BFOREAGF - 2018 FINANCIAL REPORTTO PAY2017.112017.122018.012018.022018.032018.042018.052018.062018.072018.082018.092018.102018Financial yearin EURJanuaryFebruaryMarchAprilMayJuneJulyAugustSeptemberOctoberNovemberDecember2018BE215.742.074,34118.963.011,094.650.672,1582.619.257,0066.761.503,803.112.191,823.821.214,4228.917.198,9310.442.534,965.610.877,0013.335.119,3447.534.356,45-115.693,15 601.394.318,15BEBG3.629.952,92377.675.608,782.628.004,502.105.739,7939.244.425,9352.544.118,10241.893.484,3461.580.997,221.942.114,293.422.830,283.463.687,4217.543.024,530,00807.673.988,10BGCZ282.542.418,65186.631.700,36121.818.949,06159.369.205,1456.097.905,1611.480.616,246.985.932,243.657.492,396.449.388,58-2.906.765,61 2.327.645,073.692.554,480,00838.147.041,76CZDK2.194.994,66692.364.225,2679.146.878,4120.446.709,8130.661.771,094.115.014,32581.162,98796.953,50615.565,88-277.351,07 8.328.120,311.293.615,26124.749,14840.392.409,55DKDE3.806.493,974.558.435.271,66212.226.176,7921.492.364,3915.481.416,569.467.539,3717.519.961,428.461.965,2215.783.533,0029.568.841,2733.606.081,4659.185.023,080,004.985.034.668,19DEEE5.603,26122.229.433,00377.277,27305.869,07287.148,85-229.287,53 129.609,01148.165,53107.682,8435.963,491.392.292,26327.741,680,00125.117.498,73EEIE775.421.198,78371.853.044,2014.922.447,877.348.094,005.989.915,673.173.641,974.681.490,122.321.674,6314.960.401,511.501.439,682.439.926,7617.966.726,960,001.222.580.002,15IEEL702.285.017,49932.521.533,177.844.645,0262.317.867,12205.542.423,773.073.872,55122.170.002,8515.713.220,91860.033,23-98.614.684,79 10.202.099,3944.159.680,790,002.008.075.711,50ELES2.640.599.857,831.397.958.235,2410.081.812,22106.123.095,91319.033.574,93251.743.886,08122.215.732,94274.944.621,2655.293.519,02-75.992.715,34 59.081.907,73306.910.523,02-1.040.818,78 5.466.953.232,06ESFR258.431.338,26148.253.737,46618.365.331,165.430.910.060,12458.664.513,91228.469.744,4566.646.942,9163.601.341,7163.210.487,6419.031.125,92210.304.088,7190.144.508,000,007.656.033.220,25FRHR126.354.227,5466.311,9530.530,3069.657.040,117.780.313,3211.572.782,4310.112.166,5314.407.385,77484.776,281.634.861,35481.557,594.630.293,250,00247.212.246,42HRIT1.995.575.666,19115.193.398,8121.919.268,83334.092.520,62313.755.785,9059.173.571,0787.406.894,61882.098.096,0230.855.062,95-25.887.456,04 59.117.673,89200.432.971,180,004.073.733.454,03ITCY69.300,7143.301.184,354.362.219,771.045.880,39715.321,52-490.341,60 458.675,47134.011,43663.594,35441.315,512.182.848,323.503.855,500,0056.387.865,72CYLV76.416.147,46110.505.106,1132.545.437,891.402.394,603.612.122,251.391.706,15446.800,411.700.772,172.337.640,503.628.783,99126.568,392.609.088,560,00236.722.568,48LVLT213.947.057,12197.282.890,4412.113.872,252.130.859,6226.626.351,083.186.531,021.352.421,641.673.324,37400.776,4811.302.643,98183.036,2216.643.345,030,00486.843.109,25LTLU46.556,4721.672.162,39410.608,60242.464,699.788.189,260,00136.561,80694.004,58204.001,04-266,02 26.621,5717.890,370,0033.238.794,75LUHU663.007.623,589.580.806,51358.081.278,6867.395.124,78128.907.363,7110.750.639,0412.615.828,038.225.030,022.770.746,042.338.227,657.928.041,6420.459.354,78-2.444.864,00 1.289.615.200,46HUMT-646,42 -7.050,56 -693,68 2.611,154.885.429,8496.505,1040.925,948.807,2772.951,66-1.904,08 8.254,81137.006,630,005.242.197,66MTNL3.959.359,45627.116.714,542.404.408,9912.552.502,4926.100.357,3222.015.517,4218.537.466,7613.723.787,5013.786.877,727.001.196,487.481.149,0016.528.400,120,00771.207.737,79NLAT1.442.961,59668.406.677,671.847.614,261.305.095,301.217.720,9315.381.154,21945.467,973.026.558,26754.404,5510.282.143,275.746.461,945.253.570,410,00715.609.830,36ATPL2.116.787.964,1767.902.927,975.952.321,66181.012.817,73238.716.270,98174.247.137,43224.520.536,44216.895.072,6530.834.260,4211.921.046,7122.540.661,7315.826.677,100,003.307.157.694,99PLPT330.365.782,73292.033.057,745.486.317,7817.582.310,229.404.076,688.772.062,354.893.790,0147.851.402,4810.798.948,07-7.607.845,68 6.868.162,6613.624.125,98-2.095,44 740.070.095,58PTRO664.267.352,23414.782.550,35195.004.799,01216.417.295,59103.807.023,0329.349.814,8887.565.950,0625.597.554,26-1.579.731,97 -1.687.395,80 3.371.134,7432.060.719,570,001.768.957.065,95ROSI20.466,8942.157,6961.593.646,1969.140.983,112.697.909,361.006.684,09736.053,17358.925,38414.834,66470.840,51875.128,924.465.690,080,00141.823.320,05SISK25.158.790,43254.897.682,164.951.410,7946.274.191,1253.363.060,0525.250.183,1814.749.982,048.438.543,475.622.689,953.767.229,771.427.044,00-808.580,65 0,00443.092.226,31SKFI1.398.391,65465.857.558,31-1.691.806,90 232.083,39150.727,13361.590,88409.843,0151.102.161,627.062.394,62509.497,801.433.418,931.685.182,68-54.155,68 528.456.887,44FISE2.591.585,98628.449.919,1513.755.463,3121.257.848,938.240.033,692.820.075,412.301.420,141.599.851,32868.577,151.364.632,151.678.273,7912.034.611,420,00696.962.292,44SEUK215.263.175,301.658.735.946,00426.357.865,4763.160.152,7332.192.210,12107.098.362,99224.878.968,76351.774.887,4319.015.092,50-4.911.554,84 10.318.894,9728.058.679,770,003.131.942.681,20UKTOTAL11.321.330.713,2314.482.705.801,802.217.186.757,656.997.942.438,922.169.724.865,841.038.935.313,421.278.755.286,022.089.453.807,30295.033.157,92-104.054.442,46 476.275.901,56965.920.636,03-3.532.877,91 43.225.677.359,32(\*) The total amount paid out (EUR 43 225 151 242,49) was less due to suspensions for Poland (EUR 652 883,38 partly reimbursed for EUR 126 766,55).EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 2Amounts due to Member States decided for the 2018 financial year (\*)Compl. Payment33in EUR05 02 10 02 88.600.000,0088.600.000,0024.696.000,0024.696.000,0005 04 03 02pm0,00pm0,0005 07 01 029.280.000,009.279.971,589.879.183,009.859.896,5005 08 01 00 14.900.087,0014.743.559,2314.194.446,0014.131.123,3705 08 02 00 0,000,006.826.858,006.570.682,4405 08 03 00 2.806.812,001.895.012,706.625.979,006.514.999,00TOTAL115.586.899,00114.518.543,5162.222.466,0061.772.701,31C505 07 01 026.236,406.236,406.236,406.236,40Direct management payments on additional appropriations (assigned revenue) and not-automatically carried over appropriations from financial year 2017 to financial year 2018Budget itemAdditional / CarryoversCommitmentsPayment appropriations Amounts charged (payments)ANNEX 3Payments carried out under direct management by the European Commission during financial year 2018 (differentiated appropriations)Direct management payments on the appropriations of the 2018 BudgetTotal available commitment appropriationsTotal available payment appropriations Budget itemCommitmentsAmounts charged (payments)34DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTPayments carried out under direct management by the European Commission during financial year 2018 (non-differentiated appropriations)in EUR05 01 04 01 7.600.000,006.796.076,01803.923,992.646.783,994.149.292,0205 01 06 01 3.080.000,003.080.000,000,003.080.000,000,0005 08 06 00 14.560.000,0014.557.195,662.804,342.557.003,4512.000.192,2105 08 09 00 3.140.000,002.491.708,95648.291,051.123.762,081.367.946,87TOTAL28.380.000,0026.924.980,621.455.019,389.407.549,5217.517.431,10------CommitmentsTotal commitmentscarryoversremaining carryovers 05 01 04 01 4.215.046,74184.011,484.031.035,264.027.535,263.500,0005 01 06 01 0,00----05 08 06 00 12.237.313,49715.605,0011.521.708,4911.498.787,7522.920,7405 08 09 001.219.325,83-1.219.325,831.219.325,830,00TOTAL17.671.686,06899.616,4816.772.069,5816.745.648,8426.420,74Direct management payments on additional appropriations (assigned revenue) and not-automatically carried over appropriations from financial year 2017 to financial year 2018Budget itemCarryoversCommitmentsAvailable appropriations Amounts charged (payments)Still to be chargedDirect management payments on automatically carried over appropriations from financial year 2017 to financial year 2018Budget itemDecommitmentsAmounts charged (payments)Appropriations lapsingEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 4Direct management payments on the appropriations of the 2018 BudgetTotal available appropriationsBudget itemCommitmentsCancelled commitment appropriations Amounts charged (payments)Automatic carryovers35DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment AppropriationsIn EUROSADOPTED BUDGET 2018AMENDING BUDGET 6/2018(b)ASSIGNED REVENUE& CARRY-OVERTRANSFERSTOTAL AVAILABLE APPROPRIATIONS EXECUTION 2018DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONSAPPROPRIATIONS CARRIED OVER TO 2019DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019% EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019(1)(2)(3)(4)(5) = (1) + (2) + (3) + (4)(6)(7) = (5) - (6)(8)(9) = (7) - (8)(10) = ((6) + (8)) / (5)***AGRICULTURE*** AND RURAL DEVELOPMENT43.234.516.899-1.400.0002.051.159.334045.284.276.23344.364.488.153919.788.080899.331.52620.456.554100%0501ADMINISTRATIVE EXPENDITURE OF THE ***AGRICULTURE*** AND RURAL DEVELOPMENT POLICY AREA11.080.000-400.0000010.680.0009.876.076803.9240803.92492%2050104Support expenditure 8.000.000-400.000007.600.0006.796.076803.9240803.92489%205010401European ***Agricultural*** Guarantee Fund (EAGF) - Non-operational technical assistance8.000.000-400.000007.600.0006.796.076803.9240803.92489%2050106Executive agencies3.080.0000003.080.0003.080.000000100%205010601Consumer, Health, ***Agriculture*** and Food Executive Agency — Contribution from the ***Agricultural*** promotion programme3.080.0000003.080.0003.080.000000100%0502IMPROVING THE COMPETITIVENESS OF THE ***AGRICULTURAL*** SECTOR THROUGH INTERVENTIONS IN ***AGRICULTURAL*** MARKETS2.358.100.0000400.000.00045.267.9082.803.367.9082.709.448.85493.919.05493.914.1114.943100%2050201Cerealsp.m.0014.897.95714.897.95714.897.957000-205020101Export refunds for cereals p.m.00000000-205020102Intervention storage of cerealsp.m.00000000-205020199Other measures (cereals)p.m.0014.897.95714.897.95714.897.957000-2050202Ricep.m.00000000-205020201Export refunds for ricep.m.00000000-205020202Intervention storage of ricep.m.00000000-205020299Other measures (rice)p.m.00000000-2050203Refunds on non-Annex I productsp.m.00000000-2050204Food programmesp.m.00000000-205020499Other measures (food programmes) p.m.00000000-2050205Sugar p.m.00000000-205020501Export refunds for sugar and isoglucosep.m.00000000-205020503Production refunds for sugar used in the chemical industryp.m.00000000-205020508Private storage of sugarp.m.00000000-205020599Other measures (sugar) p.m.00000000-2050206Olive oil46.100.000001.820.79047.920.79047.920.784606100%205020603Private storage of olive oilp.m.00000000-205020605Quality improvement measures46.000.000001.920.79047.920.79047.920.784606100%205020699Other measures (olive oil)100.00000-100.00000000-2050207Textile plants100.00000-100.00000000-205020702Private storage of flax fibrep.m.00000000-205020703Cotton — National restructuring programmesp.m.00000000-205020799Other measures (textile plants)100.00000-100.00000000-2050208Fruits and vegetables531.800.0000400.000.00027.263.942959.063.942865.146.64893.917.29493.914.1113.183100%205020803Operational funds for producer organisations 472.000.0000400.000.00052.814.682924.814.682830.900.57193.914.11193.914.1110100%205020811Aid to producer groups for preliminary recognition10.000.00000-5.155.0004.845.0004.844.99010010100%205020812School fruit scheme10.000.00000-140.7409.859.2609.859.260000100%205020899Other measures (fruit and vegetables)39.800.00000-20.255.00019.545.00019.541.8273.17303.173100%(a)05EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 5ANALYSIS OF BUDGETARY EXECUTION - 2018 FINANCIAL YEARMFFH TCAIHEADING36DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment AppropriationsIn EUROSADOPTED BUDGET 2018AMENDING BUDGET 6/2018(b)ASSIGNED REVENUE& CARRY-OVERTRANSFERSTOTAL AVAILABLE APPROPRIATIONS EXECUTION 2018DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONSAPPROPRIATIONS CARRIED OVER TO 2019DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019% EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019(1)(2)(3)(4)(5) = (1) + (2) + (3) + (4)(6)(7) = (5) - (6)(8)(9) = (7) - (8)(10) = ((6) + (8)) / (5)2050209Products of the wine-growing sector1 058 000 00000-89 905 860968 094 140968 094 138202100%205020908National support programmes for the wine sector1 057 000 00000-88 996 960968 003 040968 003 038202100%205020999Other measures (wine-growing sector)1 000 00000-908 90091 10091 100000-2050210Promotion171 600 00000-10 385 290161 214 710161 214 706404100%205021001Promotion measures - Payments by Member States83 000 00000-10 385 29072 614 71072 614 706404100%205021002Promotion measures - Direct payments by the Union88 600 00000088 600 00088 600 000000100%205021099Other measures (promotion)p.m.00000000-2050211Other plant products/measures233 400 00000-2 201 990231 198 010231 198 002808100%205021103Hops - Aid to producer organisations2 300 00000-23 0002 277 0002 277 000000100%205021104POSEI (excluding direct payments)231 000 00000-2 249 156228 750 844228 750 836808100%205021199Other measures (other plant products/measures)100 0000070 166170 166170 166000-2050212Milk and Milk products34 100 00000166 982 990201 082 990201 081 2751 71501 715100%205021201Refunds for milk and milk products p.m.00000000-205021202Storage measures for skimmed-milk powder12 000 00000170 323 930182 323 930182 323 930101100%205021204Storage measures for butter and creamp.m.00000000-205021206Private storage of certain cheesesp.m.00000000-205021208School milk22 000 00000-2 944 14019 055 86019 055 851909100%205021299Other measures (milk and milk products)100 00000-396 800-296 800-298 5051 70501 705101%2050213Beef and Vealp.m.00129 789129 789129 787202100%205021301Refunds for beef and vealp.m.00112 312112 312112 311101100%205021302Storage measures for beef and vealp.m.00000000-205021304Refunds for live animalsp.m.0031 89131 89131 890101100%205021399Other measures (beef and veal)p.m.00-14 414-14 414-14 415101100%2050214Sheepmeat and goatmeatp.m.00-1 390-1 390-1 391101100%205021401Private storage of sheepmeat and goatmeatp.m.00000000-205021499Other measures (sheepmeat and goatmeat)p.m.00-1 390-1 390-1 391101100%2050215Pigmeat, eggs and poultry, bee-keeping and other animal products95 000 00000-31 050 93063 949 07063 949 05614014100%205021501Refunds for pigmeatp.m.0012121110195%205021502Private storage of pigmeatp.m.00000000-205021504Refunds for eggsp.m.00000000-205021505Refunds for poultrymeatp.m.0012 25612 25612 255101-205021506Specific aid for bee-keeping35 000 00000-1 088 43833 911 56233 911 555707100%205021599Other measures (pigmeat, poultry, eggs , bee-keeping, other animal products)60 000 00000-29 974 76030 025 24030 025 234606100%2050218School schemes188 000 00000-32 182 100155 817 900155 817 892808-(a)EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 5ANALYSIS OF BUDGETARY EXECUTION - 2018 FINANCIAL YEARMFFH TCAIHEADING37DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment AppropriationsIn EUROSADOPTED BUDGET 2018AMENDING BUDGET 6/2018(b)ASSIGNED REVENUE& CARRY-OVERTRANSFERSTOTAL AVAILABLE APPROPRIATIONS EXECUTION 2018DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONSAPPROPRIATIONS CARRIED OVER TO 2019DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019% EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019(1)(2)(3)(4)(5) = (1) + (2) + (3) + (4)(6)(7) = (5) - (6)(8)(9) = (7) - (8)(10) = ((6) + (8)) / (5)0503DIRECT PAYMENTS AIMED AT CONTRIBUTING TO FARM INCOMES, LIMITING FARM INCOME VARIABILITY AND MEETING ENVIRONMENT AND CLIMATE OBJECTIVES40 668 700 00001 651 153 098042 319 853 09841 496 516 339823 336 759814 417 4158 919 344100%2050301Decoupled direct payments34 309 100 00001 200 653 098150 083 60135 659 836 69935 304 819 644355 017 055354 917 41599 640100%205030101SPS (single payment scheme)19 000 00000-4 724 59014 275 41014 275 401909100%205030102SAPS (single area payment scheme)4 162 000 0000015 307 2374 177 307 2374 177 307 237000100%205030107Redistributive payment1 666 000 00000-15 183 9241 650 816 0761 650 816 075101100%205030110Basic payment scheme (BPS)16 326 100 00001 200 653 098129 009 82217 655 762 92017 300 845 505354 917 415354 917 4150100%205030111Payment for ***agricultural*** practices beneficial for the climate and the environment11 739 000 0000035 595 41111 774 595 41111 774 595 411000100%205030112Payment for farmers in areas with natural constraints5 000 00000-84 8874 915 1134 915 112101100%205030113Payment for young farmers391 000 00000-9 387 506381 612 494381 612 493101100%205030199Other (decoupled direct payments)1 000 00000-447 962552 038452 40999 629099 629-2050302Other direct payments5 900 000 00000-149 989 5535 750 010 4475 750 010 445202100%205030240Crop-specific payment for cotton242 000 000001 748 034243 748 034243 748 034000100%205030244Specific support (Article 68 of Regulation (EC) No 73/2009) — Coupled direct payments2 000 00000-1 141 769858 231858 230101100%205030250POSEI - European Union support programmes420 000 000002 006 970422 006 970422 006 970000100%205030252POSEI - Aegean Islands17 000 00000-235 38516 764 61516 764 615000100%205030260Voluntary coupled support scheme3 993 000 0000040 188 8564 033 188 8564 033 188 856000100%205030261Small farmers scheme1 224 000 00000-188 413 5001 035 586 5001 035 586 499101100%205030299Other (direct payments)2 000 00000-4 142 759-2 142 759-2 142 759000-2050303Additional amounts of aid100 00000-94 0485 9525 951101100%2050309Reimbursement of direct payments to farmers from appropriations carried- over in relation to financial ***discipline*** (c)p.m.0450 500 000459 500 000910 000 000441 680 299468 319 701459 500 0008 819 70199%2050310Reserve for crisis in the ***agricultural*** sector459 500 00000-459 500 00000000-(a)EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 5ANALYSIS OF BUDGETARY EXECUTION - 2018 FINANCIAL YEARMFFH TCAIHEADING38DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment AppropriationsIn EUROSADOPTED BUDGET 2018AMENDING BUDGET 6/2018(b)ASSIGNED REVENUE& CARRY-OVERTRANSFERSTOTAL AVAILABLE APPROPRIATIONS EXECUTION 2018DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONSAPPROPRIATIONS CARRIED OVER TO 2019DIFFERENCE EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019% EXECUTION / TOTAL AVAILABLE APPROPRIATIONS AFTER CARRY OVER TO 2019(1)(2)(3)(4)(5) = (1) + (2) + (3) + (4)(6)(7) = (5) - (6)(8)(9) = (7) - (8)(10) = ((6) + (8)) / (5)0504RURAL DEVELOPMENT000-479 631-479 631-488 5238 89208 892-2050401Completion of rural development financed by the EAGGF-Guarantee Section — Programming period 2000 - 2006p.m.00-479 631-479 631-488 5238 89208 892-205040114Completion of rural development financed by the EAGGF Guarantee Section - Programming period 2000-2006p.m.00-479 631-479 631-488 5238 89208 892-2050403Completion of other measuresp.m.00000000-205040302Plant and animal genetic resources - Completion of earlier measuresp.m.00000000-0507AUDIT OF ***AGRICULTURAL*** EXPENDITURE FINANCED BY THE EAGF160 230 00006 236-44 788 277115 447 959115 447 93029029100%2050701Control of ***agricultural*** expenditure35 730 00006 236-9 062 72526 673 51126 673 48229029100%205070102Monitoring and preventive measures - Direct payments by the Union9 130 00006 236150 0009 286 2369 286 20828028100%205070106Expenditure for financial corrections in favour of Member States following decisions on accounting clearance of previous years' 21 400 00000-9 171 48012 228 52012 228 519101100%205070107Expenditure for financial corrections in favour of Member States following decisions on conformity clearance of previous years' accounts with regard to shared management declared under the 5 200 00000-41 2455 158 7555 158 755000100%2050702Settlement of disputes124 500 00000-35 725 55288 774 44888 774 448000-0508POLICY STRATEGY AND COORDINATION OF THE ***AGRICULTURE*** AND RURAL DEVELOPMENT POLICY AREA36 406 899-1 000 0000035 406 89933 687 4771 719 42201 719 42295%2050801Farm Accountancy Data Network (FADN) 14 900 08700014 900 08714 743 559156 5280156 52899%2050802Surveys on the structure of ***agricultural*** holdings000000000-2050803Restructuring of systems for ***agricultural*** surveys2 806 8120002 806 8121 895 013911 7990911 79968%2050806Enhancing public awareness of the common ***agricultural*** 14 560 00000014 560 00014 557 1962 80402 804100%2050809EAGF - Operational technical assistance4 140 000-1 000 000003 140 0002 491 709648 2910648 29179% TOTAL 2018 EAGF 43 234 516 899-1 400 0002 051 159 334045 284 276 23344 364 488 153919 788 080908 331 52611 456 554100%(a)MFFH = Multiannual Financial Framework Heading / T = Title / C = Chapter / A = Article / I = Item(b)For EAGF, the Amending Budget No 6/2017 concerns only item 05 01 04 01 and article 05 08 09: appropriations were reduced by EUR 0.9 million and EUR 1.0 million respectively.(c)The difference established in column (9) relates to unused appropriations for the reimbursement in relation to financial ***discipline*** in 2018 which cannot be used by the EAGF after 2018. (a)EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 5ANALYSIS OF BUDGETARY EXECUTION - 2018 FINANCIAL YEARMFFH TCAIHEADING39Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTin EUROSDetail TotalCHAPTER 67 : REVENUE CONCERNING EAGF 6 7 0 1 IC4Clearance of EAGF accounts – Assigned revenue861 884 003,5505 02 08 03196 155 472,4305 02 08 03C4Operational funds for producer organisations102 241 361,5605 03 01 10665 728 531,1205 03 01 10C4Basic payment scheme (BPS)310 811 116,06861 884 003,55413 052 477,62448 831 525,936 7 0 2 IC4EAGF Irregularities – Assigned revenue131 592 394,8905 03 01 10131 592 394,89C4Basic payment scheme (BPS)131 592 394,896 7 0 3 IC4Superlevy from milk producers – Assigned revenue3 884 635,1205 03 01 103 884 635,12C4Basic payment scheme (BPS)3 884 635,12135 477 030,01135 477 030,010,006 7 0 IC4Revenue concerning EAGF997 361 033,566 7 IC4REVENUE CONCERNING EAGFTOTAL Chapter 67997 361 033,56997 361 033,56548 529 507,63448 831 525,93TOTAL997 361 033,56TOTAL548 529 507,63448 831 525,9305 03 01 1005 03 01 10FundsDescriptionAmountCarriedforward to 2019Budgetary ItemAmountDetailTotalBudgetary Expenditure ItemITEMFundsDescriptionAmountLink - Budgetary AttributionAssigned Revenue 2018Use of Assigned RevenueDIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 6 Assigned revenue for policy area 05 (under shared management) Appropriations C4Commitment Appropriations40Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTin EUROSDetail TotalCHAPTER 67 : REVENUE CONCERNING EAGF 6 7 0 1 IC5Clearance of EAGF accounts – Assigned revenue603 292 064,3605 02 08 03203 844 527,5705 02 08 03C5Operational funds for producers organisations203 844 527,5705 03 01 10399 447 536,7905 03 01 01C5Basic payment scheme (BPS)399 447 536,79603 292 064,36603 292 064,366 7 0 2 IC5EAGF Irregularities – Assigned revenue0,006 7 0 3 IC5Superlevy from milk producers – Assigned revenue0,000,000,006 7 0 IC5Revenue concerning EAGF603 292 064,366 7 IC5REVENUE CONCERNING EAGFTOTAL Chapter 67 603 292 064,36603 292 064,36603 292 064,36TOTAL603 292 064,36TOTAL603 292 064,36FundsDescriptionAmountBudgetary ItemAmountDetailTotalBudgetary Expenditure ItemITEMFundsDescriptionAmountLink - Budgetary AttributionAssigned Revenue 2018Use of Assigned RevenueDIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 7 Assigned revenue for policy area 05 (under shared management) Appropriations C5 Commitment Appropriations41DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment Appropriationsin EUR million D E P R E C I A T I O N Sa = b + cbc = d+e+f+gdefg = h + i hiCEREALSBREAD MAKING QUALITY WHEATBARLEYRYEMAIZESORGHUMRICESUGARWHITE SUGARRAW SUGAROLIVE OILFIBRE FLAX AND HEMPPRODUCTS OF THE WINE-GROWING SECTOR/ ALCOHOLMILK PRODUCTS182,321,22181,1011,6942,91126,50126,50SKIMMED MILK182,321,22181,1011,6942,91126,50126,50BUTTER AND CREAMCHEESEBEEF MEATPIGMEAT T O T A L182,321,22181,1011,6942,91126,50126,50Difference between purchase and sales priceTotal depreciationPurchase depreciationComplementary depreciation end of the exerciceEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 8Budget 2018 - EXPENDITURE for INTERVENTION in STORAGEPRODUCTSTOTAL STORAGETOTAL PRIVATE STORAGETOTAL PUBLIC STORAGE P U B L I C S T O R A G E (Details)Technical costsFinancial costs42DIRECTORATE GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 - Budget management; BFOREAGF - 2018 FINANCIAL REPORTIn EUROSBudgetlineFund sourceHeadingBEBGCZDKDEEEIEELESFRHRITCYLVLT05 01 04 01C1Support expenditure for European ***Agriculture*** Guarantee Fund (EAGF) — Non-operational technical assistance05 01 04C1Support expenditure for operations and programmes in the ‘***Agriculture*** and rural development’ policy area00000000000000005 01 06 01C1Consumer, Health, ***Agriculture*** and Food Executive Agency — Contribution from the ***agricultural*** promotion programme05 01 06C1Executive agencies00000000000000005 01C1Administrative expenditure of the ‘***Agriculture*** and rural development’ policy area00000000000000005 02 01 99C1Other measures (cereals)1 338 8633 396 2949 084 32705 02 01C1Cereals000001 338 86300000003 396 2949 084 32705 02 06 05C1Quality improvement measures13 392 496523 79534 004 49305 02 06C1Olive oil000000013 392 4960523 795034 004 49300005 02 08 03C145 499 3111 413 4132 951 44926 118 291263 03612 725 583137 000 57253 485 309170 303 813758 819448 09005 02 08 03C472 148 89530 092 46605 02 08 03C514 614 202784 3331 837 22614 880 7454 105 7676 578 67725 923 67026 311 73078 842 97438 970252 75805 02 08 03C1,C4,C560 113 51302 197 7464 788 67540 999 03604 368 80319 304 260235 073 137109 889 5060249 146 787797 789700 848005 02 08 11C1Aid to producer groups for preliminary recognition1 981 6762 91105 02 08 12C1School fruit scheme220 490548 422462 6831 503 832646 4521 044 2445 16340 61530 42566 66205 02 08 99C1Other measures (fruit and vegetables)859 6441 700 1681 003 42762 693555 00205 02 08C145 719 8021 981 6761 961 8353 414 13227 622 1230263 03613 585 227139 347 19254 532 4651 008 590170 407 1211 344 247448 09066 66205 02 08C40000000072 148 89530 092 4660000005 02 08C514 614 2020784 3331 837 22614 880 74504 105 7676 578 67725 923 67026 311 730078 842 97438 970252 758005 02 08C1,C4,C560 334 0031 981 6762 746 1685 251 35842 502 86804 368 80320 163 904237 419 757110 936 6621 008 590249 250 0951 383 217700 84866 66205 02 09 08C1National support programmes for the wine sector24 339 9895 115 51333 515 02914 625 985161 384 689280 544 9975 591 596308 581 4064 645 86905 02 09 99C1Other measures (wine-growing sector)90 39770205 02 09C1Products of the wine-growing sector024 339 9895 115 513033 515 0290014 625 985161 475 086280 544 9975 591 596308 582 1084 645 8690005 02 10 01C1Promotion measures — Payments by Member States3 662 816577 9261 295 7771 654 2601 202 94096 6761 647 17512 262 4589 266 40411 409 75214 121 2221 464 901377 9581 967 84805 02 10 02C1Promotion measures — Direct payments by the Union05 02 10C1Promotion3 662 816577 9261 295 7771 654 2601 202 94096 6761 647 17512 262 4589 266 40411 409 752014 121 2221 464 901377 9581 967 84805 02 11 03C1Hops — Aid to producer organisations2 277 00005 02 11 04C1POSEI (excluding direct payments)5 259 24375 336 589124 773 12105 02 11 99C1Other measures (other plant products/measures)42 284127 88205 02 11C1Other plant products/measures00002 277 000005 259 24375 378 873124 773 1210127 88200005 02 12 02C1Storage measures for skimmed-milk powder34 390 1851 899 22433 149 770335 91319 529 4202 157 85938 113 8602 727 21915 390 84505 02 12 08C1School milk49 60086 719556 443200 9554 27791 2747 28051 4824 466 14332 6581 538 46674 2222 35705 02 12 99C1Other measures (milk and milk products)-14 101-403-4451 770-19 302-115 256-14 71705 02 12C1Milk and milk products34 425 68401 985 944556 04033 350 280340 19019 622 4647 2802 190 03942 464 74717 9421 538 46674 2222 729 57715 390 84505 02 13 01C1Refunds for beef and veal05 02 13 04C1Refunds for live animals31 89005 02 13 99C1Other measures (beef and veal)-2 411-8 155-3 84905 02 13C1Beef and veal-2 41100031 8900000-8 1550-3 84900005 02 14 99C1Other measures (sheepmeat and goatmeat)-1 321-7105 02 14C1Sheepmeat and goatmeat000000000-1 3210-7100005 02 15 01C1Refunds for pigmeat05 02 15 05C1Refunds for poultrymeat12 25505 02 15 06C1Specific aid for bee-keeping249 313977 6961 250 506152 2841 367 33681 19536 3303 408 6765 151 9953 670 5801 130 5282 892 55184 350192 869314 62105 02 15 99C1Other measures (pigmeat, poultry, eggs, bee-keeping, other animal products)-229 105 243-1 90505 02 15C1Pigmeat, eggs and poultry, bee-keeping and other animal products249 311977 6961 250 506152 2841 379 59181 19536 3303 408 6765 151 99532 775 8241 130 5282 890 64584 350192 869314 62105 02 18 00C1School schemes1 090 3423 748 8686 139 178812 40830 831 3771 304 5022 552 29214 188 8201 871 204984 74029 795 935200 9071 546 2952 110 34405 02 18C1School schemes1 090 3423 748 8686 139 178812 40830 831 3771 304 5022 552 292014 188 8201 871 204984 74029 795 935200 9071 546 2952 110 34405 02C185 145 54331 626 15617 748 7536 589 123130 210 2303 161 42624 121 29662 541 366406 998 409548 886 4308 733 396561 463 9547 814 4958 691 08228 934 64605 02C40000000072 148 89530 092 4660000005 02C514 614 2020784 3331 837 22614 880 74504 105 7676 578 67725 923 67026 311 730078 842 97438 970252 758005 02C1,C4,C599 759 74531 626 15618 533 0868 426 349145 090 9753 161 42628 227 06469 120 043505 070 975605 290 6268 733 396640 306 9287 853 4658 943 84028 934 646EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 9Budget 2018 - EXPENDITURE BY MEMBER STATE, BY ITEM AND BY FUND SOURCE (\*) (\*\*)Commitment AppropriationsOperational funds for producer organisationsFruit and vegetablesImproving the competitiveness of the ***agricultural*** sector through interventions in ***agricultural*** markets43DIRECTORATE GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. 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ResourcesR.1 - Budget management; BFOREAGF - 2018 FINANCIAL REPORTIn EUROSBudgetlineFund sourceHeadingBEBGCZDKDEEEIEELESFRHRITCYLVLT05 04 01 14C1Completion of rural development financed by the EAGGF Guarantee Section — Programming period 2000 to 2006-1 957-7 292-27-6 214-472 76105 04 01C1Completion of rural development financed by the EAGGF Guarantee Section — Programming period 2000 to 2006000-1 957-7 29200-270-6 2140-472 76100005 04C1Rural development000-1 957-7 29200-270-6 2140-472 76100005 07 01 02C1Monitoring and preventive measures — Direct payments by the Union (\*\*\*)05 07 01 06C1Expenditure for financial corrections in favour of Member States following decisions on accounting clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF329 2122 897 51494 428870 4297 284 73911 68905 07 01 07C1Expenditure for financial corrections in favour of Member States following decisions on conformity clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF3 291 7781 866 97705 07 01C1Control of ***agricultural*** expenditure000329 2122 897 51494 428870 4293 291 7781 866 977007 284 73911 6890005 07 02 00C1Settlement of disputes7 654 2076 617 94036 582 058427 544694 1552 503 65024 024 32005 07 02C1Settlement of disputes7 654 207006 617 94036 582 0580427 544694 1552 503 65024 024 3200000005 07C1Audit of ***agricultural*** expenditure financed by the European ***Agricultural*** Guarantee Fund (EAGF)7 654 207006 947 15239 479 57294 4281 297 9733 985 9324 370 62724 024 32007 284 73911 6890005 08 01C1Farm Accountancy Data Network (FADN)05 08 03C1Restructuring of systems for ***agricultural*** surveys05 08 06C1Enhancing public awareness of the common ***agricultural*** policy05 08 09C1European ***Agricultural*** Guarantee Fund (EAGF) — Operational technical assistance05 08C1Policy strategy and coordination of the ‘***Agriculture*** and rural development’ policy area000000000000000534 445 477807 836 315841 140 350830 503 0244 925 285 213124 553 6971 206 776 1412 093 088 8645 255 170 2847 666 395 024248 877 2343 840 232 14756 915 115234 865 468487 557 6136 085 0807 656 71010 760 49110 264 98257 789 2701 283 75613 088 00216 157 13354 846 58286 455 645036 372 249355 7841 944 1393 885 728190 43900214 8681 719 91401 891 1531 119 153102 694 37140 148 281329 700175 476 96000068 141 0580784 3331 838 46014 907 57604 784 8766 578 677169 091 05429 831 4772 681270 729 15638 970252 7580608 862 053815 493 025852 685 174842 821 3344 999 701 973125 837 4531 226 540 1722 116 943 8275 581 802 2927 822 830 428249 209 6154 322 810 51357 309 869237 062 365491 443 341Sub-total EAGF Expenditure Fund source C1Sub-total EAGF Expenditure Fund source C2Sub-total EAGF Expenditure Fund source C4Sub-total EAGF Expenditure Fund source C5TOTAL 2018 EAGF EXPENDITURE BY MEMBER STATE(\*\*\*) Recovery Order of EUR 6 236 EUR (fund source C5) made by the Joint Research Centre not included.EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 9Budget 2018 - EXPENDITURE BY MEMBER STATE, BY ITEM AND BY FUND SOURCE (\*) (\*\*)Commitment Appropriations(\*) The table only shows budget items/articles for which expenditure occurred in 2018.(\*\*) In 2018, the amount paid out was EUR 526 116.83 less due to suspended amounts for Poland.45DIRECTORATE GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 - Budget management; BFOREAGF - 2018 FINANCIAL REPORTIn EUROSBudgetlineFund sourceHeadingLUHUMTNLATPLPTROSISKFISEUKEUGrand Total05 01 04 01C1Support expenditure for European ***Agriculture*** Guarantee Fund (EAGF) — Non-operational technical assistance6 796 0766 796 07605 01 04C1Support expenditure for operations and programmes in the ‘***Agriculture*** and rural development’ policy area00000000000006 796 0766 796 07605 01 06 01C1Consumer, Health, ***Agriculture*** and Food Executive Agency — Contribution from the ***agricultural*** promotion programme3 080 0003 080 00005 01 06C1Executive agencies00000000000003 080 0003 080 00005 01C1Administrative expenditure of the ‘***Agriculture*** and rural development’ policy area00000000000009 876 0769 876 07605 02 01 99C1Other measures (cereals)1 078 47314 897 95705 02 01C1Cereals00000000001 078 47300014 897 95705 02 06 05C1Quality improvement measures47 920 78405 02 06C1Olive oil0000000000000047 920 78405 02 08 03C13 880 43112 947 0645 252 3825 650 79110 728 226860 1551 394 7931 287 9495 736 11126 109 093524 814 68205 02 08 03C4102 241 36205 02 08 03C5576 0129 821 0162 953 893383 6271 506 045162 7421 019 531809 43312 441 178203 844 52805 02 08 03C1,C4,C504 456 443022 768 0808 206 2756 034 41812 234 272860 15501 557 5352 307 4806 545 54338 550 2710830 900 57105 02 08 11C1Aid to producer groups for preliminary recognition53 0752 807 3284 844 99005 02 08 12C1School fruit scheme641 323528 660570 6293 549 6609 859 26005 02 08 99C1Other measures (fruit and vegetables)51 28315 275 65333 95719 541 82705 02 08C103 933 506012 998 3475 893 70524 262 43211 332 8134 409 81401 394 7931 287 9495 736 11126 109 0930559 060 75905 02 08C400000000000000102 241 36205 02 08C50576 01209 821 0162 953 893383 6271 506 04500162 7421 019 531809 43312 441 1780203 844 52805 02 08C1,C4,C504 509 518022 819 3628 847 59724 646 05812 838 8584 409 81401 557 5352 307 4806 545 54338 550 2710865 146 64805 02 09 08C1National support programmes for the wine sector27 240 74111 786 48765 207 56416 583 1225 044 9453 795 105968 003 03805 02 09 99C1Other measures (wine-growing sector)91 10005 02 09C1Products of the wine-growing sector027 240 7410011 786 487065 207 56416 583 1225 044 9453 795 1050000968 094 13805 02 10 01C1Promotion measures — Payments by Member States1 919 1002 270 2973 818 381893 956271 0511 002 9021 430 90772 614 70605 02 10 02C1Promotion measures — Direct payments by the Union88 600 00088 600 00005 02 10C1Promotion0001 919 1002 270 2973 818 381893 956271 0511 002 9020001 430 90788 600 000161 214 70605 02 11 03C1Hops — Aid to producer organisations2 277 00005 02 11 04C1POSEI (excluding direct payments)23 381 883228 750 83605 02 11 99C1Other measures (other plant products/measures)170 16605 02 11C1Other plant products/measures00000023 381 8830000000231 198 00205 02 12 02C1Storage measures for skimmed-milk powder17 642 56410 694 825109 8701 981 2864 201 089182 323 93005 02 12 08C1School milk7 85955 65351 40983 436165 903725 5644 699 795162 897287 4394 727 072926 94619 055 85105 02 12 99C1Other measures (milk and milk products)-46-104-135 900-298 50505 02 12C1Milk and milk products7 85955 653017 693 97383 43610 860 728725 5644 699 7490272 7672 268 6214 727 0724 992 1340201 081 27505 02 13 01C1Refunds for beef and veal112 3110112 31105 02 13 04C1Refunds for live animals31 89005 02 13 99C1Other measures (beef and veal)-14 41505 02 13C1Beef and veal00000112 31100000000129 78705 02 14 99C1Other measures (sheepmeat and goatmeat)-1 39105 02 14C1Sheepmeat and goatmeat00000000000000-1 39105 02 15 01C1Refunds for pigmeat111105 02 15 05C1Refunds for poultrymeat12 25505 02 15 06C1Specific aid for bee-keeping18 0492 503 0608 304173 927870 7122 928 661992 2493 583 874343 879551 688110 981312 889552 45333 911 55505 02 15 99C1Other measures (pigmeat, poultry, eggs, bee-keeping, other animal products)963 385-41 48630 025 23405 02 15C1Pigmeat, eggs and poultry, bee-keeping and other animal products18 0492 503 0608 304173 927870 7123 892 045992 2493 542 388343 879551 688110 981312 889552 464063 949 05605 02 18 00C1School schemes447 3346 048 734163 6357 700 2082 521 26425 363 4886 450 511950 1133 310 6782 773 4992 911 216155 817 89205 02 18C1School schemes447 3346 048 734163 6357 700 2082 521 26425 363 48806 450 511950 1133 310 6782 773 49902 911 2160155 817 89205 02C1473 24239 781 694171 93940 485 55523 425 90068 309 386102 534 02935 956 6367 341 8399 325 0317 519 52210 776 07235 995 81488 600 0002 403 362 96505 02C400000000000000102 241 36205 02C50576 01209 821 0162 953 893383 6271 506 04500162 7421 019 531809 43312 441 1780203 844 52805 02C1,C4,C5473 24240 357 706171 93950 306 57126 379 79368 693 013104 040 07535 956 6367 341 8399 487 7738 539 05311 585 50548 436 99288 600 0002 709 448 854 EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 9Budget 2018 - EXPENDITURE BY MEMBER STATE, BY ITEM AND BY FUND SOURCE (\*) (\*\*)Commitment AppropriationsOperational funds for producer organisationsFruit and vegetablesImproving the competitiveness of the ***agricultural*** sector through interventions in ***agricultural*** markets46DIRECTORATE GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. 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ResourcesR.1 - Budget management; BFOREAGF - 2018 FINANCIAL REPORTIn EUROSBudgetlineFund sourceHeadingLUHUMTNLATPLPTROSISKFISEUKEUGrand Total05 04 01 14C1Completion of rural development financed by the EAGGF Guarantee Section — Programming period 2000 to 2006-272-488 52305 04 01C1Completion of rural development financed by the EAGGF Guarantee Section — Programming period 2000 to 2006000000-2720000000-488 52305 04C1Rural development000000-2720000000-488 52305 07 01 02C1Monitoring and preventive measures — Direct payments by the Union (\*\*\*)9 279 9729 279 97205 07 01 06C1Expenditure for financial corrections in favour of Member States following decisions on accounting clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF72 1270553 42127114 93212 228 51905 07 01 07C1Expenditure for financial corrections in favour of Member States following decisions on conformity clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF5 158 75505 07 01C1Control of ***agricultural*** expenditure72 12700000553 4210270114 932009 279 97226 667 24605 07 02 00C1Settlement of disputes7 958 0261 677 398159139 563495 43088 774 44805 07 02C1Settlement of disputes0007 958 0261 677 3980159000139 563495 4300088 774 44805 07C1Audit of ***agricultural*** expenditure financed by the European ***Agricultural*** Guarantee Fund (EAGF)72 127007 958 0261 677 3980553 5800270254 496495 43009 279 972115 441 69405 08 01C1Farm Accountancy Data Network (FADN)14 743 55914 743 55905 08 03C1Restructuring of systems for ***agricultural*** surveys1 895 0131 895 01305 08 06C1Enhancing public awareness of the common ***agricultural*** policy14 557 19614 557 19605 08 09C1European ***Agricultural*** Guarantee Fund (EAGF) — Operational technical assistance2 491 7092 491 70905 08C1Policy strategy and coordination of the ‘***Agriculture*** and rural development’ policy area000000000000033 687 47733 687 47733 202 1231 304 597 8135 242 433758 735 758707 679 5963 408 356 105760 814 7021 794 193 530141 310 210442 295 965525 268 925688 311 3562 905 886 042141 443 52442 770 980 046406 32014 822 24733 5358 805 6796 870 50924 551 2576 696 62216 328 661904 6565 473 5925 882 0437 711 55036 248 0760441 680 299001 595769 7971 890 2030178 32402 841043 925682 035221 175 9490548 529 50816 739576 012010 252 9242 953 893383 6271 911 38600162 7421 057 4821 025 76517 970 4200603 292 06433 625 1821 319 996 0715 277 562778 564 158719 394 2003 433 290 989769 601 0341 810 522 191142 217 707447 932 299532 252 374697 730 7063 181 280 487141 443 52444 364 481 917Sub-total EAGF Expenditure Fund source C1Sub-total EAGF Expenditure Fund source C2Sub-total EAGF Expenditure Fund source C4Sub-total EAGF Expenditure Fund source C5TOTAL 2018 EAGF EXPENDITURE BY MEMBER STATE(\*\*\*) Recovery Order of EUR 6 236 EUR (fund source C5) made by the Joint Research Centre not included. EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 9Budget 2018 - EXPENDITURE BY MEMBER STATE, BY ITEM AND BY FUND SOURCE (\*) (\*\*)Commitment Appropriations(\*) The table only shows budget items/articles for which expenditure occurred in 2018.(\*\*) In 2018, the amount paid out was EUR 526 116.83 less due to suspended amounts for Poland.48Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment AppropriationsIn EUR millionMEASURE05 01 04 Support expenditure of Policy Area ***Agriculture*** and Rural Development 8,027,217,907,995,366,196,8005 01 06 Contribution for expenditure of the executive agencies---0,171,562,503,0805 01 ADMINISTRATIVE ***AGRICULTURAL*** EXPENDITURE 8,027,217,908,156,928,699,8805 02 01 Cereals41,870,092,460,000,000,0014,9005 02 02 Rice0,000,000,010,000,000,000,0005 02 03 Refunds on non-Annex 1 products9,124,880,130,050,000,000,0005 02 04 Food programmes 515,07491,53-7,24-3,230,000,000,0005 02 05 Sugar-0,23-0,150,460,000,000,000,0005 02 06 Olive oil55,3560,9443,0344,0745,9942,7747,9205 02 07 Textile plants25,1617,146,276,136,136,130,0005 02 08 Fruit and vegetables1 071,211 138,091 010,531 118,571 172,72995,42865,1505 02 09 Products of the wine-growing sector1 072,051 044,231 022,391 029,821 027,131 011,75968,0905 02 10 Promotion48,7151,4854,7367,5281,07122,26161,2105 02 11 Other plant products/measures328,93227,65240,75240,02242,01236,86231,2005 02 12 Milk and milk products67,0170,3571,79119,60406,58468,02201,0805 02 13 Beef and veal37,336,490,440,1530,2123,650,1305 02 14 Sheepmeat and goatmeat0,000,000,000,001,843,510,0005 02 15 Pigmeat, eggs and poultry, bee-keeping and other animal products134,4280,5232,9244,18140,6090,7463,9505 02 18School Schemes-----------155,8205 02INTERVENTIONS IN ***AGRICULTURAL*** MARKETS 3 406,013 193,232 478,672 666,893 154,283 001,112 709,4505 03 01 Decoupled direct payments37 665,4738 842,1138 952,0638 293,4835 204,0935 366,1735 304,8205 03 02 Other direct payments3 213,932 815,992 707,593 020,545 384,685 759,415 750,0105 03 03 Additional amounts of aid0,640,170,030,040,010,000,0105 03 09 Reimbursement of direct payments in relation to financial ***discipline***---853,97395,36425,58441,6805 03DIRECT PAYMENTS40 880,0341 658,2841 659,6842 168,0440 984,1341 551,1641 496,5205 04 01 Rural development financed by the EAGGF Guarantee Section — Completion of earlier programmes (2000 to 2006)-2,80-1,03-1,40-1,29-1,05-0,52-0,4905 04 03 Other measures0,000,000,000,000,000,000,0005 04RURAL DEVELOPMENT (by ex-EAGGF Guarantee Section)-2,80-1,03-1,40-1,29-1,05-0,52-0,4905 07 01 Control of ***agricultural*** expenditure71,23119,2526,5156,8259,08151,4226,6705 07 02 Settlement of disputes39,130,3292,331,6752,370,0088,7705 07AUDIT OF ***AGRICULTURAL*** EXPENDITURE110,37119,58118,8458,49111,45151,42115,4405 08 01 Farm Accountancy Data Network (FADN)14,2814,5214,5214,7215,0814,7314,7405 08 02 Surveys on the structure of ***agricultural*** holdings19,910,000,2519,320,000,250,0005 08 03 Restructuring of systems for ***agricultural*** surveys1,511,541,754,664,2813,671,9005 08 06 Enhancing public awareness of the common ***agricultural*** policy7,917,9610,777,297,9316,2514,5605 08 09 European ***Agricultural*** Guarantee Fund (EAGF) — Operational technical assistance1,462,711,671,852,092,062,4905 08POLICY STRATEGY & COORDINATION OF ***AGRICULTURE*** & RURAL DEVELOPMENT POLICY AREA45,0826,7328,9647,8429,3846,9633,6911 01 04 Support expenditure for operations in the ‘Maritime affairs and fisheries’ policy area0,530,78-----11 01ADMINISTRATIVE EXPENDITURE OF THE ‘MARITIME AFFAIRS AND FISHERIES’ POLICY AREA0,530,78-----11 02 01 Intervention in fishery products14,9516,44-----11 02 03 Fisheries programme for the outermost regions15,0015,00-----11 02FISHERIES MARKETS29,9431,44-----17 01 04 Support expenditure for veterinary operations 2,642,64-----17 01ADMINISTRATIVE VETERINARY EXPENDITURE2,642,64-----17 03 02 Community tobacco fund - Direct payments by the European Union0,00------17 03PUBLIC HEALTH0,00------17 04 01 Animal disease eradication and monitoring programmes and monitoring of the physical conditions of animals that could pose a public health risk linked to an external factor202,18197,39-----17 04 02 Other measures in the veterinary, animal welfare and public health field18,8713,75-----17 04 03 Emergency fund for veterinary complaints and other animal contaminations which are a risk to public health2,618,00-----17 04 04 Plant-health measures12,8010,23-----17 04 05 Other measures-------17 04 07 Feed and food safety and related activities29,3133,91-----17 04FOOD SAFETY, ANIMAL HEALTH, ANIMAL WELFARE AND PLANT HEALTH265,77263,29-----TOTAL EAGF EXPENDITURE 44 745,5945 302,1444 292,6544 948,1244 285,1144 758,8244 364,4805 02 16 Sugar Restructuring Fund (fund sources C4 and C5) (\*)109,70-----,TOTAL EXPENDITURE 44 855,2945 302,1444 292,6544 948,1244 285,1144 758,8244 364,48(\*) Payments made on the basis of the assigned revenue foreseen in article 11 of Regulation 320/2006 (Temporary restructuring amounts in the sugar sector)20162017DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 10 EVOLUTION OF EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND EXPENDITURE BY ARTICLE - 2012 to 2018 FINANCIAL YEARSBudget Line2012201320142015201849DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment Appropriations In EUR million and in %BE649,61,5%3,73,4%653,41,5%645,01,4%612,31,4%625,41,4%610,11,4%592,81,3%608,91,4%BEBG425,00,9%0,00,0%425,00,9%537,51,2%602,11,4%674,21,5%742,91,7%811,61,8%815,51,8%BGCZ768,91,7%0,00,0%768,91,7%838,11,9%893,92,0%898,42,0%861,81,9%865,31,9%852,71,9%CZDK954,12,1%1,11,0%955,22,1%946,02,1%937,22,1%936,52,1%876,62,0%865,51,9%842,81,9%DKDE5 443,812,2%2,92,6%5 446,712,1%5 355,111,8%5 197,311,7%5 250,411,7%5 135,311,6%5 048,311,3%4 999,711,3%DEEE91,40,2%0,00,0%91,40,2%95,40,2%100,30,2%119,40,3%122,40,3%124,40,3%125,80,3%EEIE1 293,22,9%0,00,0%1 293,22,9%1 258,02,8%1 235,32,8%1 231,82,7%1 232,52,8%1 232,22,8%1 226,52,8%IEEL2 416,45,4%0,00,0%2 416,45,4%2 346,25,2%2 292,65,2%2 229,25,0%2 157,44,9%2 111,64,7%2 116,94,8%ELES5 847,313,1%21,419,5%5 868,713,1%5 935,413,1%5 582,812,6%5 640,212,5%5 650,612,8%5 619,712,6%5 581,812,6%ESFR8 642,419,3%13,312,1%8 655,719,3%8 601,919,0%8 370,118,9%8 165,118,2%7 691,417,4%8 005,517,9%7 822,817,6%FRHR------0,00,0%96,40,2%165,50,4%190,00,4%209,30,5%249,20,6%HRIT4 787,010,7%26,924,5%4 813,910,7%4 662,310,3%4 516,110,2%4 555,910,1%4 494,410,1%4 444,39,9%4 322,89,7%ITCY46,20,1%0,00,0%46,20,1%50,20,1%57,00,1%59,10,1%58,00,1%57,00,1%57,30,1%CYLV126,80,3%0,80,8%127,60,3%148,40,3%147,80,3%167,70,4%189,70,4%218,70,5%237,10,5%LVLT330,40,7%1,71,5%332,10,7%357,20,8%384,10,9%414,00,9%440,41,0%449,91,0%491,41,1%LTLU35,00,1%0,00,0%35,00,1%34,30,1%33,50,1%33,70,1%34,50,1%34,60,1%33,60,1%LUHU1 144,12,6%21,319,4%1 165,42,6%1 272,02,8%1 336,93,0%1 334,03,0%1 321,43,0%1 312,42,9%1 320,03,0%HUMT5,60,0%0,00,0%5,60,0%5,70,0%5,60,0%5,70,0%5,50,0%5,70,0%5,30,0%MTNL927,52,1%0,10,1%927,62,1%905,62,0%852,21,9%883,92,0%819,41,9%822,01,8%778,61,8%NLAT743,91,7%0,00,0%743,91,7%730,01,6%720,61,6%727,81,6%722,61,6%721,81,6%719,41,6%ATPL2 836,16%11,710,6%2 847,76,3%3 184,57%3 215,37%3 572,78%3 603,28,1%3 482,87,8%3 433,37,7%PLPT775,61,7%0,10,1%775,71,7%769,41,7%736,11,7%754,71,7%760,21,7%770,21,7%769,61,7%PTRO1 022,32,3%0,00,0%1 022,32,3%1 206,82,7%1 334,53,0%1 461,03,3%1 568,43,5%1 828,44,1%1 810,54,1%ROSI125,30,3%0,00,0%125,30,3%138,80,3%146,50,3%143,00,3%146,70,3%144,50,3%142,20,3%SISK332,60,7%0,00,0%332,60,7%363,50,8%380,90,9%439,61,0%435,81,0%443,81,0%447,91,0%SKFI550,41,2%1,91,8%552,31,2%541,51,2%524,71,2%542,71,2%538,51,2%537,81,2%532,31,2%FISE713,21,6%2,72,5%715,91,6%701,91,5%693,71,6%701,31,6%689,01,6%707,11,6%697,71,6%SEUK3 351,77,5%0,00,0%3 351,77,5%3 331,37,4%3 241,87,3%3 150,47,0%3 122,57,1%3 172,47,1%3 181,37,2%UKEU (4)359,80,8%0,00,0%359,80,8%340,20,8%45,20,1%64,70,1%63,90,1%119,40,3%141,40,3%EU (4)44 745,6100%45 302,1100%44 292,7100%44 948,1100%44 285,1100%44 758,8100%44 364,5100%109,7100%------------ TOTAL EXPENDITURE44 855,3100%45 302,1100%44 292,7100%44 948,1100%44 285,1100%44 758,8100%44 364,5100%(1) In 2016, the amount paid out was EUR 184.8 million less due to suspended amounts for France (EUR 175.4 million) and Poland (EUR 9.4 million).(2) In 2017, the amount paid out was EUR 3.0 million less due to suspended amounts for Poland. For France the suspended amount (EUR 4.8 million) has been completely reimbursed.(3) SRF : Sugar Restructuring Fund. Payments made on the basis of the assigned revenue foreseen in article 11 of Regulation 320/2006. Temporary restructuring amounts in the sugar sector.(4) Expenditure made directly by the Commission.EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDEVOLUTION OF EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND EXPENDITURE BY MEMBER STATE - 2012 to 2018 Financial years2017 (2)2018 (2)EAGFSRF (3)EAGFEAGFEAGFEAGFTOTAL EAGFMember StateEU 28EAGFSRF (3)TOTALEAGFANNEX 11 Member State20122013201420152016 (1)50Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment Appropriations In EUR millionMEASURE201220132014201520162017201805 03 01 01 SPS (single payment scheme)31 080,52931 393,93330 834,24029 281,97243,41619,03314,27505 03 01 02 SAPS (single area payment scheme)5 915,6826 681,1977 366,4377 770,3004 032,3844 068,1234 177,30705 03 01 03 Separate sugar payment281,153280,142274,493277,5430,1650,3300,00005 03 01 04 Separate fruit and vegetables payment12,33212,29011,94212,1500,0950,0000,00005 03 01 05 Specific support (article 68) — Decoupled direct payments376,755463,237457,416500,566-2,2710,2790,00005 03 01 06 Separate soft fruit payment-11,48011,37111,4240,0000,0000,00005 03 01 07 Redistributive payment---440,0521 237,0731 615,6721 650,81605 03 01 10 Basic payment scheme (BPS)----17 857,57517 540,16117 300,84605 03 01 11 Payment for ***agricultural*** practices beneficial for the climate and the environment----11 716,39911 767,13311 774,59505 03 01 12 Payment for farmers in areas with natural constraints----2,7942,7634,91505 03 01 13 Payment for young farmers----317,041352,787381,61205 03 01 99 Other (decoupled direct payments)-0,985-0,169-3,843-0,523-0,579-0,1150,45205 03 01 Decoupled direct payments37 665,46538 842,10938 952,05538 293,48535 204,09135 366,16635 304,81905 03 02 01 Crop area payments3,4143,618-----05 03 02 04 Supplementary aid for durum wheat: traditional production zones-0,8380,191-----05 03 02 05 Production aid for seeds22,4160,189-----05 03 02 06 Suckler-cow premium933,971921,054899,017880,8160,6050,396-05 03 02 07 Additional suckler-cow premium49,78848,97847,36948,2770,0160,030-05 03 02 08 Beef special premium72,7260,149-----05 03 02 09 Beef slaughter premium — Calves7,3430,004-----05 03 02 10 Beef slaughter premium — Adults50,4730,410-----05 03 02 13 Sheep and goat premium22,34021,13921,86721,5590,3260,213-05 03 02 14 Sheep and goat supplementary premium6,8246,8216,7846,8400,0520,012-05 03 02 18 Payments to starch potato producers100,4870,135-----05 03 02 19 Area aid for rice152,8400,265-----05 03 02 21 Aid for olive groves1,2600,284-----05 03 02 22 Tobacco premium0,0980,038-----05 03 02 23 Hops area aid0,0000,000-----05 03 02 24 Specific quality premium for durum wheat-0,1610,347-----05 03 02 25 Protein crop premium43,5640,719-----05 03 02 26 Area payments for nuts87,7140,786-----05 03 02 27 Aid for energy crops0,201------05 03 02 28 Aid for silkworms0,3560,4150,3980,440---05 03 02 36 Payments for specific types of farming and quality production113,8831,3070,0810,088---05 03 02 39 Additional amount for sugar beet and cane producers23,00720,94018,5130,174---05 03 02 40 Area aid for cotton245,812242,262231,805244,017243,861233,799243,74805 03 02 41 Transitional fruit and vegetables payment — Tomatoes20,4340,740-----05 03 02 42 Transitional fruit and vegetables payment — Other products than tomatoes34,72834,2930,0180,174---05 03 02 43 Transitional soft fruit payment10,9570,007-----05 03 02 44 Specific support (article 68) — Coupled direct payments785,5141 046,5061 062,3631 397,9525,4400,6440,85805 03 02 50 POSEI — Community support programmes411,085457,955409,732410,893410,729410,112422,00705 03 02 51 POSEI — Other direct payments and earlier regimes0,0100,000-----05 03 02 52 POSEI — Aegean Islands17,89816,15616,31615,72916,05916,39416,76505 03 02 60 Voluntary coupled support scheme3 800,5573 898,8294 033,18905 03 02 61 Small farmers scheme907,7081 201,0741 035,58605 03 02 99 Other (direct payments)-4,216-9,714-6,672-6,416-0,674-2,095-2,14305 03 02 Other direct payments 3 213,9272 815,9952 707,5913 020,5445 384,6785 759,4085 750,01005 03 03 Additional amounts of aid0,6380,1730,0330,0430,0060,0030,00605 03 09 Reimbursement of direct payments in relation to financial ***discipline***---853,965395,357425,580441,680TOTAL EAGF DIRECT PAYMENTS EXPENDITURE 40 880,03041 658,27741 659,67942 168,03840 984,13141 551,15641 496,516DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTANNEX 12EAGF - EVOLUTION OF EXPENDITURE FOR DIRECT PAYMENTS BY MEASURE 2012 to 2018 Financial yearsBUDGET LINEEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND51Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTHEADING20112012Private storagePublic storageTOTAL STORAGE & %Private storagePublic storageTOTAL STORAGE & %Private storagePublic storagePrivate storagePublic storageCEREALS--189,47-189,4797,35%-1,571,579,06%-0,090,090,35%----RICE----------------SUGAR-0,000,000,00%------------OLIVE OIL----12,19-12,1970,12%17,20-17,2068,54%-0,05--0,05-0,97%FIBRE FLAX AND HEMP1,25-1,25-0,64%0,05-0,050,26%--------FRUIT AND VEGETABLES----------------WINE-GROWING SECTOR / ALCOHOL0,311,621,92-0,99%0,040,110,150,85%0,70-0,702,81%1,01-1,0119,81%MILK PRODUCTS8,25-72,91-64,6733,22%7,82-10,21-2,39-13,75%7,10-7,1028,30%4,14-4,1481,17%BEEF MEAT0,01-0,010,00%------------SHEEP AND GOAT MEAT----------------PIG MEAT56,32-56,32-28,94%5,82-5,8233,47%--------66,13-260,7725,91-8,5225,010,095,100,00TOTAL -194,6317,38HEADING20152016Private storagePublic storageTOTAL STORAGE & %Private storagePublic storageTOTAL STORAGE & %Private storagePublic storagePrivate storagePublic storageCEREALS----------------RICE----------------SUGAR----------------OLIVE OIL-0,01--0,01-0,04%-0,10--0,10-0,19%--------FIBRE FLAX AND HEMP----------------FRUIT AND VEGETABLES----------------WINE-GROWING SECTOR / ALCOHOL---------0,13--0,13-0,48%----MILK PRODUCTS6,800,136,9237,61%14,577,0821,6541,34%16,699,5826,2795,25%1,22181,10182,32100,00%BEEF MEAT----------------SHEEP AND GOAT MEAT----------------PIG MEAT11,49-11,4962,43%30,82-30,8258,85%1,44-1,445,23%----18,280,1345,287,0818,009,581,22181,10TOTAL 18,4152,36TOTAL STORAGE & %TOTAL STORAGE & %27,58182,32in EUR Million2017201820132014TOTAL STORAGE & %TOTAL STORAGE & %25,105,10DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 13Evolution of EAGF storage expenditure 2011 - 2018in EUR Million52Directorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCommitment Appropriations201217,4146,740 880,03 344,5359,8-2,8201325,162,441 658,33 217,2340,2-1,020145,14,541 659,72 579,645,2-1,4201518,40,342 168,0\*2 698,064,7-1,3201652,40,640 984,1\*3 185,263,9-1,0201727,60,041 551,2\*3 061,1119,4-0,52018182,30,241 496,5\*2 544,6141,4-0,5\* Includes reimbursement of direct payments in relation to financial ***discipline*** (budget article 05 03 09)RURAL DEVELOPMENT44 745,645 302,144 292,7OTHER MARKET MEASURES44 364,5in EUR MillionDIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTEAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 14EVOLUTION of THE BREAKDOWN of EAGF EXPENDITURE - 2012 to 2018 Financial yearsFINANCIAL YEARBUDGET EXECUTIONSTORAGE EXPORT REFUNDSDIRECT PAYMENTS44 948,144 285,144 758,8DIRECT MANAGEMENT PAYMENTS53DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. ResourcesR.1 Budget management; BFOREAGF - 2018 FINANCIAL REPORTCase NumberMember StateChallenged amount EURC-252/18PEL-305 662 009,07C-341/17PEL-43 753 608,97C-358/18PPL-55 517 499,79C-587/17PBE-9 601 619,00C-6/18PEL-11 117 321,89T-135/15IT-93 304 842,09T-139/15HU-11 709 400,00T-14/18EL-18 583 893,42T-156/15FR-380 309 537,63T-19/18LT-453 630,71T-21/18PL-74 956 008,01T-237/17ES-4 626 033,02T-239/17DE-1 964 861,71T-241/17PL-25 708 035,13T-26/18FR-120 647 753,58T-292/18PT-1 052 101,05T-295/18EL-588 103,59T-31/17PT-660 202,73T-34/16LT-1 113 589,65T-459/16ES-269 203 410,98T-474/17PT-3 674 018,51T-480/17EL-894 913,56T-49/17ES-13 186 203,91T-506/18PL-2 858 182,52T-507/18FR-1 933 209,49T-51/17PL-115 800 948,62T-598/17IT-197 205 494,45T-602/17ES-7 097 397,27T-609/17FR-120 901 216,61Total -1 894 085 046,96ANNEX 15APPEALS AGAINST CLEARANCE DECISIONS PENDING ON 15 October 2018EAGF- EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND54DIRECTORATE-GENERAL FOR ***AGRICULTURE*** AND RURAL DEVELOPMENTDirectorate R. 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156-58 149 338-272 280 997-222 264 849-243 876 465-247 040 418-157 081 644-1 243 107 89748-501 446-96 733-3 363 561-4 146 147-15 035 101-149 478 407-255 612 986-250 472 402-20 205 175-352 681-699 264 63949-1 411 061-195 289-995 150-11 510 061-81 290 738-56 095 846-37 333 976-32 289 148-10 527 852-4 986 573-1 785 340-238 421 034501 901 3961 883 4752 408 081-3 717 3244 984 762-37 069-6 346 634-11 516 245-45 361 768-47 882 617-246 984 158-117 144 761-38 524 608-506 337 470517 437 218-25 662 282-74 691 098-79 262 744-192 406 220-180 954 122-569 589-546 108 838524 739 1018 549 553-39 189 779-2 744 740-92 258 049-106 489 000-18 543 530-2 702 053-72 630-248 711 12753-406 258-699-9 595-6 521 237-17 319 721-44 734 107-10 381 201-7 616 383-4 975 238-3 321 017-95 285 45654-4 508 415-95 689 137-23 558 24430 668 154-18 748 590-142 489 166-49 551 588-10 359 574-5 998 376-1 993 590-322 228 52655171 877 299-2 912-178 150-46 713 447-135 277 610-98 783 057-3 567 742-282 645 60156-132 597-232 564-201 826-8 220 927-11 364 436-7 972 892-679-28 125 92057-1 111 266-548 641-1 504 582-5 377-121 125-2 296 052-11 667 584-26 137 304-29 014 297-17 295 679-89 701 907Grand Total-223 032 067-524 373 454-337 234 849-235 331 035-280 528 243-476 096 923-653 880 199-503 123 897-569 061 551-630 854 155-610 492 921-835 085 195-854 607 640-854 836 031-930 071 159-738 842 007-748 502 205-916 603 971-840 073 344-492 482 600-189 185 780-42 621 151-17 296 3580-12 504 216 734EAGF - EUROPEAN ***AGRICULTURAL*** GUARANTEE FUNDANNEX 16Financial corrections (net) in decisions 1-57 from financial years 1996-2018Financial yearTotal

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EN ENEUROPEANCOMMISSIONBrussels, 15.10.2019COM(2019) 487 finalAMENDING LETTER No 1 TO THE DRAFT GENERAL BUDGET 2020Updated estimated needs for ***agricultural*** expenditureAdjustments related to the legislative proposals included in the Brexit preparednesspackage of 4 September 2019Reinforcements of administrative budgets and other updates based on recentdevelopmentsAdjustment to the structure of the budget and a technical correction1Having regard to:– the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,– Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (…)1, and in particular Article 42 thereof,– the draft general budget of the European Union for the financial year 2020, as adopted by the Commission on 5 July 20192,The European Commission hereby presents to the European Parliament and to the Council Amending Letter No 1 to the draft general budget of the European Union for the financial year 2020, for the reasons set out in the explanatory memorandum.CHANGES TO THE STATEMENT OF REVENUE AND EXPENDITURE BY SECTIONThe changes to the statement of revenue and expenditure by section are available on EUR-Lex ([*https://eur-lex.europa.eu/budget/www/index-en.htm*](https://eur-lex.europa.eu/budget/www/index-en.htm)). An English version of the changes to this statement is attached for information as a budgetary annex.1 OJ L 193, 30.7.2018, p. 1.2 COM(2019) 400, 5.7.2019 2TABLE OF CONTENTS1. INTRODUCTION ................................................................................................................................... 32. EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND .................................................................... 32.1 OVERVIEW ................................................................................................................................................ 32.2 DETAILED COMMENTS ............................................................................................................................. 42.3 DETAILED FIGURES BY BUDGET LINE ...................................................................................................... 53. ADJUSTMENTS RELATED TO THE LEGISLATIVE PROPOSALS INCLUDED IN THE BREXIT PREPAREDNESS PACKAGE OF 4 SEPTEMBER 2019. ............................................................... 53.1 EUROPEAN UNION SOLIDARITY FUND ..................................................................................................... 53.2 CREATION OF A NEW BUDGET LINE IN THE GENERAL STATEMENT OF REVENUE ................................. 64. OTHER ADJUSTMENTS ..................................................................................................................... 64.1 SECTION I – EUROPEAN PARLIAMENT .................................................................................................... 64.3 SECTION X – EUROPEAN EXTERNAL ACTION SERVICE .......................................................................... 74.3 UPDATE OF THE SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENTS .............................................. 85. TECHNICAL ADJUSTMENT AND CORRECTION ........................................................................ 95.1 INNOVATION FUND ................................................................................................................................... 95.2 EUROPEAN UNION AGENCY FOR THE OPERATIONAL MANAGEMENT OF LARGE-SCALE IT SYSTEMS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE (EU-LISA) ........................................................... 96. SUMMARY TABLE BY MFF HEADING ......................................................................................... 1131. INTRODUCTIONAmending Letter No 1 to the draft budget for the year 2020 (AL 1/2020) covers the following: The updating of the estimated needs, assigned revenue and appropriations for ***agricultural*** expenditure. In addition to changing market factors, AL 1/2020 also incorporates the impact of decisions in the ***agricultural*** sector since the 2020 Draft Budget (DB 2020) was adopted in July 2019, as well as other proposals expected to have a significant effect during the budget year. Adjustments related to the legislative proposals included in the Brexit preparedness package of 4 September 2019. Other adjustments concerning the administrative budgets of the European Parliament and the European External Action Service, and sustainable fisheries partnership agreements. An adjustment to the structure of the budget to accommodate the Innovation Fund. A technical correction (eu-LISA).Overall, the net impact of AL 1/2020 on expenditure in the draft budget 2020 is an increase of EUR 16,4 million in commitment appropriations and a decrease of EUR 5,4 million in payment appropriations.2. EUROPEAN ***AGRICULTURAL*** GUARANTEE FUND2.1 OverviewAL 1/2020 updates estimates for ***agricultural*** expenditure based on the most up-to-date economic data and legislative framework. By late September 2019, the Commission has at its disposal a first indication of the level of production for 2019 and the outlook for the ***agricultural*** markets as well as actual figures for most of the 2019 budget execution as regards EAGF shared management, which are the basis for the updated estimates of the budgetary needs for 2020.Apart from taking into account market factors, this AL 1/2020 also incorporates the impact of legislative decisions in the ***agricultural*** sector since the DB 2020 was drawn up in June 2019, as well as for some that are still under preparation, soon to be adopted.Overall, 2020 EAGF needs (after taking into account EAGF provisions related to 'financial ***discipline***') are now estimated at EUR 44 481,1 million3, which is an increase by EUR 304,3 million compared to the DB 2020. This increase is mostly due to additional needs for chapter 05 07 Audit of ***agricultural*** expenditure financed by the European ***Agricultural*** Guarantee Fund (EAGF) (+EUR 174,3 million) and for chapter 05 03 Direct payments aimed at contributing to farm incomes, limiting farm incomes variability and meeting environment and climate objectives (+EUR 94 million). There are also small modifications for chapter 05 02 Improving the competitiveness of the ***agricultural*** sector through interventions in ***agricultural*** markets for +EUR 36,0 million.The amount of assigned revenue estimated to be available in 2020 increases from EUR 645,0 million in DB 2020 to EUR 999,0 million (+EUR 354,0 million), more than compensating the additional needs. The update of estimates concerns the amounts originating from clearance of accounts decisions (+EUR 181,0 million) and irregularities (-EUR 7,0 million). Furthermore, AL 1/2020 incorporates an expected carry-over of assigned revenue from 2019 to 2020 for an amount of EUR 280,0 million3 The needs amount corresponds to EUR 43 482,1 million fresh appropriations plus EUR 999,0 million assigned revenue.4(expected EAGF 'surplus')4, of which EUR 100,0 million were already anticipated in the DB 2020. The estimated surplus does not include unused appropriations (EUR 468,7 million) of the 2019 ***agricultural*** crisis reserve, which will not be called on. These unused appropriations will be carried over for reimbursement to farmers subject to the financial ***discipline*** in 2020.As a result of these updates, the Commission proposes to reduce the expenditure estimates for ***agriculture*** by –EUR 49,7 million compared to DB 2020. Commitment appropriations of EUR 43 482,1 million, which include EUR 478,0 million for the Reserve for crises in the ***agricultural*** sector, are required to cover EAGF needs for 2020. This overall amount remains below the EAGF net sub-***ceiling*** of EUR 43 887,1 million. This means that the financial ***discipline*** mechanism will only be applied to establish the ***agricultural*** crisis reserve for budget year 20205.2.2 Detailed comments05 02  Improving competitiveness of the ***agricultural*** sector through interventions in ***agricultural*** markets (appropriations +EUR 36,0 million) (in million EUR, rounded figures at current prices) Interventions in ***agricultural*** markets Draft Budget 2020 Amending Letter No 1/2020 Draft Budget 2020 (incl. AL 1/2020)Needs2 644,1+36,02 680,1-Estimated assigned revenue available in 2020150,00,0150,0 Appropriations requested 2 494,1 +36,0 2 530,1Overall, the needs for intervention measures on ***agricultural*** markets slightly increase by EUR 36,0 million compared to the DB 2020. As the amount of assigned revenue remains unchanged compared to DB 2020, the appropriations requested in AL 1/2020 increase by the same amount to EUR 2 530,1 million.The most significant modification proposed in AL 1/2020 for market measures concerns the poultry sector (budget item 05 02 15 99) with an increase of EUR 32,0 million, relating to specific exceptional measures to farmers following outbreaks of avian influenza. Furthermore, an increase of EUR 4,0 million is proposed for specific aid for bee-keeping (budget item 05 02 15 06).05 03  Direct payments aimed at contributing to farm incomes, limiting farm income variability and meeting environment and climate objectives (appropriations - EUR 260,0 million) (in million EUR, rounded figures at current prices) Direct payments Draft Budget 2020 Amending Letter No 1/2020 Draft Budget 2020 (incl. AL 1/2020) After financial ***discipline*** (including credits for the ‘Reserve for crises in the ***agricultural*** sector’)Needs41 448,0+94,041 542,0- Estimated assigned revenue available in 2020495,0+354,0849,0 Appropriations requested 40 953,0 -260,0 40 693,0Compared to DB 2020, appropriations requested for chapter 05 03 are revised downwards by EUR 260,0 million. This change is mostly due to the higher amount of revenue assigned (+EUR 354,0 million) to item 05 03 01 10 Basic payment scheme (BPS). The increase for estimated needs (+EUR 94,0 million) compared to the DB 2020 reflects very high execution in the 2019 budget year that is expected to continue in 2020. There are some variations between budget items for direct payments, reflecting updated needs assessment (see table below).4 This estimate is based on the declarations of actual expenditure received from Member States up to the month of August 2019, complemented by forecasts for the period 01.09.2019 to 15.10.2019 Full information on the actual expenditure for this remaining period will become available at the end of October/beginning of November 2019.5 The adjustment rate for direct payments related to the financial ***discipline*** mechanism in respect of the ***calendar*** year 2019 is set in Commission Implementing Regulation (EU) 2019/916. The Commission will update this rate accordingly taking into account the modifications proposed in this AL.5Other ***agricultural*** expenditure financed by the European ***Agricultural*** Guarantee Fund (EAGF) (appropriations +EUR 174,3 million)Appropriations for budget article 05 07 01 07 Financial corrections in favour of Member States following conformity clearance decisions need to be increased by EUR 176,6 million as a consequence of two Court of Justice rulings (Cases T-459/16 and T-237/17) in favour of Member States on former clearance decisions. Furthermore, there is a small update for budget item 05 07 01 06 Financial corrections in favour of Member States following accounting clearance decisions for an amount of -EUR 2,3 million (see table below).2.3 Detailed figures by budget line in EUR Budget line Name Commitment appropriations Payment appropriations Section III – European Commission05 02 15 06Specific aid for bee-keeping+4 000 000+4 000 00005 02 15 99Other measures for pigmeat, poultry, eggs, bee-keeping, other animal products+32 000 000+32 000 000 Sub-total 05 02 +36 000 000 +36 000 00005 03 01 02Single area payment scheme (SAPS)+21 000 000+21 000 00005 03 01 07Redistributive payment+7 000 000+7 000 00005 03 01 10Basic payment scheme (BPS)-325 000 000-325 000 00005 03 01 11Payment for ***agricultural*** practices beneficial for the climate and the environment+54 000 000+54 000 00005 03 01 13Payment for young farmers+120 000 000+120 000 00005 03 01 99Other (decoupled direct payments)-7 000 000-7 000 00005 03 02 50POSEI – European Union support programmes+1 000 000+1 000 00005 03 02 60Voluntary coupled support scheme+7 000 000+7 000 00005 03 02 61Small farmers scheme-137 000 000-137 000 00005 03 02 99Other (direct payments)-1 000 000-1 000 000 Sub-total 05 03 -260 000 000 -260 000 00005 07 01 06Expenditure for financial corrections in favour of Member States following decisions on accounting clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF-2 300 000-2 300 00005 07 01 07Expenditure for financial corrections in favour of Member States following decisions on conformity clearance of previous years’ accounts with regard to shared management declared under the EAGGF-Guarantee Section (previous measures) and under the EAGF+176 600 000+176 600 000 Sub-total 05 07 +174 300 000 +174 300 000 Total EAGF -49 700 000 -49 700 000The relevant budget remarks are adjusted in annex.3. ADJUSTMENTS RELATED TO THE LEGISLATIVE PROPOSALS INCLUDED IN THE BREXIT PREPAREDNESS PACKAGE OF 4 SEPTEMBER 2019.3.1 European Union Solidarity FundIn accordance with Article 4a, paragraph 4 of Council Regulation (EC) No 2012/2002, the DB 2020 includes an amount of EUR 50 million on budget article 13 06 01. This is to ensure the timely6availability of budgetary resources in cases where, when submitting an application for a financial contribution from the Fund, a Member State requests the payment of an advance.The Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 in order to provide financial assistance to Member States to cover serious financial burden inflicted on them following a withdrawal of the United Kingdom from the Union without an agreement6 introduces a new Article 4b with a higher maximum amount of EUR 100 million for advances. Therefore the Commission proposes to increase of the level of advance payments under the European Union Solidarity Fund by EUR 50 million, and to put that additional amount under reserve pending the adoption of the amendment to the legal base by the European Parliament and the Council.The reserve article is adjusted as presented in the table below, and the budget remarks of articles 13 06 01 and 13 06 02 are amended. in EUR Budget line Name Commitment appropriations Payment appropriations40 02 41Differentiated appropriations (Reserve for budget article 13 06 01 – Assistance to Member States in the event of a major natural disaster with serious repercussions on living conditions, the natural environment or the economy)50 000 00050 000 000 Total 50 000 000 50 000 0003.2 Creation of a new budget line in the General Statement of RevenueThe Commission proposal for a Council Regulation on measures concerning the implementation and financing of the general budget of the Union in 2020 in relation to the withdrawal of the United Kingdom from the Union7 lays down rules on the relations between the Union, on the one hand, and the United Kingdom and its beneficiaries on the other, as regards the financing and implementation of the budget in 2020 in the case of a UK withdrawal without an agreement.The proposed contingency framework provides for the possibility that the UK and UK entities maintain, throughout the year 2020, the eligibility to benefit from Union financing for legal commitments entered into before the withdrawal date or between the withdrawal date and the end of 2019, in application of Regulation (EU, Euratom) 2019/1197. This is subject to the terms and conditions set out in the proposal.In order to allow the Commission to implement the proposal, in particular to enable it to enter the contribution of the United Kingdom in the general budget, the necessary budgetary structure needs to be created for the 2020 budget. The Commission therefore proposes to create a new budget line in part B of the General Statement of revenue: new Article 3 8 0 intended to receive the UK contribution in relation to the application of the contingency framework.The budget remarks related to the proposed new line are shown in annex.4. OTHER ADJUSTMENTS4.1 Section I – European ParliamentThe request to increase the establishment plan of the European Parliament (EP) by 89 posts, and to increase the level of administrative appropriations to allow for the creation of additional contract6 COM(2019) 399 final, 4.9.20197 COM(2019) 461 final, 4.9.20197agent positions were not included in the section of the EP of the DB 2020, pending further clarifications on the reasons for the increase.Following further exchanges with the EP, and taking into account the rigorous proposals for the administrative heading of the next multiannual financial framework, it is proposed to include in the DB 2020 the following elements for the European Parliament: 89 additional establishment plan posts for the year 2020. These posts are intended for one budget year only, and will be removed from the establishment plan in the 2021 draft budget. These posts are intended to facilitate the continuity of employment of temporary staff in the light of the application of article 29(4) of the Staff Regulations. No additional budgetary appropriations are necessary. The updated establishment plan is set out in the budgetary annex. EUR 13.3 million of appropriations for external staff, corresponding to 155 contract agent positions, as well as the increase in appropriations required to cover salary updates and career progression. With respect to the contract agents, 20 are new positions to be created in the 2020 budget to strengthen security, and are financed on budget line 1 4 0 1 Other staff – security. A further 135 contract agents are to be financed on budget line 1 4 0 0 Other staff – Secretariat and political groups. These contracts are already running, as the staff were recruited in 2019, with financing provided by means of ***transfers*** approved by the European Parliament’s Committee on Budgets (***Transfers*** C1/2019 and C7/2019).Combined effect on the EP's section of the draft budget 2020 in EUR Budget line Name Commitment appropriations Payment appropriations Section I – European Parliament1400Other staff - Secretariat and political groups8 880 4518 880 4511401Other staff - Security4 452 1384 452 138 Total 13 332 589 13 332 5894.2 Section X – European External Action ServiceSince the presentation of the DB 2020, two items in the section of the European External Action Service (EEAS) have evolved, and require updating, namely: The NEO building; Adaptation of the staffing of the EU Office in Kosovo.The NEO BuildingThe NEO building project consists of two buildings aiming to replace the Kortenberg building for the Common Security and Defence Policy (CSDP) departments. The project is presently ongoing and expected to be achieved by end-2020/beginning-2021.However, during the execution of the renovation and fitting-out works, the EEAS realised that the necessary technical performance level in the fields of physical security and secured communications could not be met within the budget previously estimated.The increases are linked to the need to protect the working environment against intrusions and eavesdropping, in conformity with the security rules established by the Council and by the Member States. The level of necessary protection measures evolves in accordance with technological progress and in line with the estimated threat levels. This means that many of the solutions previously applied, on which the original cost estimate was based, are no longer sufficient.8A project update presenting the changes and the resulting additional cost was therefore submitted to the European Parliament and the Council and was approved by their respective budget committees on September 3 and 13, 2019.The additional cost for these security-related measures would amount to EUR 5.0 million on the EEAS' budget item 2 0 0 2. However, through reprioritisation and planned redeployment, the additional amount requested for 2020 can be reduced to EUR 2.8 million.Adaptation of the Staffing of the EU Office in KosovoAs a result of the 2015/2016 Strategic Review of the EULEX mission, a number of Monitoring, Mentoring and Advice tasks were ***transferred*** from EULEX to the EU Office in Kosovo in June 2018. A budget to finance 12 staff members in the Office was therefore granted to the EEAS by the European Parliament and the Council, compensated by larger cuts in the EULEX organisation.Additional budget to finance three further posts was made available to the EEAS as from January 2019, bringing the total number of posts for transition tasks to 15. The 2019 EEAS budget was also amended to transform three cost-free Seconded National Experts (SNE) posts into co-financed status, in order to attract more interest and potential candidates from the Member States.However, this change has not proven enough to attract sufficient interest and so far, only two SNE positions out of the total six have been filled.Given this situation and based on an assessment of needs in the Office, the EEAS intends to transform one of these unused SNE posts into two local agent positions. This transformation is not expected to entail any additional costs for the EEAS but could possibly, depending on the experience of the agents recruited, produce some small savings over time.Combined effect on the EEAS ' section of the draft budget 2019 in EUR Budget line Name Commitment appropriations Payment appropriations Section X – European External Action Service2 0 0 2Fitting out and security works2 786 0002 786 000 Total 2 786 000 2 786 0004.3 Update of the Sustainable Fisheries Partnership AgreementsAs foreseen in point C of Part II of the Interinstitutional Agreement (IIA)8, the Commission has examined the most recent information available concerning Sustainable Fisheries Partnership Agreements (SFPAs) and reviewed the expected needs for 2020 on the basis of the developments in the negotiation processes with the third countries involved. On the basis of this review, the Commission proposes to move commitment appropriations for an amount of EUR 16,9 million and payment appropriations for an amount of EUR 14,9 million from the reserve (40 02 41) to the operational line (11 03 01 Establishing a governance framework for fishing activities carried out by Union fishing vessels in third country waters). This budgetary-neutral ***transfer*** relates to the Fisheries Agreements with the Republic of Cape Verde, the Republic of the Gambia and the Republic of Guinea-Bissau, for which the agreements and related protocols have meanwhile been signed and have entered into provisional application.8 OJ C 373, 20.12.2013, p. 1.9The details by budget line are presented in the table below and the relevant budget remarks are adjusted in annex. in EUR Budget line Name Commitment appropriations Payment appropriations11 03 01Establishing a governance framework for fishing activities carried out by Union fishing vessels in third country waters+16 900 000+14 900 00040 02 41Differentiated appropriations (Reserve for budget article 11 03 01)-16 900 000-14 900 000 Total 0 05. TECHNICAL ADJUSTMENT AND CORRECTION5.1 Innovation FundThe Innovation Fund was set up by Directive (EU) 2018/410 of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowances trading within the Union. It supports innovation in low-carbon technologies and processes in certain economic sectors. In accordance with the provisions of Article 10a, paragraph 8, of the Emissions Trading System (ETS) Directive 2003/87/EC, the Innovation Fund is fully financed by the receipts from auctioning a certain amount of allowances to emit one tonne of carbon dioxide (equivalent during a specific period) under the ETS.According to Article 16, paragraph 1 of Commission Delegated Regulation (EU) 2019/856 of 26 February 2019 supplementing Directive 2003/87/EC with regard to the operation of the Innovation Fund, the Commission shall implement the Innovation Fund in direct management or indirect management in accordance with the relevant provisions of the Financial Regulation. According to Article 19, paragraph 3 of Regulation (EU) 2019/856, for all implementation tasks carried out by the Commission, including through an EU executive agency, the revenue of the Innovation Fund shall constitute external assigned revenue for the EU budget within the meaning of paragraphs 1 and 5 of Article 21 of the Financial Regulation. The Innovation Fund expenditure, including the administrative cost, would be fully financed by the external assigned revenue generated by the auctioning of the emissions allowances and unspent amounts from the previous NER300 programme.To allow the Commission to start implementing the Fund, in particular in view of a first call for project proposals to be launched by mid-2020, the necessary budgetary structure needs to be created in the 2020 budget. The Commission therefore proposes to create three new budget lines: one in the the Statement of Revenue of the Commission section, Article 6 3 7 intended to receive the external assigned revenue; two in the Statement of Expenditure of the Commission section, Article 34 03 01 and Item 34 01 06 01, intended to cover the operational and administrative expenditure (fully covered by external assigned revenue) which is needed for the implementation of the Innovation Fund by the Commission in accordance with Article 4 of Commission Delegated Regulation (EU) 2019/856.In accordance with paragraph 1 of Article 22 of the Financial Regulation, all budget lines created for the Innovation Fund would have a token entry ‘pro memoria’ (p.m ). The budget remarks proposed for these new lines are shown in the budgetary annex. The proposed budgetary structure will allow for reporting on the implementation of the Innovation Fund as part of the annual accounts.5.2 European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)As a result of a clerical error, the payment appropriations for this item as published in the DB 2020 were not in line with the needs of the agency as presented in the Working Document III annexed to the Statement of Estimates 2020. It is therefore proposed to decrease the payment appropriations for10eu-LISA by EUR 21,8 million, giving a total of EUR 196 million, which represents the actual needs of the agency for 2020. in EUR Budget line Name Commitment appropriations Payment appropriations18 02 07European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)--21 794 627 Total - -21 794 627116. SUMMARY TABLE BY MFF HEADING Heading Draft Budget 2020 Amending Letter 1/2020 Draft Budget 2020 (incl. AL1/2020) CA PA CA PA CA PA1.Smart and inclusive growth83 328 329 50472 150 922 33683 328 329 50472 150 922 336Of which under global margin for commitments141 890 522141 890 522Ceiling83 661 000 00083 661 000 000Margin474 561 018474 561 0181aCompetitiveness for growth and jobs24 716 438 98222 108 515 48624 716 438 98222 108 515 486Ceiling25 191 000 00025 191 000 000Margin474 561 018474 561 0181bEconomic social and territorial cohesion58 611 890 52250 042 406 85058 611 890 52250 042 406 850Of which under global margin for commitments141 890 522141 890 522Ceiling58 470 000 00058 470 000 000Margin2.Sustainable growth: natural resources59 994 906 17058 014 263 718- 49 700 000- 49 700 00059 945 206 17057 964 563 718Ceiling60 421 000 00060 421 000 000Margin426 093 830475 793 830Of which: European ***Agricultural*** Guarantee Fund (EAGF) — Market related expenditure and direct payments43 531 805 68743 501 731 798- 49 700 000- 49 700 00043 482 105 68743 452 031 798Sub-ceiling43 888 000 00043 888 000 000Rounding difference excluded from margin calculation888 000888 0003.Security and citizenship3 729 074 4893 723 911 857- 21 794 6273 729 074 4893 702 117 230Of which under Flexibility Instrument778 074 489778 074 489Ceiling2 951 000 0002 951 000 000Margin4.Global Europe10 307 572 2398 986 061 19110 307 572 2398 986 061 191Ceiling10 510 000 00010 510 000 000Margin202 427 761202 427 7615.Administration10 324 060 57710 327 063 78716 118 58916 118 58910 340 179 16610 343 182 376Ceiling11 254 000 00011 254 000 000Of which offset against Contingency margin- 252 000 000- 252 000 000Margin677 939 423661 820 834Of which: Administrative expenditure of the institutions7 985 277 2157 988 280 42516 118 58916 118 5898 001 395 8048 004 399 014Sub-ceiling9 071 000 0009 071 000 000Of which offset against Contingency margin- 252 000 000- 252 000 000Margin833 722 785817 604 196Total 167 683 942 979 153 202 222 889 - 33 581 411 - 55 376 038 167 650 361 568 153 146 846 851 Of which under Flexibility Instrument 778 074 489 849 779 197 - 14 914 951 778 074 489 834 864 246 Of which under global margin for commitments 141 890 522 141 890 522 ***Ceiling*** 168 797 000 000 172 420 000 000 168 797 000 000 172 420 000 000 Of which offset against Contingency margin - 252 000 000 - 252 000 000 Margin 1 781 022 032 20 067 556 308 1 814 603 443 20 108 017 395Other special Instruments587 763 000418 500 00050 000 00050 000 000637 763 000468 500 000 Grand Total 168 271 705 979 153 620 722 889 16 418 589 - 5 376 038 168 288 124 568 153 615 346 851

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**End of Document**



[***Council of the European Union: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 PDF document PE 3 2019 INIT31-01-2019***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5S70-NXC1-F0YC-N07P-00000-00&context=1516831)

Impact News Service

February 2, 2019 Saturday

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**Body**

Brussels: Council of the European Union has issued the following document:

PE-CONS 3/19 RP/NC/jk LIFE.1.A EN EUROPEAN UNION THE EUROPEAN PARLIAMENT THE COUNCIL Brussels, 31 January 2019 (OR. en) 2018/0414 (COD) PE-CONS 3/19 AGRI 17 AGRILEG 8 AGRIFIN 1 AGRISTR 1 AGRIORG 1 CODEC 76 LEGISLATIVE ACTS AND OTHER INSTRUMENTS Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 PE-CONS 3/19 RP/NC/jk 1 LIFE.1.A EN REGULATION (EU) 2019/… OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of … amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020 THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42 and Article 43(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, After consulting the European Economic and Social Committee, Acting in accordance with the ordinary legislative procedure1, 1 Position of the European Parliament of 31 January 2019 (not yet published in the Official Journal) and decision of the Council of …. PE-CONS 3/19 RP/NC/jk 2 LIFE.1.A EN Whereas: (1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council1 is the current legal framework for support for rural development. It provides for support to areas facing natural constraints, other than mountain areas. Taking into account the extension to 2019 of the deadline for the new delimitation of areas facing natural constraints other than mountain areas through Regulation (EU) 2017/2393 of the European Parliament and of the Council2 and the shorter adaptation period for farmers who will no longer be eligible for payments, degressive transitional payments that only start in 2019 should start at no more than 80 % of the average payments fixed in the 2014–2020 programming period. The payment level should be established in such a way that the end-level in 2020 is half of the starting level. 1 Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487). 2 Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common ***agricultural*** policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy, (EU) No 1308/2013 establishing a common organisation of the markets in ***agricultural*** products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ L 350, 29.12.2017, p. 15). PE-CONS 3/19 RP/NC/jk 3 LIFE.1.A EN (2) In order to provide assistance to Member States and stakeholders for the timely preparation of the future Common ***Agricultural*** Policy (CAP) and to ensure a smooth passage to the next programming period, it should be clarified that it is possible to finance activities linked to the preparation of the future CAP through technical assistance at the initiative of the Commission. (3) Regulation (EU) No 1307/2013 of the European Parliament and of the Council1 is the current legal framework for direct payments. While most of its provisions can apply for as long as that Regulation remains in force, other provisions explicitly refer to the ***calendar*** years 2015 to 2019 covered by the Multiannual Financial Framework 2014-2020. For some other provisions, their applicability beyond the ***calendar*** year 2019 was not explicitly envisaged. In June 2018, the Commission submitted a proposal for a new Regulation to replace Regulation (EU) No 1307/2013, but only from 1 January 2021. Therefore, it is appropriate to proceed to some technical adjustments of Regulation (EU) No 1307/2013 so that it can be smoothly applied in the ***calendar*** year 2020. 1 Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608). PE-CONS 3/19 RP/NC/jk 4 LIFE.1.A EN (4) The obligation set out in Article 11 of Regulation (EU) No 1307/2013 to reduce the part of the amount of direct payments to be granted to a farmer for a given ***calendar*** year exceeding EUR 150 000 continues to apply for as long as that Regulation is in force. However, that Article only lays down an obligation for Member States to ***notify*** their decisions and the estimated product of that reduction for the years 2015 to 2019. With a view to ensuring a continuation of the existing system, Member States should also ***notify*** their decisions concerning the year 2020 and the estimated product of reduction for that year. (5) Flexibility between pillars is an optional ***transfer*** of funds between direct payments and rural development. Under Article 14 of Regulation (EU) No 1307/2013, Member States may make use of this flexibility as regards the ***calendar*** years 2014 to 2019. In order to ensure that Member States are able to keep their own strategy, the flexibility between pillars should be made available also for the ***calendar*** year 2020, corresponding to financial year 2021. (6) As a consequence of the amendment of Article 14 of Regulation (EU) No 1307/2013 in respect of the ***calendar*** year 2020, it is appropriate to adjust the references to that Article in the context of the obligation of the Member States to linearly reduce or increase the value of the payment entitlements due to fluctuations in the annual national ***ceiling*** resulting from their ***notifications*** of the application of flexibility between pillars. PE-CONS 3/19 RP/NC/jk 5 LIFE.1.A EN (7) Regulations (EU) No 1305/2013 and (EU) No 1307/2013 should therefore be amended accordingly. (8) In order to promptly provide the necessary flexibility to the Member States and to ensure the continuity of rural development policy in the final years of the 2014-2020 programming period, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community. (9) In order to promptly provide the necessary flexibility to the Member States and to ensure the continuity of rural development policy in the final years of the 2014-2020 programming period, this Regulation should apply from 1 March 2019, HAVE ADOPTED THIS REGULATION: PE-CONS 3/19 RP/NC/jk 6 LIFE.1.A EN Article 1 Amendments to Regulation (EU) No 1305/2013 Regulation (EU) No 1305/2013 is amended as follows: (1) in Article 31(5), the following subparagraph is inserted after the first subparagraph: ‘By way of derogation from the first subparagraph, where degressive payments start only in the year 2019, those payments shall start at no more than 80 % of the average payment fixed in the 2014–2020 programming period. The payment level shall be established in such a way that the end-level in 2020 is half of the starting level.’; (2) in Article 51(1), the following subparagraph is inserted after the first subparagraph: ‘The EAFRD may finance activities preparing for the implementation of the CAP in the subsequent programming period.’. PE-CONS 3/19 RP/NC/jk 7 LIFE.1.A EN Article 2 Amendments to Regulation (EU) No 1307/2013 Regulation (EU) No 1307/2013 is amended as follows: (1) in Article 7, paragraph 2 is replaced by the following: ‘2. For each Member State and for each ***calendar*** year, the estimated product of the reduction of payments referred to in Article 11 (which is reflected by the difference between the national ***ceiling*** set out in Annex II, to which is added the amount available in accordance with Article 58, and the net ***ceiling*** set out in Annex III) shall be made available as Union support financed under the European ***Agricultural*** Fund for Rural Development (EAFRD).’; (2) in Article 11(6), the following subparagraph is added: ‘For the year 2020, Member States shall ***notify*** the Commission of the decisions taken in accordance with this Article and of any estimated product of reductions by 31 December 2019.’; PE-CONS 3/19 RP/NC/jk 8 LIFE.1.A EN (3) Article 14 is amended as follows: (a) in paragraph 1, the following subparagraph is added: ‘By 31 December 2019, Member States may decide to make available, as additional support financed under the EAFRD in financial year 2021, up to 15 % of their annual national ***ceilings*** for the ***calendar*** year 2020 set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments. That decision shall be ***notified*** to the Commission by 31 December 2019 and shall set out the percentage chosen.’; (b) in paragraph 2, the following subparagraph is added: ‘By 31 December 2019, Member States may decide to make available as direct payments up to 15 %, or in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland and Sweden up to 25 %, of the amount allocated to support financed under the EAFRD in financial year 2021 by Union legislation adopted after the adoption by the Council of the relevant Regulation pursuant to Article 312(2) TFEU. As a result, the corresponding amount shall no longer be available for support financed under the EAFRD. That decision shall be ***notified*** to the Commission by 31 December 2019 and shall set out the percentage chosen.’; PE-CONS 3/19 RP/NC/jk 9 LIFE.1.A EN (4) in Article 22, paragraph 5 is replaced by the following: ‘5. If the ***ceiling*** for a Member State set by the Commission pursuant to paragraph 1 of this Article is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, Article 14(1) or (2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.’. PE-CONS 3/19 RP/NC/jk 10 LIFE.1.A EN Article 3 Entry into force and application This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union. It shall apply from 1 March 2019. This Regulation shall be binding in its entirety and directly applicable in all Member States. Done at …, For the European Parliament For the Council The President The President

**Load-Date:** February 5, 2019

**End of Document**



[***Netherlands Government Gazette: Decree of the Minister of Agriculture, Nature and Food Quality of 30 October 2018, no. WJZ / 18268852, regarding the direct payment tariffs 2018***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5TNR-N9V1-F0YC-N34J-00000-00&context=1516831)

Impact News Service

November 7, 2018 Wednesday

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**Body**

Amsterdam: Netherlands Government has issued the following official announcement:

The Minister of ***Agriculture***, Nature and Food Quality,

Having regard to articles 25, eighth paragraph, 26, 30, eighth paragraph and 43, ninth paragraph, of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under the support schemes of the Common ***Agricultural*** Policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ 2013, L347);

Having regard to Article 2.1, paragraph 3, of the Implementing Regulation for direct payments of the CAP;

Decision: Any article

The following rates, values, percentages and payments for application year 2018 are determined:

A. Basic value payment entitlements

    1. The fixed percentage of the value of the payment entitlements referred to in the third subparagraph of Article 26 (3) of Regulation (EU) No 1307/2013 shall be 68,972%.

    2. The national average value of the payment entitlements referred to in Article 30, paragraph 8 of Regulation (EU) No 1307/2013 shall be € 267,343.

    3. The steps for the annual gradual change in the value of the payment entitlements referred to in the second subparagraph of Article 25 (8) of Regulation (EU) No 1307/2013 shall be as follows:

        - For 2018 this is 92.512% compared to 2015

        - For 2019 this is 90.976% compared to 2015

B. Greening percentage

The percentage of the total value of the payment entitlements referred to in the third subparagraph of Article 43 (9) of Regulation (EU) No 1307/2013 shall be 43.188%.

C. Net ***ceiling*** discount

The linear reduction referred to in Article 2.1, third paragraph, of the Implementing Regulation for direct payments of the CAP, amounts to 0% for applications made in 2018.

This decision will be published with the explanatory notes in the Government Gazette.

The Hague, October 30, 2018

The Minister of ***Agriculture***, Nature and Food Quality, CJ Schouten EXPLANATION

In 2015, payment entitlements were granted to farmers. In order to be able to calculate the value of these rights for each year, it is necessary to set parameters. This obligation derives from Regulation (EU) No 1307/2013.

For the payment of the direct payments applications, different parameters will be set for 2018. The relevant parameter will be explained below for each component.

Part A. Basic value of payment entitlements

On the basis of the average value of the entitlements in 2015 and the initial value of the rights, the individual value of the farmer was determined as to the value of his rights for 2015-2019. The steps for the annual gradual change in the value show the reduction of the budget from one year to the next. Together with the initial value and the average value 2015, this is used to determine the rights value for 2016-2019.

Impairment of payment entitlements 2018

In 2018 and 2019, the value of all payment entitlements will be reduced by 4.48% compared to the values ​​set in 2016.

In 2018 and 2019, 30 million euros per year from the CAP pillar 1 budget will be ***transferred*** to pillar 2 for the subsidy Agrarisch Natuur- en Landschapsbeheer and the Reimbursement premium for broad weather insurance. This leads to an extra discount on the duty values. This budget change was decided in July 2017 by the then State Secretary for Economic Affairs. The Chamber was informed about this on 15 June and 12 July 2017.

In addition, a budget (around 4.4 million euros) is needed to fill the National Reserve (NR) for new NR rights for hectares that do not yet have rights, the so-called free hectares for young farmers and starters. There are also NR rights for land with an ineligible N code (IMNA), on which no rights have been granted (once in 2018) and for other grounds on which no rights have previously been granted (set-aside and Nuts facilities).

In 2015, the value of all payment entitlements for the period 2015 up to and including 2019 was determined. A linear increase took place in 2016, with all payment entitlements for the period 2016 to 2019 being re-established. As a result of the ***transfer*** and the increase of the NR, the value of all payment entitlements in 2018 and 2019 decreases by 4.48% compared to the value established in 2016.

Rates and discounts

On the basis of Regulation (EU) No 1306/2013, it is laid down that the values ​​of the tariffs and discounts must be calculated annually on the basis of the area of ​​***agricultural*** land requested in the relevant ***calendar*** year and the available European budgets.

The rates and discounts for young farmers and the pasture premium are announced at a later date.

Part B. Greening percentage

The Netherlands has opted, in accordance with Article 43 (9), third subparagraph, of Regulation (EU) No 1307/2013, to relate the level of the greening payment to the total value of the payment entitlements. With the greening percentage, the amount of the payment for greening can be calculated on the basis of the value of the activated payment entitlements.

Part C. Net ***ceiling*** discount

The net ***ceiling*** rebate aims to ensure that all direct payments are made within the national maximum budget. One reason why this national budget is exceeded is that the net maximum of direct payments is lower than the total budget for the individual schemes. This is partly due to the national choice to set the basic payment entitlements at 103% of the original budget for the basic payment entitlements. The net cap discount is applied to the amount to be paid out before the application of the financial ***discipline*** (a European set discount) and a possible preconditions discount. This year no exceedance of the national maximum is expected, therefore the net ***ceiling*** has been set at a discount of 0%.

The decision of 14 December 2015 regarding the direct payment tariffs for 2015, the decision of 14 December 2016 regarding the direct payments for 2016 and the decision of 9 December 2017 regarding the direct payments for 2017 remain applicable to apply for direct payments submitted in the relevant application years.

The Minister of ***Agriculture***, Nature and Food Quality, CJ Schouten

Note: This is automated translation, it may have errors. Please always refer to original text in original language provided below.

De Minister van Landbouw, Natuur en Voedselkwaliteit,

Gelet op de artikelen 25, achtste lid, 26, 30, achtste lid en 43, negende lid, van Verordening (EU) nr. 1307/2013 van het Europees Parlement en de Raad van 17 december 2013 tot vaststelling van voorschriften voor rechtstreekse betalingen aan landbouwers in het kader van de steunregelingen van het gemeenschappelijk landbouwbeleid en tot intrekking van Verordening (EG) nr. 637/2008 van de Raad en van Verordening (EG) nr. 73/2009 van de Raad (PbEU 2013, L347);

Gelet op artikel 2.1, derde lid, van de Uitvoeringsregeling rechtstreekse betalingen GLB;

Besluit: Enig artikel

Vastgesteld worden de navolgende tarieven, waardes, percentages en betalingen voor aanvraagjaar 2018:

A. Basiswaarde betalingsrechten

    1. Het vaste percentage van de waarde van de betalingsrechten, bedoeld in artikel 26, derde lid, tweede alinea, van Verordening (EU) nr. 1307/2013, bedraagt 68,972%.

    2. De nationale gemiddelde waarde van de betalingsrechten, bedoeld in artikel 30, achtste lid, van Verordening (EU) nr. 1307/2013, bedraagt € 267,343.

    3. De stappen voor de jaarlijkse geleidelijke wijziging van de waarde van de betalingsrechten, bedoeld in artikel 25, achtste lid, tweede alinea, van Verordening (EU) nr. 1307/2013, worden als volgt vastgesteld:

        – Voor 2018 is deze 92,512% ten opzichte van 2015

        – Voor 2019 is deze 90,976% ten opzichte van 2015

B. Vergroeningspercentage

Het percentage van de totale waarde van de betalingsrechten, bedoeld in artikel 43, negende lid, derde alinea, van Verordening (EU) nr. 1307/2013, bedraagt 43,188%.

C. Netto plafondkorting

De lineaire verlaging, bedoeld in artikel 2.1, derde lid, van de Uitvoeringsregeling rechtstreekse betalingen GLB, bedraagt 0% voor aanvragen gedaan in 2018.

Dit besluit zal met de toelichting in de Staatscourant worden geplaatst.

’s-Gravenhage, 30 oktober 2018

De Minister van Landbouw, Natuur en Voedselkwaliteit, C.J Schouten TOELICHTING

In 2015 zijn de betalingsrechten toegekend aan de landbouwers. Om de waarde van deze rechten voor ieder jaar te kunnen berekenen is het nodig dat er parameters worden vastgesteld. Die verplichting vloeit voort uit Verordening (EU) nr. 1307/2013.

Voor de betaling van de aanvragen rechtstreekse betalingen worden er voor 2018 verschillende parameters vastgesteld. Hieronder zal per onderdeel de desbetreffende parameter worden toegelicht.

Onderdeel A. Basiswaarde betalingsrechten

Aan de hand van de gemiddelde waarde van de rechten in 2015 en de initiële waarde van de rechten is op individueel niveau van de landbouwer vastgesteld wat de waarde van zijn rechten is voor 2015-2019. Met de stappen voor de jaarlijkse geleidelijke wijziging van de waarde wordt de verlaging van het budget van het ene op het andere jaar weergegeven. Deze is tezamen met de initiële waarde en de gemiddelde waarde 2015 gebruikt om de rechtenwaarde voor 2016-2019 te bepalen.

Waardevermindering betalingsrechten 2018

In 2018 en 2019 wordt de waarde van alle betalingsrechten verlaagd met 4,48% ten opzichte van de in 2016 vastgestelde waarden.

In 2018 en 2019 wordt per jaar 30 miljoen euro van het GLB pijler 1 budget overgeheveld naar pijler 2 ten behoeve van de subsidie Agrarisch Natuur- en Landschapsbeheer en de Tegemoetkoming premie brede weersverzekering. Dit leidt tot een extra korting op de rechtenwaardes. Tot deze budgetwijziging is in juli 2017 besloten door de toenmalige Staatssecretaris van Economische Zaken. De Kamer is hierover op 15 juni en 12 juli 2017 geïnformeerd.

Daarnaast is er budget nodig (ongeveer 4,4 miljoen euro) voor het vullen van de Nationale Reserve (NR) om nieuwe NR-rechten voor hectares waarop nog geen rechten liggen, de zogenaamde vrije hectares voor jonge landbouwers en starters. Ook zijn er NR-rechten voor gronden met een niet subsidiabele N-code (IMNA), waarop geen rechten zijn toegekend (eenmalig in 2018) en voor andere gronden waarop niet eerder rechten zijn toegekend (set-aside en Nuts-voorzieningen).

In 2015 is de waarde van alle betalingsrechten voor de periode 2015 tot en met 2019 vastgesteld. In 2016 heeft een lineaire ophoging plaatsgevonden waarbij alle betalingsrechten voor de periode 2016 t/m 2019 opnieuw zijn vastgesteld. Als gevolg van de overheveling en de ophoging van de NR daalt de waarde van alle betalingsrechten in 2018 en 2019 met 4,48% ten opzichte van de waarde die in 2016 is vastgesteld.

Tarieven en kortingen

Op basis van Verordening (EU) nr. 1306/2013 is vastgelegd dat de waarden van de tarieven en kortingen jaarlijks moeten worden berekend op basis van de in het betreffende kalenderjaar aangevraagde oppervlakte landbouwgrond en de beschikbare Europese budgetten.

De tarieven en kortingen voor de jonge landbouwers en de graasdierpremie worden op een later tijdstip bekend gemaakt.

Onderdeel B. Vergroeningspercentage

Nederland heeft er, op grond van artikel 43, negende lid, derde alinea, van Verordening (EU) nr. 1307/2013, voor gekozen de hoogte van de vergroeningsbetaling te relateren aan de totale waarde van de betalingsrechten. Met het vergroeningspercentage kan aan de hand van de waarde van de geactiveerde betalingsrechten worden berekend wat de hoogte van de betaling voor vergroening is.

Onderdeel C. Netto plafondkorting

De netto plafondkorting heeft tot doel om alle rechtstreekse betalingen binnen het nationale maximum budget te laten plaats vinden. Een reden waardoor dit nationale budget wordt overschreden is dat het netto maximum van de rechtstreekse betalingen lager is dan het totaal aan budget voor de afzonderlijke regelingen. Dit wordt mede veroorzaakt door de nationale keuze om de basisbetalingsrechten vast te stellen op 103% van het oorspronkelijke budget voor de basisbetalingsrechten. De netto plafondkorting wordt toegepast op het uit te betalen bedrag, vóór de toepassing van de financiële ***discipline*** (een Europees vastgestelde korting) en een eventuele randvoorwaardenkorting. Dit jaar wordt geen overschrijding van het nationale maximum verwacht, daarom is de nettoplafond korting op 0% vastgesteld.

Het besluit van 14 december 2015 met betrekking tot de tarieven rechtstreekse betalingen 2015, het besluit van 14 december 2016 met betrekking tot de tarieven rechtstreekse betalingen 2016 en het besluit van 9 december 2017 met betrekking tot de tarieven rechtstreekse betalingen 2017 blijven van toepassing ten aanzien van aanvragen rechtstreekse betalingen die zijn ingediend in de desbetreffende aanvraagjaren.

De Minister van Landbouw, Natuur en Voedselkwaliteit, C.J Schouten

**Load-Date:** November 7, 2018

**End of Document**



[***Committee on Import Licensing - Replies to questionnaire on import licensing procedures - Notification under article 7.3 of the Agreement on Import Licensing[...]ures (2019) - Hong Kong, China(Doc #:19-6493)***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5X7D-YHB1-F0YC-N4JT-00000-00&context=1516831)

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**Body**

Geneva, Switzerland: World Trade Organization has issued the following document:

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

***NOTIFICATION*** UNDER ARTICLE 7.3 OF THE AGREEMENT ONIMPORT LICENSING PROCEDURES (2019)1

HONG KONG, CHINA

The following communication2, dated 27 September 2019, is being circulated at the request of the delegation of Hong Kong, China.

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In accordance with Article 7.3 of the WTO Agreement on Import Licensing Procedures, HongKong,China submits herewith its reply to the Annual Questionnaire.

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1TRADE AND INDUSTRY DEPARTMENT

1.1Strategic commodities

Outline of Systems

1. The import licensing system for strategic commodities is administered by the Trade and Industry Department. Certain strategic commodities, such as arms and ammunition, explosives and radio transmitting equipment, are also subject to other controls administered by other government departments.

Purposes and Coverage of Licensing

2. Import licences are required for strategic commodities, covering certain arms and ammunition, explosives, nuclear materials, facilities and equipment, body armours, carbon fibres and prepregs, high-speed digital computers, microprocessors made from compound semiconductors, sophisticated communication systems, encryption equipment for information security, night vision image intensifier systems, chemical weapon precursors and manufacturing facilities, certain biological agents, plant pathogens and related manufacturing equipment, and facilities and articles for a use relating to nuclear, chemical or biological weapons.

3. The import licensing system applies to goods originating in and coming from all places.

4. The import licensing system is not intended to restrict the quantity or value of imports. Instead, it seeks to prevent the Hong Kong Special Administrative Region (HKSAR) from being used as a conduit for proliferation of weapons of mass destruction and to ensure HKSAR's continuous access to technology and high-tech products.

5. The import licensing system is a statutory requirement maintained under the Import and Export Ordinance (Cap. 60) and the Import and Export (Strategic Commodities) Regulations (Cap. 60G) . Certain strategic commodities are also subject to the controls of other Ordinances as set out below:

|  |  |
| --- | --- |
| Products | Relevant Ordinances |
| (a) Radio transmitting equipment | Sections 8 and 9 of the Telecommunications Ordinance (Cap.106) |
| (b) Arms, ammunition and explosives | Arms and ammunition are controlled under Firearms and Ammunition Ordinance (Cap. 238) and explosives are controlled under Dangerous Goods Ordinance (Cap. 295) |

Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Licence applications should be lodged in advance of importation taking into account the processing time required by the Trade and Industry Department, which is normally 2.5clear working days for import licence applications covering strategic commodities, and the processing time of other departments is as follows:

(i) Hong Kong Police Force (for arms and ammunition): normally 2 working days (by hand) or 9 working days (by post) for a Limited Licence for Possession; 24working days for an Exemption or a Licence for Possession; and 6 to 12 months for the Arms Dealer's Licence, provided that full details are given by the applicant.

(ii) Office of the Communications Authority (for radio transmitting equipment): within4working days for Radio Dealers Licence and 1 clear working day for Import Permit.

(iii) Marine Department (for direct transhipment of explosives in vessels): 48 hours before arrival of the goods.

(iv) Civil Engineering and Development Department (for approving the explosives for use in HKSAR): written approval will be issued to the applicant within 7 working days when all the information/documents required are provided and found to be satisfactory.

(b) Requests for expeditious processing of import licence application will be entertained when there are sufficient justifications. For strategic commodities imported without a licence owing to unforeseen circumstances, based on the merit of individual cases, consideration will be given to issuing an import licence retrospectively on an exceptional basis.

(c) There is no limitation as to the period of the year during which applications for licence and/or importation may be made.

(d) Trade and Industry Department is responsible for the processing and approval of import licence for strategic commodities. For applications concerning arms, ammunition, explosives and radio transmitting equipment, the importer has to separately approach the relevant government departments in paragraph 1.1.7(a) above for endorsement on import or legitimate possession of the subject products.

8. Applications for import of strategic commodities for legitimate use would normally be approved, unless there is doubt on the end-use of the goods or there is suspicion that the items imported may be re-exported illegally. Import licence applications may also be refused in cases where an international trade sanction on the exporting country/ place is in force. Reasons for refusal will be given to the applicant. The applicant has a right to appeal to the Chief Executive of the HKSAR by writing to the Chief Secretary for Administration. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. All firms, institutions and individuals in HKSAR are eligible to apply for import licences except under special circumstances where licensing facilities to them are denied owing to malpractice of the firm/institution/individual or some other special reasons.

For the purpose of maintaining interference control, any person who imports or exports radio transmitting equipment (except equipment which is article in transit or transhipment cargo3) is required to obtain a permit from the Office of the Communications Authority unless he is a holder of a 'Radio Dealers Licence(Unrestricted)' issued by the Communications Authority to deal in the course of trade or business in radio transmitting apparatus. The fee for issuance of a permit is HK$150. The annual licence fee for a Radio Dealers Licence (Unrestricted) is HK$1,500.

For arms and ammunition, all firms, institutions and individuals must obtain an Arms Dealer's Licence or a Licence for Possession before applying for a Limited Licence for Possession from the Hong Kong Police Force and an import licence from the Trade and Industry Department. The prescribed fee for a Limited Licence for Possession is HK$160; Licence for Possession is HK$2,730; and an Arms Dealer's Licence is from HK$6,010 to HK$14,150.

Civil Engineering and Development Department will only include the explosives which are suitable for use in HKSAR into the'List of Approved Explosives for Use in Hong Kong'(the List4) . For explosives which are not on the List, the importer must first apply to the Civil Engineering and Development Department and get the explosives included on the Listbefore importing them.

Documentational and Other Requirements for Application for Licence

10. The import licence application form for strategic commodities can be viewed at[*https://www.stc.tid.gov.hk/english/download/files/il\_paper\_form.pdf*](https://www.stc.tid.gov.hk/english/download/files/il_paper_form.pdf). Catalogues/technical specifications of the products under application have to be lodged with the application for technical assessment purpose. As the case warrants, additional supporting documents/information may be required to substantiate the case.

For arms and ammunition, application forms for a Licence for Possession, a Limited Licence for Possession, an Exemption and an Arms Dealer's Licence mentioned in paragraph1.1.7(a)(i) can be downloaded at[*https://www.police.gov.hk/ppp\_en/08\_forms/*](https://www.police.gov.hk/ppp_en/08_forms/).

For radio transmitting equipment, application forms for Radio Dealers Licence and Import Permit mentioned in paragraph 1.1.7(a)(ii) can be downloaded at the following websites:

Application form for Radio Dealers Licence

[*http://www.ofca.gov.hk/filemanager/ofca/common/electronic\_services/licenses\_application/A112.pdf*](http://www.ofca.gov.hk/filemanager/ofca/common/electronic_services/licenses_application/A112.pdf)

Application form for Import Permit for Radiocommunications Transmitting Apparatus[*http://www.ofca.gov.hk/filemanager/ofca/common/electronic\_services/licenses\_application/a120.pdf*](http://www.ofca.gov.hk/filemanager/ofca/common/electronic_services/licenses_application/a120.pdf). Online application for Import Permit for Radiocommunications Transmitting Apparatus is also available through the Trade Single Window at   [*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

For explosives, application forms for approval of blasting explosives and non-blasting explosives for use in HKSAR mentioned in paragraph 1.1.7(a)(iv) can be downloaded at the following websites:

Application form for approval of blasting explosives

[*http://www.cedd.gov.hk/eng/forms/doc/explosive.pdf*](http://www.cedd.gov.hk/eng/forms/doc/explosive.pdf)

Application form for approval of non-blasting explosives

[*http://www.cedd.gov.hk/eng/forms/doc/non\_explosive.pdf*](http://www.cedd.gov.hk/eng/forms/doc/non_explosive.pdf)

11. The import licence is the only document required upon actual importation.

12. No licensing fee or administrative charge is required.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The import licence for strategic commodities is valid for 6 months from the date of issue. The validity cannot be extended under normal circumstances.

15. There is no penalty for non-utilization. Importers should however return an unused licence to the Trade and Industry Department for cancellation.

16. The licence is not ***transferable***.

17. An import licence concerning strategic commodities is usually issued with the following conditions: 'Re-export must be covered by an export licence issued by the Director-General of Trade and Industry' and 'The goods covered by this licence are not to be used in relation to nuclear, biological or chemical weapons or missile capable of delivering these weapons'.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

1.2Rice, rough diamonds, pesticides, and ozone depleting substances

Outline of Systems

1. Import licences/certificates are required for import of rice (unless for purposes specifically exempted under the relevant legislation), rough diamonds, pesticides, and ozone depleting substances. These import measures are applied for health, environmental protection reasons, to maintain a stable supply of rice and a reserve stock for emergencies, or for fulfilment of HKSAR's international obligations. The licensing system for the above products is primarily operated by the Trade and Industry Department. Ozone depleting substances import licences are issued by the Trade and Industry Department under delegation from the Environmental Protection Department. Import licences for pesticides (strictly for quarantine and pre-shipment cargo treatment) containing methyl bromide, an ozone depleting substance, are issued by the Trade and Industry Department.

Purposes and Coverage of Licensing

2. Import licensing/certification system is intended for the following purposes:

|  |  |  |
| --- | --- | --- |
|  | Products | Purposes |
| (a) | Rice | To maintain a stable supply and a reserve stock for emergencies |
| (b) | Rough diamonds | To fulfil international obligation |
| (c) | Pesticides | To protect public health |
| (d) | Ozone depleting substances | To protect the environment |

3. The import licensing/certification system applies to products coming from all places except rough diamonds and ozone depleting substances. For rough diamonds, all imports of rough diamonds from non-participants of the Kimberley Process5have been banned since 2 January 2003. For ozone depleting substances, the imports of ozone depleting substances are banned unless such imports are allowed under the Montreal Protocol on Substances that Deplete the Ozone Layer.

4. The principal objective of the import licensing/certification system is not to restrict the quantity or value of imports, but for purposes set out in paragraph 1.2.2 above. A quantitative limit is imposed for imports of some ozone depleting substances to ensure that the amount of ozone depleting substances retained for local consumption does not exceed levels agreed under the Montreal Protocol.

5. The import licensing/certification system is a statutory requirement maintained under respective Ordinances listed below:

|  |  |
| --- | --- |
| Products | Relevant Ordinances |
| (a) Rice | Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296A),Reserved Commodities Ordinance (Cap. 296) |
| (b) Rough diamonds | Import and Export (General) Regulations (Cap. 60A), Import and Export Ordinance (Cap. 60) |
| (c) Pesticides | Pesticides Ordinance (Cap. 133)Import and Export (General) Regulations (Cap. 60A), Import and Export Ordinance (Cap. 60) |
| (d) Ozone depleting substances | Ozone Layer Protection Ordinance (Cap. 403) |

Legislation does not leave designation of product to be subject to licensing/certification to administrative discretion. Any changes to the import licensing/certification system require legislative approval.

Procedures

6. Having all other ozone depleting substances (except for essential or critical uses) fully banned, only the importation of hydrochlorofluorocarbons (HCFCs) for local consumption is subject to quantitative restriction:

I. Under the current quota allocation system, annual quotas are allocated on a pro rata basis among the existing registered importers, based on their 12-month performance (from November of the preceding year to October of the current year) as normal quotas. If there are any unallocated normal quotas and/or any quantities of HCFCs that are exported from HKSAR to other places in the control period, the amount will be allocated to the free quotas which are open to all applicants on a first-come-first-served basis. Before the end of the control period, letters are sent to existing registered importers informing them the normal quotas allocation for the subsequent control year. Within the control period, all registered importers could also apply for free quotas. However, for the registered importers who have been allocated normal quotas, they cannot apply for free quota until their normal quotas have been exhausted. A common ***ceiling*** of a certain amount of quota is assigned to each individual importer applying for free quotas. Information concerning the quota allocation and licensing systems is available to the general public through a website:[*http://www.epd.gov.hk/epd/english/environmentinhk/air/ozone\_layer\_protection/wn6\_info.html*](http://www.epd.gov.hk/epd/english/environmentinhk/air/ozone_layer_protection/wn6_info.html). Information on the total amount of quota under the quota allocation system is also available upon request.

II. The size of quotas, which is calculated on yearly basis, is determined according to the requirements of the Montreal Protocol. Licences are issued to registered companies on individual consignment basis.

III. The Government will closely monitor the utilization of quotas and licences. Importers are required to ***notify*** the Trade and Industry Department of details of the import within 14days after importation. Unused allocations will not be carried forward to the quotas for the succeeding control period because the maximum level for each control period i.e per ***calendar*** year is fixed in accordance with the requirements of the Montreal Protocol.

IV. Submission of applications for licences may be made at any time. However, applications for imports of HCFCs for local consumption will only be considered if the applicants have enough valid quotas or sufficient quotas could be allocated to the applicants for the relevant control period. Methyl bromide could be imported with a valid licence provided that importers have obtained a valid Pesticides Permit from the ***Agriculture***, Fisheries and Conservation Department and the import of methyl bromide is restricted to quarantine and pre-shipment applications.

V. Import licences are normally issued in 2 clear working days.

VI. The control period for ozone depleting substances is on a ***calendar*** year basis. To facilitate imports at the beginning of the succeeding control period, the Trade and IndustryDepartment will provide licensing service about 1 week prior to the expiry of the current control period.

VII. Importers only need to approach the Trade and IndustryDepartment for registration and application and issue of licences.

VIII. Normal quotas are allocated to registered importers with regard to their performance in the previous control period. Free quotas for HCFCs, if available, are allocated throughout the control period to all eligible applicants (see paragraph 1.2.9 below), including new importers, on a first-come-first-served basis. A common ***ceiling*** of a certain amount of quota is assigned to each individual importer applying for free quota. Registered importers can also acquire the quotas through quota ***transfer*** from the existing normal quota holders.

IX-X. The questions are not applicable as there is no bilateral quotas or export restraint arrangements in place.

XI. In the case of import for re-export where quotas will not be debited against the import quota, combined 'import and export licence' or separate licences where applicable, will be issued on condition that the goods will have to be exported in full within the validity period of the licences.

7.(a) Application for import licences/certificates should be lodged in advance of importation taking into account the processing time. The processing time is 1 clear working day for rice and 2clear working days for ozone depleting substances and methyl bromide. As regards the import certificates for rough diamonds, instant service is provided.

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which application for licence/certificate and/or importation may be made.

(d) The Trade and Industry Department is the sole administrative organ for the processing and approval of import licences/certificates.

8. Under normal circumstances, an application for an import licence/certificate is usually granted if it meets the ordinary criteria. Reasons for refusal will be given to the applicant. Applicants for rice, rough diamonds and pesticides may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence/certificates. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is provided in relevant statutes. For ozone depleting substances, applicants may appeal to the Administrative Appeals Board against decision of refusal to grant a licence by the Director of Environmental Protection.

Eligibility of Importers to Apply for Licence

9. For rice, under normal circumstances, only stockholders registered with the Trade and Industry Department may import rice into HKSAR for local consumption. Registration is free of charge and open to any person/entity carrying on a business registered in HKSAR. There is a published list of registered stockholders of rice.

For rough diamonds, a person carrying on a business of importing rough diamonds must be registered with the Trade and Industry Department first before it can apply for an import certificate. Registration is open to all persons on payment of a fee of HK$645 (valid for 2years) . There is no published list of registered rough diamond traders.

For ozone depleting substances, a company is required to register with the Trade and Industry Department before it can apply for an import licence. Registration is open to all companies on payment of a fee of HK$2,430 (valid for 2 ***calendar*** years) . A list of registered importers is available upon request.

For pesticides (methyl bromide), a company is required to hold a pesticides permit issued by the ***Agriculture***, Fisheries and Conservation Department before it can apply for an import licence except where the pesticide is being imported on a valid through bill of lading. If imported on such a bill of lading, no pesticides permit is required. Application for a pesticides permit is open to all business enterprises wishing to deal in pesticides. A fee is charged for the permit, which may range from HK$985 to HK$1,650 depending on the type of permit. There is no published list of permitted importers.

Documentational and Other Requirements for Application for Licence/Certificate

10. In general, information to be supplied includes particulars of the importer, of the importation and of the products to be imported.

Samples of the Import Licence Form 3 applicable to rice and pesticides, Import Licence Form and Combined 'Import and Export Licence' Form for ozone depleting substances can be downloaded at:

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/forms\_maincontent.html*](https://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html). Online application for Import Licence for Ozone Depleting Substances is also available through theTrade Single Window at   [*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

The Import Certificate Application Form for rough diamonds is available at[*https://www.tid.gov.hk/english/aboutus/form/publicform/nontextiles/files/tid503a.pdf*](https://www.tid.gov.hk/english/aboutus/form/publicform/nontextiles/files/tid503a.pdf).

Certain documents are also required to support licence/certificate applications of the following products:

|  |  |
| --- | --- |
| Products | Documents |
| (a) Rough diamonds | A copy of the Kimberley Process Certificate issued by the relevant exporting country/place |
| (b) Pesticides (methyl bromide) | A pesticides permit issued by the ***Agriculture***, Fisheries and Conservation Department authorizing the importer to trade in pesticides or a valid through bill of lading |

11. The import licence is the only document required upon actual importation.

12. Apart from applications covering ozone depleting substances and rough diamonds, no licensing fee or administrative charge is required for import licence applications.

For ozone depleting substances, a fee of HK$815 and HK$1,210 is charged on the issue of an import licence and a combined 'import and export licence' respectively. The price of ozone depleting substances import licence forms and combined 'import and export licence' forms are HK$28 per pad (containing 5 sets) and HK$34 per pad (containing 5 sets) respectively.

For rice and pesticides, the price of non-textiles import licence forms is HK$20 per pad (containing 20sets)/HK$3 per set.

For rough diamonds, a fee of HK$175 is charged on the issue of an import certificate. Application for rough diamonds import certificate may be lodged through a downloadable application form which is free of charge.

13. No deposit or advance payment is required.

Conditions of Licensing

14. Unless otherwise stated, an import licence/certificate is valid for 28 days for rough diamonds, 6 weeks for rice, 60 days for ozone depleting substances and pesticides (methyl bromide) . The period of validity can be extended by the Director-General of Trade and Industry depending on the merits of individual requests.

15. There is no penalty for non-utilization. Importers should however cancel or amend the licences/certificates.

16. The licence/certificate is not ***transferable***.

17. The licensing/certification conditions are printed on the front or back of the import licence/certificate.

Samples of the Import Licence Form 3 applicable to rice and pesticides, Import Licence Form and Combined 'Import and Export Licence' Form for ozone depleting substances can be downloaded at:

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/forms\_maincontent.html*](https://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html).

Additional conditions applicable to rice imported for local consumption and for re-export are set out on the specimens at:

Specimen of Completed Import Licence Form 3 (Local Consumption)

[*https://www.tid.gov.hk/english/import\_export/nontextiles/nt\_rice/files/rice\_guidelines\_annexVI.pdf*](https://www.tid.gov.hk/english/import_export/nontextiles/nt_rice/files/rice_guidelines_annexVI.pdf)

Specimen of Completed Import Licence Form 3 (Re-Export)

[*https://www.tid.gov.hk/english/import\_export/nontextiles/nt\_rice/files/rice\_guidelines\_annexVII.pdf*](https://www.tid.gov.hk/english/import_export/nontextiles/nt_rice/files/rice_guidelines_annexVII.pdf)

The Import Certificate Application Form for rough diamonds is available at:

[*https://www.tid.gov.hk/english/aboutus/form/publicform/nontextiles/files/tid503a.pdf*](https://www.tid.gov.hk/english/aboutus/form/publicform/nontextiles/files/tid503a.pdf)

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

2DEPARTMENT OF HEALTH

2.1Pharmaceutical products and medicines, proprietary Chinese medicines and 36Chinese herbal medicines, and radioactive substances and irradiating apparatus

Outline of Systems

1. Licences are required for import of pharmaceutical products and medicines, proprietary Chinese medicines and 36 Chinese herbal medicines, and radioactive substances and irradiating apparatus. These import measures are applied for safety, health, security, or for fulfilment of HKSAR's international obligations. Import licences for these products are issued by the Department of Health under delegation from the Trade and Industry Department.

Purposes and Coverage of Licensing

2. The import licensing system is intended for the following purposes:

|  |  |  |
| --- | --- | --- |
|  | Products | Purposes |
| (a) | Pharmaceutical products and medicines | To protect public health |
| (b) | Proprietary Chinese medicines and 36 Chinese herbal medicines | To protect public health |
| (c) | Radioactive substances and irradiating apparatus | To fulfil international obligation and to ensure public safety, security and health |

3. The import licensing system applies to products coming from all places.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports, but for purposes set out in paragraph 2.1.2 above.

5. The import licensing system is a statutory requirement maintained under respective Ordinances listed below:

|  |  |
| --- | --- |
| Products | Relevant Ordinances |
| (a) Pharmaceutical products and medicines | Pharmacy and Poisons Ordinance (Cap. 138)Import and Export (General) Regulations (Cap. 60A), Import and Export Ordinance (Cap. 60) |
| (b) Proprietary Chinese medicines and 36 Chinese herbal medicines | Chinese Medicine Ordinance (Cap. 549)Import and Export (General) Regulations (Cap. 60A), Import and Export Ordinance (Cap. 60) |
| (c) Radioactive substances and irradiating apparatus | Radiation Ordinance (Cap. 303)Import (Radiation) (Prohibition) Regulations (Cap. 60K), Import and Export Ordinance (Cap. 60) |

Legislation does not leave designation of product to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The processing time is 1 clear working day for radioactive substances and irradiating apparatus; and 2 working days for pharmaceutical products and medicines; and proprietary Chinese medicines and 36 Chinese herbal medicines.

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.

(d) Department of Health is the sole administrative organ for the processing and approval of import licences.

8. Under normal circumstances, an application for an import licence is usually granted if it meets the ordinary criteria. Reasons for refusal will be given to the applicant. Applicants may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is provided in relevant statutes.

Eligibility of Importers to Apply for Licence

9.(a) For import of radioactive substances or irradiating apparatus, a separate Radioactive Substances Licence or Irradiating Apparatus Licence, as appropriate, issued by the Radiation Board is required.

Radioactive Substances Licence: the applicant is required,inter alia, to appoint a person to supervise the activities under the licence. The supervisor should have undergone the necessary training on radiation protection recognised by the Radiation Board. Licence fee is HK$3,190. There is no published list of licence holders.

Irradiating Apparatus Licence: for sale of irradiating apparatus in HKSAR, the applicant is required to provide the specifications of the irradiating apparatus, and test reports showing conformance with international standards, for assessment by the Radiation Board. Licence fee is HK$570. There is no published list of licence holders.

(b) For pharmaceutical products and medicines, only those products which have been registered with the Pharmacy and Poisons Board are allowed to be imported for the purpose of local sale or distribution. A company is required to hold an appropriate dealer's licence issued by the Pharmacy and Poisons Board before it can apply for an import licence. Application for the dealer's licence is open to all business enterprises dealing in pharmaceutical products and medicines. A fee is charged for the licence, which may range from HK$625 to HK$2,680 depending on the type of licence. There is a published list of licensed wholesale dealers and manufacturers in the Drug Office website:[*http://www.drugoffice.gov.hk*](http://www.drugoffice.gov.hk).

(c) For proprietary Chinese medicines, only those products which have been registered with the Chinese Medicine Board are allowed to be imported for the purpose of local sale or distribution. Application for import licence is also required for import of proprietary Chinese medicines for re-export purpose. For Chinese herbal medicines, applications are required only for import of 36 Chinese herbal medicines (31 Chinese herbal medicines in Schedule 1 and 5 Chinese herbal medicines in Schedule 2) . A company is required to hold an appropriate trader's licence issued by the Chinese Medicine Board before it can apply for an import licence. Application for the trader's licence is open to all business enterprises conducting business in proprietary Chinese medicines and Chinese herbal medicines. A fee is charged for the licence, which may range from HK$1,210 to HK$3,180 depending on the type of licence. There is a published list of licensed Chinese medicines traders in the Chinese Medicine Council of Hong Kong website:[*http://www.cmchk.org.hk*](http://www.cmchk.org.hk).

Documentational and Other Requirements for Application for Licence

10. In general, information to be supplied includes particulars of the importer, of the importation and of the products to be imported.

Samples of the Import Licence Form 3 (for pharmaceutical products and medicines, proprietary Chinese medicines and 36 Chinese herbal medicines) and the Import Licence Form for radioactive substance and irradiating apparatus are available at:

Import Licence Form 3

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf)

Import Licence Form for Radioactive Substance and Irradiating Apparatus

[*http://www.info.gov.hk/dh-rhu/common\_pdf/Import%20licence%20Form-%20electronic%20form%20TRA-RSIA%202014.pdf*](http://www.info.gov.hk/dh-rhu/common_pdf/Import%20licence%20Form-%20electronic%20form%20TRA-RSIA%202014.pdf)

Certain documents are also required to support licence applications of the following products:

|  |  |
| --- | --- |
| Products | Documents |
| (a) Radioactive substances and irradiating apparatus | A copy of the Radioactive Substances Licence or Irradiating Apparatus Licence as appropriate issued by the Radiation Board |
| (b) Proprietary Chinese medicines and 36Chinese herbal medicines | A copy of valid trader's licence issued by the Chinese Medicines Board |
| (c) Pharmaceutical products and medicines | A copy of valid trader?s licence issued by the Pharmacy and Poisons Board |

11. The import licence is the only document required upon actual importation.

12. No licensing fee or administrative charge is required for import licence applications.

13. No deposit or advance payment is required.

Conditions of Licensing

14. Unless otherwise stated, an import licence is valid for 6 months. The period of validity can be extended by the Director-General of Trade and Industry depending on the merits of individual requests.

15. There is no penalty for non-utilization. Importers should however cancel or amend the licences.

16. The licence is not ***transferable***.

17. The licensing conditions are printed on the front or back of the import licences. Samples of the Import Licence Form 3 (for pharmaceutical products and medicines, proprietary Chinese medicines and 36 Chinese herbal medicines) and the Import Licence Form for radioactive substance and irradiating apparatus are available at:

Import Licence Form 3

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf)

Import Licence Form for Radioactive Substance and Irradiating Apparatus

[*http://www.info.gov.hk/dh-rhu/common\_pdf/Import%20licence%20Form-%20electronic%20form%20TRA-RSIA%202014.pdf*](http://www.info.gov.hk/dh-rhu/common_pdf/Import%20licence%20Form-%20electronic%20form%20TRA-RSIA%202014.pdf)

Other Procedural Requirements

18. A removal permit which is issued free of charge by the Radiation Board on behalf of the Commissioner for Labour, is required for moving radioactive substance on vehicles or vessels within the HKSAR. Each conveyance of radioactive substance should be under the supervision of the owner, consignor of the substances or his representative authorised in that behalf, who are holding recognised qualifications on radiological protection.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

3CUSTOMS AND EXCISE DEPARTMENT

3.1Dutiable commodities

Outline of Systems

1. The import of dutiable commodities (tobacco, liquors with an alcoholic strength of more than 30% by volume measured at temperature of 20°C, methyl alcohol and hydrocarbon oil) is controlled through (i) licensing of importers and (ii) issuing of removal permits. An importer has to be licensed with the Customs and Excise Department before he can apply for removal permit for import and removal of dutiable commodities.

Purposes and Coverage of Licensing

2. Removal permit is issued to licensed importers by the Customs and Excise Department to control the import and movement of dutiable commodities (tobacco, liquors with an alcoholic strength of more than 30% by volume measured at temperature of 20°C, methyl alcohol and hydrocarbon oil) .

3. The import licensing system applies to dutiable commodities coming from all places outside HKSAR.

4. The import licensing system is not intended to restrict the quantity or the value of import, but to protect and collect the excise duty imposed on the dutiable commodities.

5. The licence and permit requirement is statutory under the Dutiable Commodities Ordinance (Cap.109) . Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. The questions are not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) For an importer to be licensed, the normal application processing time is not more than 12working days, upon receipt of all necessary documents and information from the applicants.

Application for removal permit from a licensed importer should be lodged in advance of importation taking into account the processing time. Normally, the issue of a removal permit to a licensed importer requires half a working day, upon receipt of all necessary documents and information from the applicants.

(b) A licence cannot be granted immediately on request because of the time required to process the application, including validation of the information provided by the applicant.

(c) There is no limitation of time during the year on the application for licence and/or importation.

(d) The import licences and removal permits are issued by the Customs and Excise Department only. It is not necessary for the applications to be passed on to other departments or authorities for note or approval.

All licence applications shall be submitted electronically to the Customs and Excise Department through the Dutiable Commodities System (DCS) at[*https://www.dcs.customs.gov.hk*](https://www.dcs.customs.gov.hk). Please visit the DCS website for further information.

For the removal permit application, applicants have to lodge the application using the recognized electronic service provided by any of the three electronic service providers specified under the Dutiable Commodities Ordinance. Please visit the following website or contact the electronic service providers for further information:

[*https://www.customs.gov.hk/en/trade\_facilitation/dutiable/licence\_permit/permits/index.html#3*](https://www.customs.gov.hk/en/trade_facilitation/dutiable/licence_permit/permits/index.html#3).

8. Application for an importer to be licensed will normally be approved provided that the necessary criteria are met. Reason for refusal will be given to the applicant. An applicant has the right to appeal to the Administrative Appeals Board against the decision of refusal to grant an import licence or a removal permit by the Commissioner of Customs and Excise.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply to be licensed by the Customs and Excise Department.

Documentational and Other Requirements for Application for Licence

10. For an importer to be licensed, information including particulars of the applicant and the premises related to the application has to be provided. Checklists of supporting documents required for licence application are at[*https://www1.dcs.customs.gov.hk/dcsext/dcs/checkListLicApp*](https://www1.dcs.customs.gov.hk/dcsext/dcs/checkListLicApp). Please visit the DCS website (   [*https://www.dcs.customs.gov.hk*](https://www.dcs.customs.gov.hk)) for further information.

A removal permit is required upon actual importation of the dutiable commodities. For the application of a removal permit, commercial documents relating to the dutiable commodities may be required. Please visit the following website or contact the electronic service providers for further information:

[*https://www.customs.gov.hk/en/trade\_facilitation/dutiable/licence\_permit/permits/index.html#3*](https://www.customs.gov.hk/en/trade_facilitation/dutiable/licence_permit/permits/index.html#3).

11. For the import of liquors, a certificate of age/origin may be required upon actual importation.

12. The administrative charge for issue of each import licence is HK$1,320. The issue of a removal permit by the Customs and Excise Department is free of charge, but a service charge of permit application is required by the specified electronic service provider.

13. No deposit or advance payment is required under normal circumstances.

Conditions of Licensing

14. The import licence for dutiable commodities is valid for 1 year which can be renewed upon application on a yearly basis.

15. There is no penalty for non-utilization.

16. The licence is not ***transferable***.

17. The Commissioner of Customs and Excise may impose special conditions or restrictions in particular cases as he thinks fit.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

3.2Controlled chemicals

Outline of Systems

1. The import of controlled chemicals is controlled through (i) licensing of importers and (ii)issuing of import authorization. An importer has to be licensed with the Customs and Excise Department before he can apply for an import authorization to import the controlled chemicals for each consignment.

Purposes and Coverage of Licensing

2. Import authorization is issued to licensed importers by the Customs and Excise Department to regulate the import of controlled chemicals (i.e the substances listed in Schedules 1 and 2 to the Control of Chemicals Ordinance (Cap. 145)) .

3. The import licensing system applies to controlled chemicals coming from any places outside the HKSAR.

4. The import licensing system is not intended to restrict the quantity or the value of import, but to prevent diversion of controlled chemicals into illicit manufacture of narcotic drugs and psychotropic substances.

5. The licence requirement is statutory under the Control of Chemicals Ordinance (Cap.145) . Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Application for licences and import authorization should be lodged in advance of importation taking into account the processing time. For an importer to be licensed, the normal processing time would be 14 days. The licensed importer has to lodge an Import Authorization Application and supporting documents at least 4 working days before the actual importation of controlled chemicals.

(b) A licence cannot be granted immediately on request because of the time required to process the application.

(c) There is no limitation of time during the year on the application for licence and/or importation.

(d) The Customs and Excise Department is the sole administrative authority responsible for the processing and approval of licence and import authorization applications.

8. Licences will normally be granted to established companies, hospitals and educational or scientific organizations on application. Reasons for refusal will be given to the applicant. An applicant has right to appeal to the Administrative Appeals Board against the decision of refusal to grant a licence by the Commissioner of Customs and Excise.

Eligibility of Importers to Apply for Licence

9. All importers may apply for an import licence under the Control of Chemicals Ordinance (Cap.145) .

Documentational and Other Requirements for Application for Licence

10. An applicant for a licence is required to provide the Customs and Excise Department with information about his personal and company particulars, business address and storage place for controlled chemicals, etc. in his application. For the application of an import authorization, commercial documents relating to the import of controlled chemicals have to be provided. Application forms for licence and import authorization are available at[*http://www.customs.gov.hk/en/trade\_facilitation/chemicals/licence/index.html*](http://www.customs.gov.hk/en/trade_facilitation/chemicals/licence/index.html). Online application for Authorization to Import Controlled Chemicals is also available through theTrade Single Window at   [*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

11. The import authorization is the only document required under the Control of Chemicals Ordinance (Cap.145) upon actual importation. For the import of ephedrine, pseudoephedrine, ergometrine, ergotamine and norephedrine,import licences issued by the Department of Health under the Import and Export Ordinance (Cap.60) are also required (see section 2 above) .

12. The administrative charge for a licence is HK$1,530 for each year and an import authorization is free of charge.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The licence is valid for 1 year which can be renewed upon application on yearly basis.

15. There is no penalty for non-utilization. Licensee should however surrender his licence and/or import authorization for amendment or cancellation where appropriate.

16. The licence is not ***transferable***.

17. There are no other conditions attached to the issue of a licence.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

3.3Optical disc mastering and replication equipment

Outline of Systems

1. An import licensing system is maintained for the import control of Optical Disc Mastering and Replication Equipment from all countries.

Purpose and Coverage of Licensing

2. The import licensing system applies to the import of optical disc mastering and replication equipment.

3. The import licensing system applies to optical disc mastering and replication equipment coming from any places outside HKSAR.

4. The import licensing system is not intended to restrict the quantity or the value of import, but to enforce a robust intellectual property rights regime in HKSAR and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities.

5. The licence requirement is statutory under the Import and Export Ordinance (Cap. 60) . Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Application for a licence shall be lodged in advance of importation. The issue of an import licence normally takes 2 working days.

(b) A licence cannot be granted immediately upon request.

(c) There is no limitation of time during the year where application for licence and/or importation can be made.

(d) The Customs and Excise Department is the sole administrative organ responsible for the consideration of licence application.

8. Application for a licence will be approved provided the ordinary criteria are met. Reasons for refusal will be given to the applicant. The applicant may appeal to the Chief Executive of the HKSAR against the refusal. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for the licence.

Documentational and Other Requirements for Application for Licence

10. An applicant for a licence is required to provide the Customs and Excise Department with particulars of the applicant or his company and the arrival details, etc. in the application. Related supporting documents have to be provided. Sample of the application form is available at[*http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf).

Online application for Import Licence for Optical Disc Mastering and Replication Equipment is also available through theTrade Single Window at[*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

11. The import licence is the only document required upon actual importation.

12. No licensing fee or administrative charge is required.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The licence is valid only for 6 months from the date of issue. It may cover partial shipments within the 6-month period. Extension of validity may also be granted on application.

15. There is no penalty for non-utilization.

16. The licence is not ***transferable***.

17. There are no other conditions attached to the issue of a licence.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

4CIVIL ENGINEERING AND DEVELOPMENT DEPARTMENT

4.1Sand

Outline of Systems

1. A permit to import or transport sand in HKSAR is required under the Sand Ordinance (Cap. 147) . The permit system enables the protection of beaches and seabed in HKSAR. Permits are issued by the Civil Engineering and Development Department (CEDD) .

Purposes and Coverage of Licensing

2. Permits issued by CEDD are required for imports of sand in excess of 100 kg. Sand produced by any quarrying operation or by the washing of other materials is not covered.

3. The permit system applies to natural sand imported from all places.

4. The permit system is not intended to restrict the quantity or value of imports, but to provide a mechanism to enable the protection of beaches and seabed in HKSAR.

5. The permit system is statutorily required under Section 3 of the Sand Ordinance (Cap. 147) . Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes to the permit system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Permits to import sand are issued upon written application. Permit application should be lodged in advance of importation taking into account the processing time which normally takes 2 working days.

(b) In exceptional cases, a permit can be granted immediately upon written request.

(c) There are no limitations as to the period of the year during which permit applications and/or importation may be made.

(d) CEDD is the sole administrative organ regarding the processing and approval of sand permits.

8. Applications for a permit will not be refused if the ordinary criteria are met. Reasons for refusal will be given to the applicant.

Eligibility of Importers to Apply for Licence

9. Any person including sand buyer or import company is eligible to apply for sand permits. There is no registration fee. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. Information required relates to source, quantity, destination, contract agreement between importer and exporter, and export licence issued by the exporting country. The application form for a sand permit is available at[*https://www.cedd.gov.hk/eng/public-services-forms/public-forms/fill-management/index.html*](https://www.cedd.gov.hk/eng/public-services-forms/public-forms/fill-management/index.html).

11. The sand permit is the only document required upon actual importation.

12. No licensing fee or administrative charge is required.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The validity period of a permit is determined by the validity period of the export licence issued by the exporting country, up to a maximum of 30 days. This period can be extended upon application. A new permit will be issued.

15. There is no penalty for non-utilization.

16. The permit is not ***transferable***.

17. The permit conditions can be found in the application form available at[*https://www.cedd.gov.hk/eng/public-services-forms/public-forms/fill-management/index.html*](https://www.cedd.gov.hk/eng/public-services-forms/public-forms/fill-management/index.html).

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

5AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT

5.1Plants, plant pests and soil

Outline of Systems

1. Import licences, supported by phytosanitary certificates, are required for import of plants. Prior authorizations are required for import of plant pest or soil. Plant quarantine requirements are provided under the Plant (Importation and Pest Control) Ordinance (Cap. 207) administered by the ***Agriculture***, Fisheries and Conservation Department. All principles and procedures are based on the Plant Protection Agreement for the Asia and Pacific Region and the International Plant Protection Convention (IPPC) .

Purposes and Coverage of Licensing

2. For import of plants, a Plant Import Licence (PIL) issued by the ***Agriculture***, Fisheries and Conservation Department is required. 'Plant' includes timber, trees, shrubs, leaves, roots, flowers, fruits, tubers, bulbs, corms, stocks, cuttings, layers, slips, suckers, seeds, and any part of a plant whether or not intended for growing, planting or propagation or from which further plants may be grown, planted or propagated.

For import of plant pests or soil, an authorization in writing (AIW) issued by the Director of ***Agriculture***, Fisheries and Conservation is required. 'Plant pest' means any bacterium, fungus, virus, mycoplasma, alga or other plant or any invertebrate animal which is capable of being injurious or destructive to plants. 'Soil' includes earth, sand, clay and peat.

3. PIL and AIW apply to plants originating in and coming from all places outside HKSAR. The only exception is the exemption for plants and soil imported from any place in China outside HKSAR.

4. Neither PIL nor AIW is intended to restrict the quantity or value of imports. The sole purpose is to establish an effective means for plant quarantine to prevent the spread of plant pest in compliance with the recommendations of the Plant Protection Agreement for the Asia and Pacific Region and the IPPC.

5. PIL and AIW are statutory instruments under the Plant (Importation and Pest Control) Ordinance (Cap. 207) . Legislation does not leave designation of plant to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Application for PIL or AIW should be lodged in advance of importation. It should be taken into account that processing of applications takes 2 clear working days.

(b) PIL, but not AIW, can be granted immediately on request when there is a genuine need under exceptional cases.

(c) There are no limitations as to the period of the year during which application for importation can be made.

(d) Both PIL and AIW are administered by the ***Agriculture***, Fisheries and Conservation Department. No other administrative body is involved.

8. Application of PIL and AIW will not be refused if the ordinary criteria are met. Reasons for refusal will be given to the applicant. The applicant has the right to appeal to the Chief Executive of the HKSAR by notice in writing within 14 days from the date when he was informed of the decision. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for PIL and AIW without any pre-conditional requirement.

Documentational and Other Requirements for Application for Licence

10. The required information is outlined in the application form for PIL at[*https://www.afcd.gov.hk/english/quarantine/qua\_plants/qua\_plants\_pq/qua\_plants\_pq\_imp/files/pprd\_11003b.rtf*](https://www.afcd.gov.hk/english/quarantine/qua_plants/qua_plants_pq/qua_plants_pq_imp/files/pprd_11003b.rtf). An additional requirement for AIW is a written justification for the importation.

11. Upon actual importation, all First Schedule (Part I) plants andGossypiumspp. must be accompanied by a PIL, a valid phytosanitary certificate (PSC) and certificate of fumigation/disinfection (CF/D) issued by the exporting country or else the consignment will be seized for destruction. For all other plants, only PIL and PSC are required. Actual importation of a plant pest or soil requires AIW and other documents, usually PSC and CF/D stated on the AIW as special conditions for the authorization.

12. No licensing fee or administrative charge is required for PIL and AIW.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The validity for both PIL and AIW is 2 months.

15. There is no penalty for non-utilization of PIL or AIW.

16. PIL and AIW are not ***transferable***.

17. There may be special quarantine requirements attached to the PIL and AIW. The conditions are based on the principles and procedures recommended by the Asia and Pacific Plant Protection Commission and the IPPC.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

5.2Endangered species of animals and plants

Outline of Systems

1. Import licences are required for the import of (a) endangered species listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), whether alive, dead, parts or derivatives, and (b) live endangered species of wild origin in CITES AppendixII.

Purposes and Coverage of Licensing

2. Import licences issued by the ***Agriculture***, Fisheries and Conservation Department are required for the import of animals and plants listed in CITES Appendix I (including their parts and derivatives, and things claimed to contain ingredients made from these endangered species), and live endangered species of wild origin in CITES Appendix II. Import licences are not required for the import of CITES Appendix II species other than live specimens of wild origin and CITES AppendixIII species, subject to the production of a valid CITES export permit or certificate of origin.

3. The import licensing requirement applies to traders as well as individuals importing these items from all territories.

4. The import licensing system is not intended to restrict the quantity or value of imports, but to protect endangered species and to prevent them from over-exploitation in accordance with CITES.

5. The import licensing system is a statutory requirement maintained under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) which gives effect to CITES. Under the Ordinance, the Secretary for the Environment may, by order published in the Gazette, amend the list of endangered species to be subject to licensing requirement. Any other changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import licensing system is not intended to restrict the quantity or value of imports.

7.(a) Application for import licences should be lodged in advance of importation (at least 2working days or more depending on complexity) . However, the issue of a licence is not automatic and shipments should not be effected unless and until the licence has been issued.

(b) Normally an import licence cannot be granted immediately upon request.

(c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.

(d) ***Agriculture***, Fisheries and Conservation Department is the sole authority in considering endangered species aspects but all applications for import licences have to be supported by CITES export permits issued by the exporting economies.

Moreover, the CITES Secretariat or CITES authority of exporting economies may have to be consulted in certain applications.

8. Licensing policy follows closely the provisions and spirit of CITES. Any applicant aggrieved by a decision of the Director of ***Agriculture***, Fisheries and Conservation relating to the issue, refusal or cancellation of a licence or any condition specified in a licence may appeal to the Administrative Appeals Board.

Eligibility of Importers to Apply for Licence

9. Any person can lodge an application.

Documentational and Other Requirements for Application for Licence

10. The required information is summarized in the application form available at[*https://www.afcd.gov.hk/english/conservation/con\_end/con\_end\_lc/con\_end\_lc\_app/files/AF243e18\_final\_20180502.pdf*](https://www.afcd.gov.hk/english/conservation/con_end/con_end_lc/con_end_lc_app/files/AF243e18_final_20180502.pdf). With respect to live specimens, controls of and requirements for import of live animals and plants also apply.

11. Import licence issued by the ***Agriculture***, Fisheries and Conservation Department together with original of the CITES Export Permit issued by the exporting economy are required upon actual importation.

12. The licence fees are as follows:

(a) Import Licence for live animals (one or more species) HK$460

(b) Import Licence other than live animals (one or more species) HK$170

13. No deposit or advance payment is required.

Conditions of Licensing

14. Import licences are normally valid for 6 months or less. The validity of a licence can be extended provided that the licensee lodges an application and gives satisfactory justification to the Director of ***Agriculture***, Fisheries and Conservation before its expiry.

15. There is no penalty for non-utilization.

16. The licence is not ***transferable***.

17. Standard conditions, covering the requirement of presenting the shipment together with the required licence to authorized officers for inspection, are applicable.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

5.3Live animals

Outline of Systems

1. A special permit is required for all live animals and birds imported into HKSAR. The permit must be obtained in advance from the ***Agriculture***, Fisheries and Conservation Department before animals/birds are sent to HKSAR. The terms and conditions of the permit must be fully complied with. Such animals or birds must be sent into HKSAR as manifest cargo.

Purposes and Coverage of Licensing

2. A special permit issued by the ***Agriculture***, Fisheries and Conservation Department is required for the import of animals or birds.

3. The special permit system generally applies to any person bringing any animal or bird into HKSAR from all countries. For non-CITES animals or birds imported directly from the Mainland of China, other rules may apply.

4. The special permit is not used to restrict the quantity or value of imports, but to protect public and animal health; to provide for public safety and animal welfare; and to prevent cruelty to animals.

5. The special permit system is a statutory requirement under the Public Health (Animals and Birds) Ordinance (Cap. 139) and/or the Rabies Ordinance (Cap. 421) with linkage to the Prevention of Cruelty to Animals Ordinance (Cap. 169) . Legislation does not leave designation of the items to be subject to licensing to administrative discretion. Any changes to the special permit system require legislative approval.

Procedures

6. Not applicable as the special permit system is not intended to restrict the quantity or value of imports.

7.(a) Application for a special permit should be lodged well in advance of importation (at least 5working days) . However, the granting of a special permit is not automatic and importation must not be arranged unless a permit is obtained in advance. The applicant may, after receiving a permit, need some time to comply with the terms and conditions of the permit, and should allow for this.

(b) Depending on circumstances a special permit may be granted, subject to the payment of the prescribed fee.

(c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.

(d) The ***Agriculture***, Fisheries and Conservation Department has the sole authority to grant special permits.

8. Applications may be rejected or refused if requirements cannot be met. Reasons for refusal will be given to the applicant. The applicant may appeal to the Administrative Appeals Board.

Eligibility of Importers to Apply for Licence

9. Any person may lodge an application.

Documentational and Other Requirements for Application for Licence

10. The required information is summarized in the application form at[*https://www.afcd.gov.hk/english/quarantine/qua\_ie/qua\_ie\_ipab/qua\_ie\_ipab\_idc/files/common/AF240\_Jul16E.pdf*](https://www.afcd.gov.hk/english/quarantine/qua_ie/qua_ie_ipab/qua_ie_ipab_idc/files/common/AF240_Jul16E.pdf).

11. The special permit and other documents specified by terms/conditions of the permit, and documents required under any other legislation are required upon actual importation.

12. The current fee schedule for special permits is available at[*https://www.afcd.gov.hk/english/quarantine/qua\_ie/qua\_ie\_ipab/files/g110\_fee\_for\_special\_permit\_jan18b.pdf*](https://www.afcd.gov.hk/english/quarantine/qua_ie/qua_ie_ipab/files/g110_fee_for_special_permit_jan18b.pdf).

13. No deposit or advance payment is required.

Conditions of Licensing

14. Permits are valid for 6 months. The validity of import permits may be extended for a month upon application at a fee of HK$155.

15. There is no penalty for non-utilization.

16. Permits can be ***transferable*** between importers upon application and the payment of amendment fee of HK$155.

17. Yes, varying according to the type of animal and country of origin.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

5.4Pesticides

Outline of Systems

1. Licences are required for import of pesticides. Import licences for pesticides (other than methyl bromide) are issued by the ***Agriculture***, Fisheries and Conservation Department under delegation from the Trade and Industry Department. Import licences for pesticides (strictly for quarantine and pre-shipment of cargo treatment) containing methyl bromide, an ozone depleting substance, are issued by the Trade and Industry Department (see section1.2 above) .

Purposes and Coverage of Licensing

2. Import licensing of pesticides is intended for the protection of public health. Pesticides means any insecticide, fungicide, herbicide, acaricide or any substance (whether organic or inorganic) or mixture of substances used or intended to be used for preventing, destroying, repelling, attracting, inhibiting or controlling any insect, rodent, bird, nematode, bacterium, fungus, weed or other form of plant or animal life or any virus, which is a pest; or any substance or mixture of substances used or intended to be used as a plant growth regulator, defoliant or desiccant, but does not include any purely mechanical device for trapping or catching insects, rodents or other animals; any purely electromagnetic or ultrasonic device for the control of mosquitoes, rodents or other pests; any antiseptic, disinfecting solution or preparation in clinical or sanitary applications that is neither specified in Schedule 1 nor in Part 1 of Schedule 2 to the Pesticides Ordinance (Cap. 133); any pharmaceutical product; and any pesticide not specified in Schedule 1 nor in Part 1 of Schedule 2 to the Pesticides Ordinance (Cap. 133) that is contained in an individual package or container not exceeding 10g or 10mL and used indoors for laboratory research, chemical analysis or as a reference standard.

3. The system applies to products (other than methyl bromide) coming from any places. For methyl bromide which is an ozone depleting substance, import from non-parties to the Montreal Protocol are banned. Only imports from Montreal Protocol signatories of methyl bromide are allowed for local consumption starting from 1January1995. The import of methyl bromide is restricted to quarantine and pre-shipment applications.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports but for purposes of protecting public health.

5. The import control is a statutory requirement maintained under the Pesticides Ordinance (Cap.133), the Import and Export (General) Regulations (Cap. 60A) and Import and Export Ordinance (Cap. 60) . Legislation does not leave designation of product to be subject to licensing to administrative discretion. Any changes to the import control system require legislative approval.

Procedures

6. Not applicable as the import control system is not intended to restrict the quantity or value of imports.

7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The processing time is within 1 working day for pesticides other than methyl bromide under normal circumstances and 2 clear working days for methyl bromide.

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which licence applications may be made.

(d) The ***Agriculture***, Fisheries and Conservation Department is the sole administrative organ for the processing and approval of pesticides import licences (other than methyl bromide) whereas an importer has to approach the Trade and Industry Department for the processing and approval of import licences for methyl bromide.

8. Under normal circumstances, an application for a pesticides import licence is usually approved if it meets the ordinary criteria. Reasons for refusal will be given to the applicant. Applicants may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is statutorily provided. For methyl bromide, applicants may appeal to the Administrative Appeals Board against decision of refusal to grant a licence relating to ozone depleting substances by the Director of Environmental Protection.

Eligibility of Importers to Apply for Licence

9. A company is required to hold an appropriate pesticides licence/permit issued by the ***Agriculture***, Fisheries and Conservation Department before it can apply for an import licence except where the pesticide is being imported on a valid through bill of lading. If imported on such a bill of lading, no pesticides licence/permit is required.

Application for a pesticides licence/permit is open to all business enterprises wishing to deal in pesticides. A fee is charged for the licence/permit, which may range from HK$575 to HK$1,650 depending on the type of licence/permit.

For methyl bromide which is also an ozone depleting substance, a company is further required to register with the Trade and Industry Department before it can apply for an import licence. Registration is open to all companies on payment of a fee of HK$2,430 (valid for 2calendar years) .

There is no published list of licensed/permitted importers.

Documentational and Other Requirements for Application for Licence

10. Information to be supplied includes particulars of the importer, of the importation, of the products to be imported and a pesticides licence or pesticides permit issued by the ***Agriculture***, Fisheries and Conservation Department authorizing the importer to trade in pesticides or a valid through bill of lading. Sample of Import Licence Form 3 is available at[*http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf). Online application for Import Licence for Pesticides is available through theTrade Single Window at   [*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

11. The import licence is the only document required on actual importation.

12. Apart from applications for importing methyl bromide, no licensing fee is required for import licence applications.

For applying Import Licence for Pesticides in person at counter, the Import Licence Form 3 required to be submitted is priced at HK$20 per pad (containing20sets)/HK$3 per set. Online application through the Trade Single Window is free of charge.

For methyl bromide, a fee of HK$815 and HK$1,210 is charged on the issue of an ozone depleting substances import licence and an ozone depleting substances combined 'import and export licence' respectively. The price of ozone depleting substances import licence forms and combined 'import and export licence' forms are HK$28 per pad (containing 5sets) and HK$34 per pad (containing 5sets) respectively.

13. No deposit or advance payment is required.

Conditions of Licensing

14. A pesticides import licence is valid for 6 months. For methyl bromide, an ozone depleting substances import licence is, unless otherwise stated, valid for 60 days.

15. There is no penalty for non-utilization. Importers should however cancel or amend the licences.

16. The licence is not ***transferable***.

17. The licensing conditions are printed on the front or back of the import licences. Samples of the Import Licence Form 3 applicable to pesticides and Import Licence Form for ozone depleting substances are available at:

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/forms\_maincontent.html*](https://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html)

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

6ENVIRONMENTAL PROTECTION DEPARTMENT

6.1Waste

Outline of Systems

1. The import of waste into HKSAR is controlled under a permit system administered by the Environmental Protection Department. Its requirements are tied in with those of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Purposes and Coverage of Licensing

2. A permit is required for import of the following types of waste:

(a) any waste of a kind specified in the Sixth Schedule of the Waste Disposal Ordinance (Cap.354, WDO), unless the waste is uncontaminated and is imported for the purpose of a reprocessing, recycling or recovery operation or the reuse of the waste;

(b) any waste of a kind specified in the Seventh Schedule of the WDO, or not specified in the Sixth Schedule of the WDO; or

(c) any e-waste (i.e air conditioners, refrigerators, washing machines, television sets, computers, printers, scanners and monitors that have been abandoned) that does not fall within the description of paragraph (a) or (b) .

3. The import permit system applies to wastes originating in and coming from any places outside HKSAR.

4. Other than those requirements of the Basel Convention, the system is not intended to restrict the quantity or value of imports. It serves to ensure that prior consents among the export, import and transit competent authorities concerned are obtained before commencement of any waste shipment. It facilitates the continuation of legitimate waste trade and to stop any illegal shipment. The system enables HKSAR to fulfil its international obligations under the Basel Convention and serves to ensure environmentally sound management of waste in the HKSAR.

5. The import permit system is a statutory requirement maintained under the Waste Disposal Ordinance (Cap. 354) . Legislation does not leave designation of waste to be subject to control to administrative discretion. Any changes to the import permit system require legislative approval.

Procedures

6. Not applicable as the import control system is not intended to restrict the quantity or value of imports.

7.(a) Permit applications should be lodged in advance of the importation. The processing time for an application varies from case to case, depending primarily on the time taken by the competent authorities of the exporting economies concerned to provide feedback for the application, and on whether the application form is duly completed and lodged with all the required supporting documents. To allow for sufficient time for the competent authorities to make responses, it is advisable for the applicants to lodge their applications at least 90days before the commencement of the proposed shipment of waste.

(b) A permit cannot be granted immediately. Under the Basel Convention, consents from all export and transit economies concerned are required prior to any waste shipment. We are unable to issue any permit without obtaining the views from the export and transit economies concerned.

(c) There are no limitations as to the period of the year during which permit application and/or importation may be made.

(d) The Environmental Protection Department is the sole administrative organ responsible for the processing and approval of waste import permit.

8. A waste import permit will normally be granted with or without conditions to the applicant if the ordinary criteria as stipulated in the Waste Disposal Ordinance (Cap. 354) are met (e.g the proposed waste shipment is in line with the spirit and requirements of the Basel Convention) . Reasons for refusal will be given to the applicant. The applicant may appeal to the Appeal Board established under the Waste Disposal Ordinance (Cap. 354) . In any case, it should be noted that to tie in with the latest requirements of the Basel Convention, import of hazardous waste from developed economies including Liechtenstein and member states of the Organisation for Economic Cooperation and Development and the European Union into the HKSAR has been banned since 28December1998.

Eligibility of Importers to Apply for Licence

9. All firms and institutions are eligible to apply for a waste import permit. Nevertheless, the applicant should normally be the disposer or the importer of the waste.

Documentational and Other Requirements for Application for Licence

10. The required information is outlined in the permit application form at[*http://www.epd.gov.hk/epd/sites/default/files/epd/english/environmentinhk/waste/guide\_ref/files/import\_appn\_form.pdf*](http://www.epd.gov.hk/epd/sites/default/files/epd/english/environmentinhk/waste/guide_ref/files/import_appn_form.pdf).

11. On actual importation, the waste should be accompanied by the permit, a waste movement document recording the details of the waste shipment, and a liability insurance covering any claims arising out of damage to human health, property and the environment which may result from the waste import operation.

12. An application fee of HK$11,595 or HK$18,430 will be charged for the application of a single shipment or a multiple-shipment permit respectively.

13. The applicant is required to deposit a bond or financial guarantee payable to the Government of the HKSAR. The amount of the bond or financial guarantee required will be determined on a case-by-case basis. It enables the waste disposal authority to recover cost of any seizure or disposal or alternative environmentally sound management of waste in case the intended waste shipment could not be completed as originally intended. The bond or guarantee will be returned to the applicant upon fulfilment and completion of all conditions of the shipment, including the final disposal/recycling of the waste.

Conditions of Licensing

14. There are two types of permit, namely single-shipment permit and multiple-shipment permit. The former type is valid for one shipment only, and whereas the latter type can have a validity period of up to 1 year for repeated shipments of the same type of waste from the same source and to the same disposer or recycler. The validity of a permit cannot be extended. A new application has to be lodged if the importing activity is to be continued after the validity period of the permit.

15. There is no penalty for non-utilization.

16. The permit is not ***transferable***.

17. The conditions are varied according to the type of wastes and country of origin. One essential condition is the taking back of the imported wastes if the wastes were found other than the permitted ones (i.e specified in the permit) or if the wastes cannot be treated/recycled as intended and stranded in HKSAR for whatever reasons, the wastes shall be returned to the place of origin.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

6.2Non-pesticide hazardous chemicals

Outline of Systems

1. Both an import permit and a licence are required for the import of non-pesticide hazardous chemicals that have potentially harmful or adverse effects on human health or the environment, including such chemicals that are subject to regulation of the Stockholm Convention on Persistent Organic Pollutants, or the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

Purposes and Coverage of Licensing

2. The import permitting and import licensing requirements are stipulated in the Hazardous Chemicals Control Ordinance (HCCO) (Cap. 595) and the Import and Export Ordinance (IEO) (Cap.60) respectively. Under the HCCO, anyone wishing to import any hazardous chemicals subject to control (scheduled chemicals) needs to apply for an import permit, which is normally valid for 1year. In addition, for every shipment of scheduled chemicals entering HKSAR, an import licence is also required under the IEO. Both permits and licences are issued by the Environmental Protection Department.

The import permitting and licensing system, which forms part of the overall control of non-pesticide hazardous chemicals in HKSAR, covers two types of scheduled chemicals, as follows:

Type 1 Chemicals

1. Hexabromobiphenyl

2. Hexabromodiphenyl ether (hexaBDE) and heptabromodiphenyl ether (heptaBDE):

(a) 2,2’,4,4’,5,5’- hexabromodiphenyl ether (BDE-153)

(b) 2,2’,4,4’,5,6’- hexabromodiphenyl ether (BDE-154)

(c) 2,2’,3,3’,4,5’,6- heptabromodiphenyl ether (BDE-175)

(d) 2,2’,3,4,4’,5’,6-heptabromodiphenyl ether (BDE-183)

(e) Other hexa- and heptabromodiphenyl ethers present in commercial octabromodiphenyl ether

3. Hexachlorobenzene

4. Pentachlorobenzene

5. Polychlorinated biphenyls

6. Tetrabromodiphenyl ether and pentabromodiphenyl ether

(a) 2,2’,4,4’- tetrabromodiphenyl ether (BDE-47)

(b) 2,2’,4,4’,5- pentabromodiphenyl ether (BDE-99)

(c) Other tetra- and pentabromodiphenyl ether present in commercial pentabromodiphenyl ether

7. Hexabromocyclododecane

(a) hexabromocyclododecane

(b) 1,2,5,6,9,10-hexabromocyclododecane and its main diastereoisomers

Type 2 Chemicals

1. Asbestos:

(a) Actinolite

(b) Anthophyllite

(c) Amosite

(d) Crocidolite

(e) Tremodlite

2. Perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF)

(a) Perfluorooctane sulfonic acid (PFOS)

(b) Salts of perfluorooctane sulfonic acid

(c) Perfluorooctane sulfonyl fluoride (PFOSF)

3. Polybrominated biphenyls

(a) Octabromobiphenyls

(b) Decabromobiphenyls

4. Polychlorinated terphenyls

5. Short-chain chlorinated paraffins

6. Tetraethyl Lead

7. Tetramethyl Lead

8. Tributyltin compounds:

(a) Tributyltin oxide

(b) Tributyltin fluoride

(c) Tributyltin methacrylate

(d) Tributyltin benzoate

(e) Tributyltin chloride

(f) Tributyltin linoleate

(g) Tributyltin naphthenate

9. Tris(2,3-dibromopropyl) phosphate

The import permitting and licensing system does not apply to a scheduled chemical if the chemical is a constituent element of a manufactured product, except when the chemical is PCB and when its concentration as a constituent element of a manufactured product exceeds 0.005% (or 50ppm) and its volume exceeds 0.05 litre. The import permitting and licensing requirement also does not apply to a Type2 chemical if the chemical is, or is a part of, an article in transit.

3. The import permitting and licensing system applies to the scheduled chemicals coming from any places. Transshipment and transit of the scheduled chemicals, except for transit of Type 2 chemicals, through HKSAR are also subject to control. Exemptions of import licensing under certain conditions are available for air transshipment cargoes and transit of Type 1 chemicals.

4. The import permitting and licensing system is not intended to restrict the quantity or value of imports, but to implement effective control on non-pesticide hazardous chemicals to protect human health and the environment in accordance with, inter alia, the principles of the Stockholm Convention and the Rotterdam Convention. The import quantities are subject to scrutiny to avoid improper use/release of the hazardous chemicals.

5. The import permitting and licensing system is statutorily required in the HCCO and the IEO. The legislation does not leave designation of waste to be subject to control to administrative discretion. Any changes to the import permitting and licensing system require legislative approval.

Procedures

6. There is no quota restriction for importing the scheduled chemicals and any importer can apply for an import permit/licence. There is also no restriction on the source of the scheduled chemicals. These scheduled chemicals are being phased out or whose use is severely restricted internationally, as required under the Stockholm Convention and the Rotterdam Convention. The HCCO import permit application will be assessed on a case-by-case basis and a permit will be granted only if there is justification for the need to import the proposed quantity of a scheduled chemical, and the importer can demonstrate that the import activities can comply with other local legislation. The quantities allowed for each IEO licence are limited by the annual import quantity permitted in the HCCO import permits. Guidelines and application forms are available on the website of the Environmental Protection Department at

[*https://www.epd.gov.hk/epd/english/laws\_regulations/comp\_guides/cg\_hazardous\_chemical.html*](https://www.epd.gov.hk/epd/english/laws_regulations/comp_guides/cg_hazardous_chemical.html).

7.(a) Processing time for permit/licence applications varies from case to case, depending on the complexity of the application, the response time of overseas government agencies and the availability of supporting information from the importers.

For a permit application, the target processing time is within 15 working days upon receipt of all necessary information, payment of application fee, and completion of site visit, if required, to verify the information provided by the applicant.

For an IEO import licence application, the target processing time is within 2 clear working days upon receipt of all relevant information. In line with the prior informed consent procedure of the Rotterdam Convention, an IEO licence application will only be considered if the applicant can produce evidence of explicit consent of the exporting and importing countries agreeing to the export and import, unless otherwise exempted by the Environmental Protection Department.

A HCCO import permit and an IEO import licence must be obtained prior to the arrival of the shipment.

(b) Since detailed assessment is required for processing the HCCO permit or IEO licence applications, these permits/licences cannot be granted immediately upon request.

(c) There are no limitations as to the period of the year during which permit application and/or importation may be made.

(d) The Environmental Protection Department is the sole administrative organ to issue the HCCO permit and IEO licence applications.

8. Under normal circumstances, application for a HCCO import permit or an IEO import licence is granted if the application meets the legal requirements stipulated in the laws as well as the requirements of the Stockholm Convention and the Rotterdam Convention. In the event of refusal to issue a HCCO import permit, the reasons will be given. The applicant may appeal to the Administrative Appeals Board against the refusal. In case of an IEO import licence application, the applicant has a right to appeal to the Chief Executive of the HKSAR. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for the HCCO import permits. All HCCO import permit holders are eligible to apply for the IEO import licences. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. The information required for a HCCO import permit and an IEO Import Licence Form 3 application is outlined in the sample application forms at the following websites:

Permit to Import

[*https://www.epd.gov.hk/epd/sites/default/files/epd/english/application\_for\_licences/applic\_froms/files/hcc1.pdf.Online*](https://www.epd.gov.hk/epd/sites/default/files/epd/english/application_for_licences/applic_froms/files/hcc1.pdf.Online) application is also available through the Trade Single Window at   [*https://www.tradesinglewindow.hk/portal/en/index.html*](https://www.tradesinglewindow.hk/portal/en/index.html).

Permit to Transship and Transit

[*http://www.epd.gov.hk/epd/sites/default/files/epd/english/application\_for\_licences/applic\_froms/files/hcc3.pdf*](http://www.epd.gov.hk/epd/sites/default/files/epd/english/application_for_licences/applic_froms/files/hcc3.pdf)

IEO Import Licence Form 3

[*https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](https://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf)

11. A HCCO import permit and an IEO import licence are required upon actual importation.

12. A non-refundable application fee of HK$1,280 or HK$1,710 is required at the time of submission of an application for a HCCO import permit for local use or for transshipment/transit respectively. Renewal application fee is HK$710 for local use and HK$920 for transshipment/transit. No licensing fee or administrative charge is required for an IEO Import Licence Form 3 application. Forimport licence applicationmade in paper mode, applicationforms (Form No.: TRA187) have to be purchased at HK$20 per pad (containing 20sets) . Online application of Licence for Scheduled Chemicals through the Trade Single Window is free of charge.

13. No deposit or advance payment is required.

Conditions of Licensing

14. A HCCO import permit is valid for not more than 12 months. The validity of a permit cannot be extended but the permit can be renewed on yearly basis. An IEO import licence is valid for 6months from the date of issue. Extension of validity may be granted on application.

15. There is no penalty for non-utilization.

16. The licence and permit are not ***transferable***.

17. Standard conditions, covering environmental requirements, safety, packaging, labelling, storage, transportation, disposal, emergency arrangements, return shipments and reporting, are included in the HCCO import permits. No other conditions are attached to the issue of the IEO licences.

Other Procedural Requirements

18. Requirements under the Stockholm Convention and the Rotterdam Convention need to be observed.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

7FOOD AND ENVIRONMENTAL HYGIENE DEPARTMENT

7.1Frozen or chilled meat and poultry

Outline of Systems

1. Import licences are required for import of frozen or chilled meat and poultry. Import licences are issued by the Food and Environmental Hygiene Department under delegation from the Trade and Industry Department.

Purposes and Coverage of Licensing

2. The import licensing system covers the importation of frozen or chilled meat and poultry. The meat includes beef, mutton, pork, veal or lamb, and the offal of any animal from which such meat is derived. The poultry includes the carcass of a domestic fowl, duck, goose or turkey or any part of such a carcass, and any part of a bird mentioned above which is edible or used in the preparation of food.

3. The import licensing system applies to products coming from any places.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports, but for public health and food safety.

5. The import licensing system is a statutory requirement maintained under the Import and Export (General) Regulations (Cap. 60A) and Import and Export Ordinance (Cap. 60) . The legislation does not leave designation of product to be subject to licensing to administrative discretion. Any changes to the import licensing system require legislative approval.

Procedures

6. Not applicable as the import control system is not intended to restrict the quantity or value of imports.

7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The issue of an import licence under normal circumstances requires 1working day (excluding Saturdays, Sundays, public holidays, dates of submission and issuing) .

(b) The issue of an import licence under normal circumstances requires 1 working day (excluding Saturdays, Sundays, public holidays, dates of submission and issuing) .

(c) There are no limitations as to the period of the year during which licence applications and/or importation may be made.

(d) The Food and Environmental Hygiene Department is the sole administrative organ responsible for the processing and approval of meat and poultry import licences.

8. Application for a licence will be approved provided the ordinary criteria are met. Reason for refusal will be given to the applicant. Applicants may appeal to the Chief Executive of the HKSAR against a decision of refusal for issuing a licence. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. A company is required to be registered with the Food and Environmental Hygiene Department under the Registration Scheme for Food Importers and Food Distributors before it can apply for an import licence. Registration is open to all business enterprises. The registration fee is HK$195 for 3 years. There is a published list of registered importers.

Documentational and Other Requirements for Application for Licence

10. Information to be supplied includes particulars of the importer, of the importation and of the products to be imported. Health certificate issued by the recognized issuing entity of the exporting economy concerned or specific approval from the Director of Food and Environmental Hygiene is required to support licence applications. Sample of Import Licence Form 3 is available at[*http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf).

11. The import licence is the only document required upon actual importation.

12. No licensing fee is required for import licence applications. The price of non-textiles import licence forms is HK$20 per pad (containing 20 sets) .

13. No deposit or advance payment is required.

Conditions of Licensing

14. An import licence is valid for 6 weeks. The period of validity cannot be extended. The licence applicant should request cancellation of the expired licence and may apply for a new licence.

15. There is no penalty for non-utilization. Importers should however cancel the licences.

16. The license is not ***transferable***.

17. Apart from the licensing conditions printed on the sample import licence ([*http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf*](http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf)), the conditions set out atAnnexare applicable to frozen or chilled meat and poultry which are not subject to quantitative restriction.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. The banking authorities automatically provide foreign exchange for goods to be imported. No licence is required as a condition to obtaining foreign exchange.

ANNEX

LICENSING CONDITIONS TO BE IMPOSED ON IMPORT LICENCEFOR FROZEN / CHILLED MEAT AND POULTRY

(I) The licensing conditions imposed for import of frozen/chilled meat and poultry for local consumption area are as follows:

(a) Issuing Entities without Health Certificate

(i) This licence is valid for one shipment only.

(ii) The consignment covered by this licence must not be released for sale and/or for use in the preparation of food in Hong Kong unless the Food and Environmental Hygiene Department has sighted thehealth certificatecovering it and givenwritten approval.

(b) Non-issuing Entities / Issuing Entities for Chilled Meat / Poultry

(i) This licence is valid for one shipment only.

(ii) This licence is issued subject to compliance with the conditions laid down in the letter to the applicant from the Director of the Food and Environmental Hygiene dated \_\_\_\_\_\_\_ under Ref. IPGMP-\_\_\_\_\_\_\_\_\_\_.

(II) The licensing conditions imposed for import of frozen/chilled meat and poultry for re-export area are as follows:

(a) Issuing Entities

(i) This licence is valid for one shipment only.

(ii) The consignment covered by this licence is solely forre-exportpurpose. Release from cold storage for sale and/or for use in the preparation of food in Hong Kong is prohibited.

(b) Non-issuing Entities / Issuing Entities for Chilled Meat / Poultry

(i) This licence is valid for one shipment only.

(ii) The consignment covered by this licence is solely forre-exportpurpose.

(iii) This licence is issued subject compliance with the conditions laid down in the letter to the applicant from the Director of the Food and Environmental Hygiene dated \_\_\_\_\_\_\_\_ under Ref. XPGMP-\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_

1See documentG/LIC/3, Annex, for the Questionnaire.

2This ***notification*** replaces the ***notification*** circulated in documentG/LIC/N/3/HKG/22dated 4 October 2018. ÂThe application forms can be viewed/downloaded from the webpages specified.

3Radio transmitting equipment in transit is exempted from the licensing requirement. In addition, radio transmitting equipment which is transhipment cargo is subject to a pre-***notification*** system for trade facilitation purpose.

4The List can be viewed at:[*http://www.cedd.gov.hk/eng/services/mines\_quarries/mqd\_explosives.html*](http://www.cedd.gov.hk/eng/services/mines_quarries/mqd_explosives.html)

5The Kimberley Process is a negotiating forum originated from discussions in the United Nations General Assembly regarding rebel activities in some parts of Africa. The forum aims at stopping trade in 'conflict diamonds' from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament.

**Load-Date:** October 9, 2019

**End of Document**



[***Netherlands Government Gazette: Decree of the Minister for Foreign Trade and Development Cooperation of 8 January 2019, establishing policy rules and a subsidy ceiling for subsidization under the Grant Regulations Ministry of Foreign Affairs 2006 (Subsidy Program DHI 2019-2023)***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5S3M-6NT1-F0YC-N4RP-00000-00&context=1516831)

Impact News Service

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**Length:** 13496 words

**Body**

Amsterdam: Netherlands Government has issued the following official announcement:

The Minister for Foreign Trade and Development Cooperation,

Having regard to Articles 6 and 7 of the Ministry of Foreign Affairs Grants Decree;

Having regard to Article 7.2 of the Ministry of Foreign Affairs Grants Regulations 2006;

Decision: Article 1

For the granting of subsidies pursuant to Article 7.2 of the 2006 Ministry of Foreign Affairs Grants Regulations with a view to subsidizing activities in the field of demonstration projects, feasibility studies and investment preparation projects, for the period from the entry into force of this Decree up to and including 31 December 2023, the this decision contains policy rules. Article 2

    1. Applications for subsidy under the DHI Grant Program 2019-2023 will be submitted in annual openings.

    2. Applications for subsidy in the first opening of the DHI Grant Program 2019-2023 will be submitted from 15 January 2019 up to and including 31 December 2019.

    3. Open applications periods will be announced for applications for subsidy in the following Openings of the DHI Grant Program 2019-2023.

    4. Applications for grants under the DHI Grant Program 2019-2023 will be submitted on the basis of a form made available by the Minister and accompanied by the documents requested on the application form. 1

Article 3

    1. For subsidies under the DHI Grant Program 2019-2023, a subsidy of € 5 million applies to applications as referred to in Article 2, paragraph 2, to support Dutch SMEs that focus on such new activities in emerging and developed markets and € 4 million for activities in developing countries.

    2. For subsidy grants in the framework of the Subsidy Program DHI 2019-2023, subsidy ***ceilings*** will be applicable for applications as referred to in Article 2, third paragraph.

Article 4

The applications are assessed in order of receipt of the applications. If the subsidy ***ceiling*** threatens to be exceeded on any day, the Minister determines the order of treatment of applications received on the same day by means of a draw. Article 5

For each applicant, there can only be a concurrence of no more than two grants in the context of the DHI grant program 2019-2023. Article 6

The decision of the Minister for Foreign Trade and Development Cooperation of 26 February 2016, laying down policy rules and a subsidy ***ceiling*** for subsidy on the basis of the Grant Regulations Ministry of Foreign Affairs 2006 (Demonstration Projects, Feasibility Studies and Investment Preparation Studies) 2 will be withdrawn, on the understanding that shall continue to apply to grants awarded under this Decision. Article 7

This decree enters into force on the day after the date of issue of the Government Gazette in which it is placed and expires on 1 January 2024, with the proviso that the decree continues to apply to subsidies granted before that date.

This decision will be placed with the appendix and annexes in the Government Gazette.

The Minister for Foreign Trade and Development Cooperation, on his behalf, the Director-General for International Cooperation, R. Buijs

The Director-General for Foreign Economic Relations, H. Schuiling APPENDIX 1. Background General

Economic growth and employment are inextricably linked to maintaining the Dutch position in international trade and investment flows. Over 30% of our income is earned abroad, trade amounts to 72% of GNP and generates 2.2 million full-time jobs. The ambition of government and industry is to maintain the position on 'traditional' markets and strengthen the position on 'new' markets. Small and medium-sized enterprises (SMEs) are heavily dependent on the domestic market and it is crucial that they too can internationalize and benefit from growth opportunities.

Unfamiliarity with foreign markets, their complexity and the players on these markets are barriers that entail risks and costs. Dutch SMEs can therefore miss out on opportunities, partly because banks and investors estimate the risk in certain countries (emerging markets) and are cautious about financing and investing. This despite the fact that, despite possible extra risks, there are opportunities for Dutch companies to expand their business activities abroad. In addition, the size of the SME company determines the financial strength of a company to enter new markets. Small businesses do not always have the financial means to introduce their product to a new market.

In the case of developing countries, these Dutch companies can give an important and positive impulse to further local development. Exports and investments can contribute to sustainable economic growth and local employment, to ***transferring*** knowledge, skills and technology and to improving local production power.

The Minister has therefore decided to subsidize the Dutch DHI subsidy program DHI 2019-2013 (hereafter DHI) in order to finance the economic activities of Dutch companies that contribute to the removal of the aforementioned barriers, thus creating opportunities for new activities in new markets. 2. Implementer

The minister has instructed the implementation of DHI at the Netherlands Enterprise Agency (RVO), agency of the Ministry of Economic Affairs and Climate. RVO will perform DHI on behalf of the Minister on the basis of a mandate granted to RVO. 3. Concepts

In DHI is understood under:

- Applicant:

    the SME that applies for the subsidy; - Foreign potential customer / cooperation partner:

    a foreign organization that hosts a demonstration project to be carried out, or an investing foreign buyer who must be convinced by means of a feasibility study or a foreign cooperation partner with whom a Dutch company wants to set up an investment project; - De minimis regulation:

    Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, Pb. 2013, L 352/1; - Target country:

    country where the export or investments, to be realized through a demonstration project, feasibility study or investment preparation project, are focused on, on the understanding that the target country can only be:

        ○ with regard to applicants based in the European Netherlands: countries outside the Kingdom of the Netherlands as well as Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba;

        ○ with regard to applicants based in Aruba, Curaçao or Sint Maarten: countries outside the Kingdom of the Netherlands;

        ○ with regard to applicants based on Bonaire, Sint Eustatius or Saba: countries outside the Kingdom of the Netherlands as well as Aruba, Curaçao and Sint Maarten.

- Export:

    the delivery to a foreign buyer of Dutch goods and services, whereby the size of the export is determined by the value added in the Netherlands; - Focus countries:

    the countries listed in annex 1; - fragile states:

    the countries as indicated on the country list of the DGGF website 3 ; - SME company:

    a company belonging to the business sector as defined in Commission Recommendation 2003/361 / EC of 6 May 2003, OJ 2003 L 124/36, concerning the definition of micro, small and medium-sized enterprises; - The Netherlands:

    The Netherlands, Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba; - Dutch company:

    an entity established in the Netherlands which, irrespective of its legal form, carries out economic activities and is registered in the trade register of the Chamber of Commerce. 'To carry out economic activities' means to offer goods or services on the market; - Developing countries:

    the countries listed on the country list of the DGGF website 4 ; - Relevant for development:

    make a positive contribution to at least one of the following aspects, whereby the score on at least one of these aspects must be positive and the score on the other aspects must be at least neutral:

        ○ Growth of local employment;

        ○ Sustainable ***transfer*** of knowledge and skills, technology and innovation;

        ○ Improving the local production power of the local company involved;

- Developed and emerging markets:

    all countries with the exception of the Netherlands and the DGGF countries; - Secretariat:

    the partner in a partnership that applies for the subsidy on behalf of the partnership. If the application is accepted, the secretary is the subsidy recipient and as such fully accountable and responsible towards the Minister for the implementation of the subsidized activities and compliance with the obligations attached to the granting of subsidies; - Project:

    a demonstration project, feasibility study or investment preparation project; - Partnership:

    a non-legal personality contractual partnership consisting of partners with its own legal personality aimed at the realization of jointly endorsed objectives by carrying out activities in such a way that each of the partners provides part of the necessary efforts and a part of the accompanying carries risks.

4. Subsidy program DHI 2019-2023 4.1 Purpose

DHI also contributes to the policy aimed at the internationalization of Dutch SMEs. International business is an important element in the pursuit of sustainable economic growth in the Netherlands.

DHI also gives substance to the synergy between trade on the one hand and aid on the other hand within the agenda of the Minister for Trade and Development Cooperation, in which stimulation of internationalization of SMEs and contribution to local and inclusive economic growth go hand in hand. For developing countries in particular, development-relevant economic activities of Dutch SMEs that see market opportunities are being sought.

The main objective of DHI is:

Increasing and strengthening the number of Dutch companies that successfully internationalize by examining at an early stage whether an export / investment project is feasible or to demonstrate that a particular export product or technology is applicable. This also makes a positive contribution to the local development of developing countries where these internationalizations take place.

Specific goals of DHI are:

    - Increasing the number of Dutch companies that position (stronger) in new markets by removing (financial) bottlenecks as a further step in the internationalization of these companies.

    - Increasing Dutch exports.

    - Increasing Dutch investments.

And through the above 3 objectives to contribute to sustainable local economic development in developing countries, in the form of growth of local employment, sustainable ***transfer*** of knowledge, skills and technology and improvement of local production power. 4.2 Target group

With DHI, the Minister wants to support Dutch SMEs in preparing for exports and investments in developed and emerging countries and developing countries. 4.3 Who can qualify for a subsidy

Subsidies in the context of DHI are intended for individual Dutch SMEs and joint ventures on behalf of which a secretary applies for a subsidy.

A partnership consists in any case of two or more exporting or investing Dutch companies, including at least one SME. The secretary must be a Dutch SME and have a substantial share in the project.

If there is a partnership, larger companies can also be eligible for subsidy to the extent that this is necessary within the partnership for the SMEs with which they collaborate, and if the cooperation is focused on SMEs.

Applicants must:

    a. Dutch within the project exporting and / or investing (SME) enterprises abroad;

    b. Have realized substantial turnover, whereby the average annual turnover for the last three ***calendar*** years prior to the application amounts to at least € 100,000, or substantiated that it is reasonable to be able to make the own contribution for the execution of the project and for the continuation of the realization of the project. to be able to finance the export or investment;

    c. Have at least 3 employees or, if this is not the case, demonstrably demonstrate that the capacity is structurally guaranteed.

If there is a joint venture, the requirement c only applies to the secretary.

In order to qualify for a subsidy, the individual applicant or the secretary must demonstrate that he and his partners endeavor to commit serious (sexual) misconduct and other serious forms of transgressive behavior towards employees and third parties in the performance of the activities on which the application, to terminate it as soon as possible and to mitigate its consequences. 4.4 Advice route

If an applicant wishes to switch over to concrete planning and decides to submit an application for subsidy individually or on behalf of a partnership, a mandatory advice process will take place on the basis of a 'quick scan' submitted for that purpose. More information can be found on [*www.rvo.nl/dhi*](http://www.rvo.nl/dhi) .

The processing of a request for advice takes up to two weeks. The advisory process ends with advice from a RVO advisor to the potential applicant. The outcome of the advisory process is not binding. It is up to the potential applicant to submit a subsidy application or not. 4.5 Eligible activities

In order to be eligible for a subsidy in the context of DHI, the activities for which a subsidy is requested must be aimed at achieving the goal in section 4.1 and relate to activities in no more than one country, unless considerations of effectiveness or efficiency are significantly opposed to this.

A subsidy can be applied for projects under 4.5.1, 4.5.2 and 4.5.3 4.5.1 Demonstration project

Demonstrating Dutch technology (especially capital goods) in a target country in a real practical situation, where:

    - there must be specific local conditions that create a bottleneck that impedes the introduction of the technology on the relevant market;

    - the use of the demonstration is that the bottleneck is removed and that the added value of the technology is demonstrated;

    - the size and duration are not greater than strictly necessary to remove the bottleneck;

    - there must be a need to demonstrate the technology in the country in order to introduce it;

    - sufficient contribution is made to the positioning of the relevant Dutch company (s) in the country;

    - there must be demonstration among a broad group of potential customers in the relevant market, not being consumers;

    - it must be substantiated and made plausible that within 3 years after the demonstration, the companies involved will jointly export at least ten times the subsidy amount, or in the case of projects in developing countries with a minimum of five times the subsidy amount. and with a substantial development relevance.

4.5.2 Feasibility study

An investigation that is carried out in the context of an investment decision to be taken by a foreign potential customer and with which it is determined whether it is technically and / or commercially feasible to make a concrete investment in the target country. It is possible to study two investments for two potential customers in one study.

Where does that apply:

    - a foreign potential customer must be convinced by means of a study that the intended investment in Dutch capital goods and services is technically and / or commercially feasible in the country. This customer indicates by means of a letter of intent that there is an intention to cooperate with the Dutch company or companies involved in the realization of the investment;

    - sufficient clarity exists before the start of the study on the size of the market, the intended design of the investment, the location, the operation, the financing and the local impact. The study aims to clarify the details of the intended investment. In the study the intended investment is designed on main lines (basic design);

    - the study results in a report in the form of a business plan or a project plan, on the basis of which the foreign potential buyer can take an investment decision;

    - there must be a need for the Dutch company (s) concerned to be feasible carrying out / carrying out a study that enables the foreign potential buyer to make an investment decision;

    - it must be substantiated and made plausible that the intended investment leads to the export of Dutch capital goods and services by the Dutch company (companies) with a minimum of ten times the subsidy amount, or in the case of studies in developing countries with a size of at least at least five times the subsidy amount and with a substantial development relevance.

4.5.3 Investment preparation project

A project that is being carried out by a Dutch company with substantial activities in the Netherlands that intends to invest abroad. Investing means that a new production or service facility is set up in the target country or an existing production or service facility is expanded. The investment must logically flow from the current activities, core business and strategy of the Dutch company. A small trial production can be part of the project if the situation makes it necessary.

In addition, it holds that:

    - the project must be carried out by the Dutch company or companies involved to make it clear that the proposed investment is technically and / or commercially feasible. The outcome is a complete, detailed and, in the event that a trial production is part of the project, validated business plan with which the Dutch investor can try to obtain financing for his investment;

    - before the start of the project there is sufficient clarity about the size of the market, the intended design of the investment, the location, the operation, the required financing and the local impact. The project aims to clarify or validate the details of the intended investment. During the project, the intended investment is designed on the basis (basic design) and / or its principles in the business plan are validated in practice;

    - it must be substantiated and made plausible that within 3 years after the execution of the project the applicant will make an investment with a size of at least five times the subsidy amount;

    - for a project in emerging and developed markets, there must be a positive substantial impact on Dutch applicants and thus on the Dutch economy;

    - there must be substantial development in a project in a developing country relevance.

4.5.4 Ineligible activities

In any case no subsidy is granted for a project aimed at:

    a. Research and development. This also includes the adaptation and testing of products or the development of training programs to the extent that this is not specifically required for the project.

    b. Promotional and sales activities and activities aimed at market research.

    c. Demonstrate the relevant technology at a trade show or exhibit it to a potential customer.

    d. Activities that lead to a loss of jobs in the Netherlands.

    e. A technology that is not at least technologically and commercially ready.

    f. Activities that can be classified as export or investment activities, for example the types of projects listed below.

        - Projects where, after completion, the demonstrated technology is sold. A demonstration project is only intended to demonstrate a technology. The technology demonstrated must be brought back to the Netherlands or left locally or not to be ***transferred***.

        - Projects where a significant investment is already made in the context of a trial production.

        - Projects for realizing example projects.

    g. Loans on revolving financing to third parties.

4.6 Duration of the activities

The activities under DHI must be carried out within a maximum period of:

    - 3 years for a demonstration project.

    - 2 years for a feasibility study and investment preparation project.

4.7 Extent of the subsidy

The subsidy amounts to a maximum of 50% of the eligible costs per application up to a maximum of:

    - € 200,000 for demonstration projects.

    - € 100,000 for feasibility studies.

    - € 100,000 for investment preparation projects.

In the case of projects aimed at fragile states or focus countries, a subsidy percentage of up to 60% of the eligible costs applies, up to the above maximum amounts.

The subsidy falls under the de minimis Regulation. The amount of the grant will be reduced to the extent necessary on the basis of this regulation.

The own contribution to the SME project or the partners of the partnership is financed with funds that have not been obtained by means of a direct or indirect subsidy or contribution from the budget of the Ministry of Foreign Affairs. 5. Eligible costs

With regard to the costs involved in the project, there must be at least € 50,000 in eligible costs. 5.1 Starting points

The following assumptions apply to determining the (the extent of) the costs that can be taken into account when determining the subsidy:

    - for costs that can not reasonably be considered necessary for the execution of the activities for which the subsidy is requested, no subsidy is granted;

    - no subsidy is granted for costs that are not directly related to the execution of the activities;

    - no subsidy is granted for costs incurred for the submission of the application;

    - for project management costs, a maximum of 10% of the total number of completed days under time use in the Netherlands and abroad applies;

    - for the hiring of experts, for example self-employed persons, a maximum hourly rate of € 87.50 is applied. An expert is an employee who has demonstrable expertise on the part on which it is functionally deployed in a project, not being supportive work and as evidenced by the resume;

    - the internal costs (own hours and, in the case of hardware, the cost price) of the applicant or the secretary and its partners are taken into account without profit margin;

    - costs in countries outside Europe are tested against local standards.

    - a financial contribution from third parties (for example from the foreign customer or a government party) in the costs of the project leads to an equally large reduction in the eligible costs.

5.2 Eligible costs

    a. The eligible costs concern labor costs, which are calculated as follows: the number of hours that the employees directly involved in the eligible activities have taken into the payroll of the applicant or the secretary and / or partners for these activities, multiplied by a maximum hourly rate of € 87.50, which includes both direct labor costs and indirect costs allocated to them. By way of derogation from this maximum hourly rate, the hourly rate for personnel of the applicant or the secretary and / or partners in countries outside Europe is set to local standards up to the maximum hourly rate.

    b. These costs can in any case be increased by:

        • The costs of using hardware, buildings and / or software. For the determination of the economic depreciation, fixed depreciation periods are used:

            - Hardware (machines, installations): 5 years

            - Buildings: 30 years

            - Software: 3 years

        • The basis for determining the depreciation costs is the purchase price of the product / good, taking into account the possible residual value and increased with any adjustment costs.

        • Travel expenses: international travel costs and long distance travel costs outside the Netherlands on the basis of economy class.

        • Subsistence costs: the maximum reimbursement for accommodation costs is the number of overnight stays times the accommodation and other costs in accordance with the Daily Subsistence Allowance Rates (DSA lists) of the Ministry of the Interior and Kingdom Relations, applicable on the start date of the activities: Annex I to Article 3, first paragraph, of the Travel Regulations abroad. 5

        • Third party costs: up to a maximum of 40% of the total project costs for demonstration projects and of 25% for feasibility studies and investment preparation projects.

    c. In addition to the aforementioned travel and accommodation costs, for fragile states, additional travel and accommodation costs due to the risks, insurance and negative travel advice may be eligible, provided they are well supported in the application.

5.3 Ineligible costs

In any case, the following costs are not eligible:

    - costs for developing the application and applying for subsidy and other costs incurred for the submission of the application;

    - financing costs and interest payments;

    - sales tax;

    - costs caused by inflation and exchange rate fluctuations;

    - costs related to promotional or sales activities or promotional materials;

    - general translation costs;

    - costs of ascription and maintenance of intellectual property rights.

    - costs for product development;

    - costs for market research;

    - licensing costs;

    - certification costs;

    - costs for adaptation of the technology to be demonstrated, insofar as these are not specific, are not directly related to the purpose of the demonstration project and are not necessary for this;

    - costs for developing training programs.

6. Application 6.1 Requirements

Before an individual Dutch SME organization or a lead party submits an application for subsidy in the context of DHI, he must have obtained an advice from RVO as described in section 4.4 (advice on 'quick scan').

The application is submitted in the Dutch or English language using a tool made available on [*www.rvo.nl/dhi*](http://www.rvo.nl/dhi) and provided with the appendices mentioned therein for which models are made available by RVO.

The application contains at least:

    - Reference number of the received RVO advice;

    - If applicable: Partner forms;

    - Project plan;

    - Budget in which the financing of the own share (per partner) is made transparent (project expenditure versus project income);

    - Completed and signed de minimis declaration for both the applicant and, in the case of a joint venture, the partners of the partnership, not being third parties;

    - For an project in a developing country an appendix on the development relevance of the project;

    - For feasibility studies: a letter of intent from the foreign potential buyer;

    - For demonstration projects: a letter of intent from the host if the demonstration project is carried out at an external host organization;

    - For investment preparation projects: a letter of intent from a company in the target country if this company will also invest in the project;

    - If applicable: signed cooperation agreement that guarantees the cooperation of the partners to the execution of the activities and compliance with the agreements made, as well as compliance with the obligations to be attached to a subsidy;

The applicant, and if applicable the partners, must also state that they are aware of and will act according to the OECD guidelines ( [*www.oesorichtlijnen.nl*](http://www.oesorichtlijnen.nl) ) and the ILO Declaration on fundamental principles and rights at work, and that they Act accordingly. They should also be aware of the FMO exclusion list and not carry out any activities listed on this list (   [*www.fmo.nl/exclusion-list*](http://www.fmo.nl/exclusion-list) ).

In addition, the IFC Performance Standards, the OECD-FAO Guidance for Responsible ***Agricultural*** Supply Chains and the UN Convention on Biological Diversity also apply in specific cases. Applicants and, where applicable, participants must also declare that they are aware of these guidelines and endorse them. The applicant must report any facts or circumstances that indicate violation of these guidelines to RVO.nl without delay. 6.2 Recovery period

In the context of the application procedure, emphasis is given to Article 7, third paragraph, of the Ministry of Foreign Affairs Grants Decree. Should an application be submitted incompletely, the minister may request an addition (using Article 4: 5 of the General Administrative Law Act). The date and time of receipt of the application will then be the date and time at which the supplement was received. In addition, in general, failure to submit applications or insufficient substantiation of (parts of) the application may lead to rejection of a subsidy application based on non-compliance or insufficient compliance with the requirements and criteria set for applications.

For the sake of brevity, reference to other parts of the application, websites or appendices is not sufficient, unless the application documents explicitly state that this will be sufficient (in full or in part). If parts of the application documents are not filled in, the applicant runs the risk of rejecting the application. 7. Assessment and distribution of available resources 7.1 Assessment

The provisions of the General Administrative Law Act, the Ministry of Foreign Affairs Grants Decree and the Ministry of Foreign Affairs Grant Regulations 2006 are fully applicable to the assessment of applications and the final subsidy provision in the context of DHI. The applications will be assessed in accordance with these regulations and in accordance with the standards laid down in DHI.

In order to qualify for subsidy, the application must comply with the requirements set out above, in particular in sections 4 to 6. Only the applications that meet these criteria are assessed on the basis of quality on the basis of the following criteria, which must also be sufficiently satisfied per criteria in order to be eligible for subsidy. The following criteria apply:

Policy-oriented

    - The extent to which there is a new technology or service on the target market or a new target market for the applicant.

    - The extent to which the implementation of the DHI project justifies the usefulness and necessity of government support.

    - The extent to which it is made plausible that the project is sufficiently development-relevant in the case of developing countries and, in the case of applications for demonstration projects and feasibility studies, it is made plausible that the project will lead to export by the Dutch applicants.

    - The extent to which, in the case of applications for demonstration projects and feasibility studies aimed at developed and emerging markets, it is made plausible that the project leads to export by the Dutch applicants, and in the case of applications for investment preparation projects aimed at developed and emerging markets, demonstrably plausible is made that the project has a substantial positive impact on the Dutch applicants and thus on the Dutch economy.

Target market

    - The extent to which it is made plausible that there is a realistic export potential on the target market and the extent to which it is substantiated that the project leads to a substantial increase in exports to that target market by the Dutch companies involved, or, in the case of investment preparation, the extent to which it is made plausible that the intended investment will actually take place.

    - The question of how real it is that the target market can finance / finance the relevant technology / service, or that the final investment can be financed.

    - The (political) feasibility of the activities in the target country.

Organization

    - The extent to which the project and the intended export or investment logically fit in with the regular activities and / or strategy of the applicant.

    - The extent to which the applicant has sufficient (demonstrable) relevant experience and knowledge to be able to successfully execute the project and then realize the intended export or investment.

    - The extent to which the continuity of the applicant and the activities concerned are guaranteed, taking into account the financial and organizational capacities of the applicant.

Performance

    - The extent to which objectives, bottlenecks and intended results are sufficiently clear, real, measurable and time-bound

    - The extent to which the project plan and the activity plan are sufficiently clear, logical and specified

    - The extent to which the activities are locally guaranteed or the extent to which local measures have been taken to ensure that the project is successfully set up and implemented.

    - The degree of reasonableness and necessity of the project budget.

    - The extent to which there is adequate risk management, consisting of an adequate risk analysis and adequate mitigation measures.

CSR

    - The extent to which the project complies with the IMVO guidelines and it has been described that the project has no negative effects on subjects such as the environment, working conditions and land and human rights.

    - The extent to which the most important IMVO risks have been identified and measures have been formulated to mitigate the most important IMVO risks. If some project specific CSR subjects are still uncertain when they are applied for, then they should be at least part of the study.

RVO can request external advice during the assessment. 7.2 Distribution of available resources

DHI has annual openings. The available resources are divided by handling the applications in order of entry. Should applications received on one day exceed the available funds for the relevant opening in case of payment, the order of treatment will be determined by means of a draw. 8. Rejection grounds

In addition to the provisions of Section 4:35 of the General Administrative Law Act, an application for subsidy is rejected if the DHI is not complied with or if the subsidy ***ceiling*** is exceeded.

Applications for transactions in a country to which a sanctions regime of the Security Council and / or the EU applies will be assessed with extra care. Under no circumstances may the proposed transaction lead to violation or evasion of the sanctions or to the undermining of Dutch policy with regard to the country that is subject to sanctions. The VR and EU sanctions policy is - of course - maintained in all cases. Current export policies and restrictions ensuing from this, such as the export of strategic and dual-use goods, are maintained in all cases.

Furthermore, the requested subsidy may be refused if it is not compatible with the foreign policy, foreign trade and development cooperation policy, as can be seen from, among other things, the explanatory memorandum to the budgets of the Ministry of Foreign Affairs, traffic with the States General, from the publication of policy rules or from other appropriate forms of publication or communication. 9. Enforcement

RVO will carry out a random check on the correct use of the subsidy, whereby checks and balances are checked on the basis of the issued decisions. 10. Obligations

In the subsidy grant decision, a ***notification*** obligation will in any event be included in the subsidy. The subsidy recipient is obliged to report to RVO when he can not (fully) meet the obligations of the subsidy and / or can not (fully) perform the activities for which a subsidy has been granted. As well as that the project partners and the first essential supplier do not use child labor and / or forced labor 6 , neither for the project to which the application relates, nor for other activities. The applicant must report any facts or circumstances that indicate child or forced labor to these organizations without delay to RVO.nl 11. Administrative expenses

To account for the administrative burden that the applicant is faced with, a test has been carried out according to a standard cost model. In doing so, account was taken of the submission of an application for a subsidy, the management phase, the determination of the subsidy and possible objection and appeal procedures. The calculation shows that the total percentage of administrative burdens compared to the total available subsidy budget is 3.4%. ANNEX 1 - FOCUS COUNTRIES

    - Algeria

    - Burkina Faso

    - Egypt

    - Ethiopia

    - Iraq

    - Yemen

    - Jordan

    - Kenya

    - Lebanon

    - Libya

    - Mali

    - Morocco

    - Niger

    - Nigeria

    Uganda

    - Palestinian Territories

    - Senegal

    - Sudan

    Somalia

    - Chad

    - Tunisia

    - South Sudan

ANNEX 2 - RESULT CHAIN Result chain

The chosen method for the type of projects under DHI is the result chain. This also serves as a basis for monitoring and evaluation. The result chain describes the logical steps between the input of the project and short and long-term effects that are intended. The result chain consists of the following individual steps described below.

Input

Activities

Output

Outcome

Impact

Project budget

Demonstration projects (D)

Feasibility studies (H)

Investment preparation projects (I)

D: Introduction of the relevant technology in the target country

H: Report prepared for investment decision by foreign potential customer

I: Drawn a business plan to obtain financing for the intended project

The positioning of Dutch companies in new markets

In the case of developing countries also: growth of employment, ***transfer*** of knowledge and skills in own personnel and in the chain and strengthening the production power of involved local companies

Increasing Dutch exports

Increasing Dutch investments

In the case of developing countries also: positive contribution to sustainable local development EXPLANATION Input

Input means the use of resources (especially financial, human, material and technological) that are necessary for the execution of the project. Activities

Activities are the measures or activities with which input is mobilized to achieve a specific output. Under DHI, 3 project types have been named whose activities are eligible (see section 4.5): demonstration projects, feasibility studies and investment preparation projects. Output

Output means what has been realized / delivered after the completion of the activities in the context of DHI. In demonstration projects this concerns the introduction of the relevant technology in the target country. In feasibility studies, this is a report for an investment decision to be taken by a foreign potential customer. The investment preparation project is a validated business plan to obtain financing for the intended project. Outcome

Outcome is the intended or achieved short-term effect of an intervention. In the case of DHI, the specific focus is on the positioning of Dutch companies in new markets and, in the case of developing countries, growth of employment, ***transfer*** of knowledge and skills in both own personnel and in the chain and strengthening of the production power of involved local companies. Impact

Impact concerns the long-term effects of a project. With regard to DHI, the following objectives have been identified in this context: increasing Dutch exports, increasing Dutch investments and, in the case of developing countries, making a positive contribution to sustainable local development. Actions

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De Minister voor Buitenlandse Handel en Ontwikkelingssamenwerking,

Gelet op de artikelen 6 en 7 van het Subsidiebesluit Ministerie van Buitenlandse Zaken;

Gelet op artikel 7.2 van de Subsidieregeling Ministerie van Buitenlandse Zaken 2006;

Besluit: Artikel 1

Voor subsidieverlening op grond van artikel 7.2 van de Subsidieregeling Ministerie van Buitenlandse Zaken 2006 met het oog op subsidiëring van activiteiten op het gebied van demonstratieprojecten, haalbaarheidsstudies en investeringsvoorbereidingsprojecten gelden voor de periode vanaf inwerkingtreding van dit besluit tot en met 31 december 2023 de als bijlage bij dit besluit gevoegde beleidsregels. Artikel 2

    1. Aanvragen voor subsidie in het kader van het Subsidieprogramma DHI 2019–2023 worden ingediend in jaarlijkse openstellingen.

    2. Aanvragen voor subsidie in de eerste openstelling van het Subsidieprogramma DHI 2019–2023 worden ingediend vanaf 15 januari 2019 tot en met 31 december 2019.

    3. Voor aanvragen voor subsidie in volgende openstellingen van het Subsidieprogramma DHI 2019–2023 gelden nader bekend te maken openstellingsperiodes.

    4. Aanvragen voor subsidies in het kader van het Subsidieprogramma DHI 2019–2023 worden ingediend aan de hand van een door de minister beschikbaar gesteld formulier en voorzien van de op het aanvraagformulier gevraagde bescheiden.1

Artikel 3

    1. Voor subsidieverlening in het kader van het Subsidieprogramma DHI 2019–2023 geldt voor aanvragen bedoeld in artikel 2, tweede lid, een subsidieplafond van € 5 miljoen voor het ondersteunen van Nederlandse MKB-ondernemingen die zich richten op dergelijke nieuwe activiteiten in opkomende en ontwikkelde markten en € 4 miljoen voor activiteiten in ontwikkelingslanden.

    2. Voor subsidieverlening in het kader van het Subsidieprogramma DHI 2019–2023 gelden voor aanvragen bedoeld in artikel 2, derde lid, nader bekend te maken subsidieplafonds.

Artikel 4

De aanvragen worden beoordeeld op volgorde van binnenkomst van de aanvragen. Indien het subsidieplafond op enige dag dreigt te worden overschreden, bepaalt de minister de volgorde van behandeling van op dezelfde dag ontvangen aanvragen door middel van loting. Artikel 5

Per aanvrager kan slechts sprake zijn van een samenloop van ten hoogste twee subsidies in het kader van het Subsidieprogramma DHI 2019–2023. Artikel 6

Het besluit van de Minister voor Buitenlandse Handel en Ontwikkelingssamenwerking van 26 februari 2016, tot vaststelling van beleidsregels en een subsidieplafond voor subsidieverlening op grond van de Subsidieregeling Ministerie van Buitenlandse Zaken 2006 (Demonstratieprojecten, Haalbaarheidsstudies en Investeringsvoorbereidingsstudies)2 wordt ingetrokken, met dien verstande dat het besluit van toepassing blijft op subsidies die krachtens dit besluit zijn verleend. Artikel 7

Dit besluit treedt in werking met ingang van de dag na de datum van uitgifte van de Staatscourant waarin het wordt geplaatst en vervalt met ingang van 1 januari 2024, met dien verstande dat het besluit van toepassing blijft op subsidies die voor die datum zijn verleend.

Dit besluit zal met de bijlage en annexen in de Staatscourant worden geplaatst.

De Minister voor Buitenlandse Handel en Ontwikkelingssamenwerking, namens deze, de Directeur-Generaal Internationale Samenwerking, R. Buijs

De Directeur-generaal Buitenlandse Economische Betrekkingen, H. Schuiling BIJLAGE 1. Achtergrond Algemeen

Economische groei en werkgelegenheid zijn onlosmakelijk verbonden met handhaving van de Nederlandse positie in de internationale handels- en investeringsstromen. Ruim 30% van ons inkomen wordt in het buitenland verdiend, handel bedraagt 72% van het BNP en levert 2,2 miljoen voltijdbanen op. De ambitie van overheid en bedrijfsleven is handhaving van de positie op ‘traditionele’ markten en versterking van de positie op ‘nieuwe’ markten. Het midden- en kleinbedrijf (MKB) is sterk afhankelijk van de binnenlandse markt en het is cruciaal dat ook zij kunnen internationaliseren en profiteren van groeikansen.

Onbekendheid met buitenlandse markten, de complexiteit daarvan en de spelers op deze markten vormen barrières die risico’s en kosten met zich mee brengen. Nederlandse MKB-ondernemingen kunnen daardoor kansen mislopen, mede omdat banken en investeerders het risico in bepaalde landen (opkomende markten) hoog inschatten en voorzichtig zijn met financieren en investeren. Dit terwijl er ondanks eventuele extra risico’s juist kansen zijn voor Nederlandse ondernemingen om bedrijfsactiviteiten uit te breiden naar het buitenland. Daarnaast bepaalt de omvang van de MKB-onderneming de financiële slagkracht van een onderneming om zich op nieuwe markten te begeven. Kleine ondernemingen hebben niet altijd de financiële middelen om hun product op een nieuwe markt te introduceren.

In het geval van ontwikkelingslanden kunnen deze Nederlandse ondernemingen een belangrijke en positieve impuls geven aan verdere lokale ontwikkeling. Export en investeringen kunnen een bijdrage leveren aan duurzame economische groei en lokale werkgelegenheid, aan overdracht van kennis, vaardigheden en technologie en aan verbetering van lokale productiekracht.

De minister heeft daarom besloten met het Subsidieprogramma DHI 2019–2013 (hierna DHI) om economische activiteiten van Nederlandse ondernemingen te financieren die een bijdrage leveren aan het slechten van bovengenoemde barrières, waardoor kansen gecreëerd worden om nieuwe activiteiten op nieuwe markten te ontplooien. 2. Uitvoerder

De minister heeft de uitvoering van DHI opgedragen aan de Rijksdienst voor Ondernemend Nederland (RVO), agentschap van het Ministerie van Economische Zaken en Klimaat. RVO zal DHI uitvoeren namens de minister op grond van een aan RVO verleend mandaat. 3. Begrippen

In DHI wordt verstaan onder:

– Aanvrager:

    de MKB-onderneming die de subsidie aanvraagt; – Buitenlandse potentiële afnemer/samenwerkingspartner:

    een buitenlandse organisatie die als gastheer optreedt voor een uit te voeren demonstratieproject, dan wel een investerende buitenlandse afnemer die overtuigd dient te worden middels een haalbaarheidsstudie, dan wel een buitenlandse samenwerkingspartner waarmee een Nederlandse onderneming een investeringsproject wil opzetten; – De-minimisverordening:

    de Verordening (EU) nr. 1407/2013 van de Commissie van 18 december 2013 betreffende de toepassing van de artikelen 107 en 108 van het Verdrag betreffende de werking van de Europese Unie op de-minimissteun, Pb. 2013, L 352/1; – Doelland:

    land waar de export of investeringen, te realiseren via een demonstratieproject, haalbaarheidsstudie of investeringsvoorbereidingsproject, op gericht zijn, met dien verstande dat doelland slechts kunnen zijn:

        ○ wat betreft aanvragers, gevestigd in Europees Nederland: landen buiten het Koninkrijk der Nederlanden alsmede Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius en Saba;

        ○ wat betreft aanvragers, gevestigd op Aruba, Curaçao of Sint Maarten: landen buiten het Koninkrijk der Nederlanden;

        ○ wat betreft aanvragers, gevestigd op Bonaire, Sint Eustatius of Saba: landen buiten het Koninkrijk der Nederlanden alsmede Aruba, Curaçao en Sint Maarten.

– Export:

    de levering aan een buitenlandse afnemer van Nederlandse goederen en diensten, waarbij de omvang van de export wordt bepaald door de in Nederland toegevoegde waarde; – Focuslanden:

    de landen vermeld in annex 1; – Fragiele staten:

    de landen, als zodanig aangeduid op de landenlijst van de DGGF website3; – MKB-onderneming:

    een onderneming behorende tot de bedrijfssector als omschreven in Aanbeveling 2003/361/EG van de Commissie van 6 mei 2003, Pb 2003 L 124/36, betreffende de definitie van kleine, middelgrote en micro-ondernemingen; – Nederland:

    Nederland, Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius en Saba; – Nederlandse onderneming:

    een in Nederland gevestigde entiteit die, ongeacht de rechtsvorm, economische activiteiten verricht en die staat ingeschreven in het handelsregister van de Kamer van Koophandel. ‘Economische activiteiten verrichten’ houdt in goederen of diensten op de markt aanbieden; – Ontwikkelingslanden:

    de landen vermeld op de landenlijst van de DGGF website4; – Ontwikkelingsrelevant:

    een positieve bijdrage leverend aan minimaal één van de volgende aspecten, waarbij geldt dat de score op ten minste één van deze aspecten positief moet zijn en de score op de overige aspecten ten minste neutraal:

        ○ Groei van de lokale werkgelegenheid;

        ○ Duurzame overdracht van kennis en vaardigheden, technologie en innovatie;

        ○ Het verbeteren van de lokale productiekracht van de betrokken lokale onderneming;

– Ontwikkelde en opkomende markten:

    alle landen met uitzondering van Nederland en de landen van DGGF; – Penvoerder:

    de partner in een samenwerkingsverband die namens het samenwerkingsverband de subsidie aanvraagt. Indien de aanvraag wordt gehonoreerd, is de penvoerder de subsidieontvanger en als zodanig volledig aanspreekbaar en verantwoordelijk jegens de minister voor de uitvoering van de gesubsidieerde activiteiten en de naleving van de aan de subsidieverlening verbonden verplichtingen; – Project:

    een demonstratieproject, haalbaarheidsstudie of investeringsvoorbereidingsproject; – Samenwerkingsverband:

    een niet over rechtspersoonlijkheid beschikkend contractueel samenwerkingsverband bestaande uit partners met eigen rechtspersoonlijkheid gericht op de realisering van gezamenlijk onderschreven doelstellingen door uitvoering van activiteiten op een zodanige wijze dat elk van de partners een deel van de daartoe benodigde inspanningen levert en een deel van de daarmee gepaard gaande risico’s draagt.

4. Subsidieprogramma DHI 2019–2023 4.1 Doel

DHI geeft mede invulling aan het beleid gericht op internationalisering van het Nederlandse MKB. Internationaal ondernemen is een belangrijk element in het streven naar duurzame economische groei in Nederland.

DHI geeft tevens invulling aan de synergie tussen handel enerzijds en hulp anderzijds binnen de agenda van de minister voor Handel en Ontwikkelingssamenwerking, waarin stimulering van internationalisering van het MKB en bijdrage aan lokale en inclusieve economische groei samengaan. Met name voor ontwikkelingslanden geldt dat gezocht wordt naar ontwikkelingsrelevante economische activiteiten van het Nederlandse MKB dat daar marktkansen ziet.

De hoofddoelstelling van DHI is:

Het verhogen en versterken van het aantal Nederlandse ondernemingen dat succesvol internationaliseert door in een vroege fase te onderzoeken of een export/investeringsproject haalbaar is of om te demonstreren dat een bepaald exportproduct of technologie toepasbaar is. Hiermee wordt tevens een positieve bijdrage geleverd aan de lokale ontwikkeling van ontwikkelingslanden waar deze internationaliseringen plaatsvinden.

Specifieke doelstellingen van DHI zijn:

    – Het vergroten van het aantal Nederlandse ondernemingen dat zich (sterker) positioneert in nieuwe markten door het wegnemen van (financiële)knelpunten als verdere stap in de internationalisering van deze ondernemingen.

    – Het vergroten van de Nederlandse export.

    – Het vergroten van de Nederlandse investeringen.

En via bovenstaande 3 doelstellingen het leveren van een bijdrage aan duurzame lokale economische ontwikkeling in ontwikkelingslanden, in de vorm van groei van de lokale werkgelegenheid, duurzame overdracht van kennis, vaardigheden en technologie en verbetering van lokale productiekracht. 4.2 Doelgroep

Met DHI wil de minister Nederlandse MKB ondernemingen ondersteunen bij het voorbereiden op export en investeringen in ontwikkelde en opkomende landen en ontwikkelingslanden. 4.3 Wie kunnen in aanmerking komen voor een subsidie

Subsidies in het kader van DHI zijn bedoeld voor individuele Nederlandse MKB-ondernemingen en samenwerkingsverbanden namens welke een penvoerder een subsidie aanvraagt.

Een samenwerkingsverband bestaat in elk geval uit twee of meer exporterende of investerende Nederlandse ondernemingen, waaronder ten minste een MKB-onderneming. De penvoerder moet een Nederlandse MKB-onderneming zijn en een substantieel aandeel in het project hebben.

Indien er sprake is van een samenwerkingsverband, dan kunnen ook grotere ondernemingen in aanmerking komen voor subsidie zover dit binnen dat samenwerkingsverband noodzakelijk is voor het MKB waarmee zij samenwerken en als in die samenwerking het accent op het MKB ligt.

Aanvragers moeten:

    a. Nederlandse binnen het project exporterende en/of in het buitenland investerende (MKB-) ondernemingen zijn;

    b. Substantiële omzet hebben gerealiseerd, waarbij de gemiddelde jaaromzet over de laatste drie kalenderjaren voorafgaand aan de aanvraag ten minste € 100.000 bedraagt, of onderbouwd aannemelijk kunnen maken in staat te zijn de eigen bijdrage voor de uitvoering van het project en voor het vervolg van het realiseren van de export of investering te kunnen bekostigen;

    c. Minimaal 3 werknemers hebben of, indien dat niet het geval is, aantoonbaar aannemelijk kunnen maken dat de capaciteit structureel gewaarborgd is.

Indien er sprake is van een samenwerkingsverband, dan geldt het vereiste c uitsluitend voor de penvoerder.

Om in aanmerking te kunnen komen voor een subsidie moet de individuele aanvrager dan wel de penvoerder aantonen dat hij en zijn partners zich inspannen om ernstige (seksuele) misdragingen en andere ernstige vormen van grensoverschrijdend gedrag jegens medewerkers en derden bij de uitvoering van de activiteiten waarop de aanvraag betrekking heeft te voorkomen, in voorkomend geval zo spoedig mogelijk te doen beëindigen en om de gevolgen daarvan te mitigeren. 4.4 Adviestraject

Als een aanvrager over wil gaan tot concrete planvorming en overweegt individueel of namens een samenwerkingsverband een aanvraag voor subsidie in te gaan dienen, dan zal er een verplicht adviestraject plaatsvinden aan de hand van een daartoe ingediende ‘quick scan’. Meer informatie hierover staat op [*www.rvo.nl/dhi*](http://www.rvo.nl/dhi).

Met de verwerking van een verzoek om advies is tot twee weken gemoeid. Het adviestraject eindigt met een advies van een RVO adviseur aan de potentiële aanvrager. De uitkomst van het adviestraject is niet bindend. Het is aan de potentiële aanvrager om wel of niet een subsidieaanvraag in te dienen. 4.5 Subsidiabele activiteiten

Om in aanmerking te kunnen komen voor een subsidie in het kader van DHI moeten de activiteiten waarvoor subsidie wordt aangevraagd gericht zijn op het bereiken van het doel in paragraaf 4.1 en betrekking hebben op activiteiten in niet meer dan één land, tenzij overwegingen van effectiviteit of doelmatigheid zich daar in betekenende mate tegen verzetten.

Er kan subsidie worden aangevraagd voor de projecten onder 4.5.1, 4.5.2 en 4.5.3 4.5.1 Demonstratieproject

Het demonstreren van Nederlandse technologie (met name kapitaalgoederen) in een doelland in een reële praktijksituatie, waarbij:

    – er sprake moet zijn van specifieke lokale omstandigheden die een knelpunt vormen waardoor de introductie van de technologie op de betreffende markt wordt belemmerd;

    – de inzet van de demonstratie is dat het knelpunt wordt weggenomen en dat de toegevoegde waarde van de technologie wordt aangetoond;

    – de omvang en duur niet groter zijn dan strikt noodzakelijk om het knelpunt weg te nemen;

    – er sprake moet zijn van een noodzaak om de technologie in het land te demonstreren om deze te kunnen introduceren;

    – voldoende bijgedragen wordt aan de positionering van de betreffende Nederlandse onderneming(en) in het land;

    – er sprake moet zijn van het demonstreren onder een brede groep potentiële afnemers in de betreffende markt, niet zijnde consumenten;

    – onderbouwd en aannemelijk gemaakt moet worden dat binnen 3 jaar na uitvoering van de demonstratie de betrokken ondernemingen gezamenlijk export met een omvang van ten minste tienmaal het subsidiebedrag zullen realiseren, of in het geval van projecten in ontwikkelingslanden met een omvang van ten minste vijfmaal het subsidiebedrag en met een substantiële ontwikkelingsrelevantie.

4.5.2 Haalbaarheidsstudie

Een onderzoek dat wordt uitgevoerd in het kader van een door een buitenlandse potentiële afnemer te nemen investeringsbesluit en waarmee wordt bepaald of het technisch en/of commercieel haalbaar is een concrete investering in het doelland uit te voeren. Het is mogelijk om in één studie twee investeringen voor twee potentiële afnemers te onderzoeken.

Waarbij geldt dat:

    – een buitenlandse potentiële afnemer door middel van een studie overtuigd moet worden dat de beoogde investering in Nederlandse kapitaalgoederen en diensten technisch en/of commercieel in het land haalbaar is. Deze afnemer geeft door middel van een intentieverklaring aan dat er een voornemen bestaat tot samenwerking met de betrokken Nederlandse onderneming(en) bij de totstandkoming van de investering;

    – vóór aanvang van de studie voldoende duidelijkheid bestaat over de omvang van de markt, de beoogde opzet van de investering, de locatie, de exploitatie, de financiering en de lokale impact. De studie heeft als doel om de details rond de voorgenomen investering helder te krijgen. In de studie wordt de beoogde investering ontworpen op hoofdlijnen (basic design);

    – de studie resulteert in een rapport in de vorm van een businessplan of een projectplan, op basis waarvan de buitenlandse potentiële afnemer een investeringsbesluit kan nemen;

    – er een noodzaak moet zijn dat de betrokken Nederlandse onderneming(en) een haalbaarheidsstudie uitvoert/uitvoeren waarmee de buitenlandse potentiële afnemer in staat wordt gesteld een investeringsbesluit te nemen;

    – onderbouwd en aannemelijk gemaakt moet worden dat de beoogde investering leidt tot export van Nederlandse kapitaalgoederen en diensten door de betrokken Nederlandse onderneming(en) met een omvang van ten minste tienmaal het subsidiebedrag, of in het geval van studies in ontwikkelingslanden met een omvang van ten minste vijfmaal het subsidiebedrag en met een substantiële ontwikkelingsrelevantie.

4.5.3 Investeringsvoorbereidingsproject

Een project dat wordt uitgevoerd door een Nederlandse onderneming met substantiële activiteiten in Nederland die de intentie heeft om te investeren in het buitenland. Met investeren wordt bedoeld dat in het doelland een nieuwe productie- of dienstenfaciliteit wordt neergezet of een bestaande productie- of dienstfaciliteit wordt uitgebreid. De investering dient logischerwijze voort te vloeien uit de huidige activiteiten, core business en strategie van de Nederlandse onderneming. Een kleine proefproductie kan onderdeel uitmaken van het project indien de situatie dat noodzakelijk maakt.

Waarbij verder geldt dat:

    – het project moet worden uitgevoerd door de betrokken Nederlandse onderneming(en) om duidelijk te krijgen dat de voorgenomen investering technisch en/of commercieel haalbaar is. De uitkomst is een compleet, gedetailleerd en, in het geval dat een proefproductie een onderdeel van het project is, gevalideerd businessplan waarmee de Nederlandse investeerder financiering voor zijn investering kan proberen te verkrijgen;

    – vóór aanvang van het project bestaat voldoende duidelijkheid over de omvang van de markt, de beoogde opzet van de investering, de locatie, de exploitatie, de benodigde financiering en de lokale impact. Het project heeft als doel de details rond de voorgenomen investering nader helder te krijgen of te valideren. Tijdens het project wordt de beoogde investering ontworpen op hoofdlijnen (basic design) en/of zijn uitgangspunten in het businessplan in de praktijk gevalideerd;

    – onderbouwd en aannemelijk gemaakt moet worden dat binnen 3 jaar na uitvoering van het project de aanvrager een investering zal doen met een omvang ten minste vijfmaal het subsidiebedrag;

    – voor een project in opkomende en ontwikkelde markten moet sprake zijn van een positieve substantiële impact op de Nederlandse aanvragers en daarmee op de Nederlandse economie;

    – er bij een project in een ontwikkelingsland sprake moet zijn van een substantiële ontwikkelingsrelevantie.

4.5.4 Niet subsidiabele activiteiten

In ieder geval geen subsidie wordt verleend voor een project gericht op:

    a. Onderzoek en ontwikkeling. Hieronder wordt tevens verstaan het aanpassen en testen van producten of het ontwikkelen van trainingsprogramma’s voor zover niet specifiek voor het project noodzakelijk is.

    b. Promotionele en verkoopactiviteiten en activiteiten gericht op marktonderzoek.

    c. Demonstratie van de betreffende technologie op een beurs of het tentoonstellen ervan aan een potentiële afnemer.

    d. Activiteiten die leiden tot een verlies aan arbeidsplaatsen in Nederland.

    e. Een technologie die niet minimaal technologisch en commercieel gereed is.

    f. Activiteiten die als export- of investeringsactiviteiten zijn aan te merken, hierbij moet gedacht worden aan de hierna opgesomde projectsoorten.

        – Projecten waarbij na afloop ervan de gedemonstreerde technologie wordt verkocht. Een demonstratieproject is slechts bedoeld om een technologie te demonstreren. De gedemonstreerde technologie dient teruggebracht te worden naar Nederland dan wel lokaal te worden achtergelaten of om niet te worden overgedragen.

        – Projecten waarbij in het kader van een proefproductie al een aanzienlijke investering wordt gedaan.

        – Projecten voor het realiseren van voorbeeldprojecten.

    g. Leningen op revolverende financiering aan derde partijen.

4.6 Duur van de activiteiten

De activiteiten in het kader van DHI moeten worden uitgevoerd binnen een maximale termijn van:

    – 3 jaar voor een demonstratieproject.

    – 2 jaar voor een haalbaarheidsstudie en investeringsvoorbereidingsproject.

4.7 Omvang van de subsidie

De subsidie bedraagt per aanvraag ten hoogste 50% van de subsidiabele kosten tot een maximum van:

    – € 200.000 voor demonstratieprojecten.

    – € 100.000 voor haalbaarheidsstudies.

    – € 100.000 voor investeringsvoorbereidingsprojecten.

In het geval van projecten gericht op fragiele staten of focuslanden geldt een subsidiepercentage van ten hoogste 60% van de subsidiabele kosten, tot bovengenoemde maximale bedragen.

De subsidie valt onder de de-minimisverordening. Het bedrag van de subsidie wordt verlaagd voor zover dit nodig is op basis van deze verordening.

De eigen bijdrage aan het project van MKB onderneming of de partners van het samenwerkingsverband wordt gefinancierd met middelen die niet verkregen zijn door middel van een directe of indirecte subsidie of bijdrage ten laste van de begroting van het Ministerie van Buitenlandse Zaken. 5. Subsidiabele kosten

Ten aanzien van de met het project gemoeide kosten geldt dat er sprake moet zijn van minimaal € 50.000 aan subsidiabele kosten. 5.1 Uitgangspunten

Voor het bepalen van (de omvang van) de kosten die in aanmerking kunnen worden genomen bij het bepalen van de subsidie gelden de volgende uitgangspunten:

    − voor kosten die in redelijkheid niet als noodzakelijk kunnen worden beschouwd voor de uitvoering van de activiteiten waarvoor de subsidie wordt gevraagd wordt geen subsidie verleend;

    − voor kosten die niet direct zijn gerelateerd aan de uitvoering van de activiteiten wordt geen subsidie verleend;

    − voor kosten gemaakt voor indiening van de aanvraag wordt geen subsidie verleend;

    − voor kosten voor projectmanagement geldt een maximum van 10% van het totaal aantal opgevoerde dagen onder tijdsbesteding in Nederland en het buitenland;

    – voor de inhuur van experts, bijvoorbeeld ZZP-ers, wordt een maximum uurtarief van € 87,50 gehanteerd. Een expert is een medewerker die over aantoonbare expertise beschikt op het onderdeel waarop deze in een project functioneel wordt ingezet, niet zijnde ondersteunende werkzaamheden en blijkend uit de cv;

    − de interne kosten (eigen uren en, in geval van hardware, de kostprijs) van de aanvrager dan wel de penvoerder en zijn partners worden zonder winstopslag in aanmerking genomen;

    − kosten in landen buiten Europa worden aan lokale maatstaven getoetst.

    − een financiële bijdrage van derden (bijvoorbeeld van de buitenlandse klant of van een overheidspartij) in de kosten van het project leidt tot een even zo grote verlaging van de subsidiabele kosten.

5.2 Subsidiabele kosten

    a. De subsidiabele kosten betreffen loonkosten, welke worden berekend als volgt: het aantal uren dat de direct bij de subsidiabele activiteiten betrokken medewerkers in loondienst bij de aanvrager dan wel de penvoerder en/of partners ten behoeve van deze activiteiten hebben gemaakt, vermenigvuldigd met een maximaal uurtarief van € 87,50 waarin zowel de directe loonkosten als daaraan toegerekende indirecte kosten zijn begrepen. In afwijking op dit maximum uurtarief wordt het uurtarief voor personeel van de aanvrager dan wel de penvoerder en/of partners in landen buiten Europa naar lokale maatstaven vastgesteld tot het maximale uurtarief.

    b. Deze kosten kunnen in ieder geval worden vermeerderd met:

        • De kosten van het gebruik van hardware, gebouwen en/of software. Voor het bepalen van de economische afschrijving worden vaste afschrijvingstermijnen gehanteerd:

            – Hardware (machines, installaties): 5 jaar

            – Gebouwen: 30 jaar

            – Software: 3 jaar

        • De grondslag voor het bepalen van de afschrijvingskosten is de aanschafprijs van het product/goed, rekening houdend met de eventuele restwaarde en vermeerderd met eventuele aanpassingskosten.

        • Reiskosten: internationale reiskosten en interlokale reiskosten buiten Nederland op basis van economy class.

        • Verblijfkosten: de maximale vergoeding voor verblijfkosten is het aantal overnachtingen maal de logies- en overige kosten conform de Daily Subsistence Allowance Rates (DSA-lijsten) van het Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, geldend op de startdatum van de activiteiten: Bijlage I behorende bij artikel 3, eerste lid, van de Reisregeling buitenland.5

        • Kosten derden: tot een maximum van 40% van de totale projectkosten voor wat betreft demonstratieprojecten en van 25% voor wat betreft haalbaarheidsstudies en investeringsvoorbereidingsprojecten.

    c. In aanvulling op de hierboven genoemde reis- en verblijfskosten kunnen voor fragiele staten ook extra reis- en verblijfkosten vanwege de risico’s, verzekering en negatief reisadvies subsidiabel zijn, mits goed onderbouwd in de aanvraag.

5.3 Niet-subsidiabele kosten

Niet subsidiabel zijn in ieder geval de volgende kosten:

    – kosten voor het ontwikkelen van de aanvraag en het aanvragen van subsidie en andere kosten die voor indiening van de aanvraag zijn gemaakt;

    – financieringskosten en rentevergoedingen;

    – omzetbelasting;

    – kosten veroorzaakt door inflatie en wisselkoersschommelingen;

    – kosten gerelateerd aan promotionele of verkoopactiviteiten of promotiemateriaal;

    – algemene vertaalkosten;

    – kosten van tenaamstelling en instandhouding van rechten van intellectueel eigendom.

    – kosten voor productontwikkeling;

    – kosten voor marktonderzoek;

    – licentiekosten;

    – certificeringskosten;

    – kosten voor aanpassing van de te demonstreren technologie, voor zover deze niet specifiek zijn, niet direct gerelateerd zijn aan het doel van het demonstratieproject en daarvoor niet noodzakelijk zijn;

    – kosten voor het ontwikkelen van trainingsprogramma’s.

6. Aanvraag 6.1 Vereisten

Voordat een individuele Nederlandse MKB onderneming of een penvoerder een aanvraag voor subsidie in het kader van DHI doet, dient hij een advies van RVO te hebben verkregen zoals beschreven in paragraaf 4.4 (advies naar aanleiding van ‘quick scan’).

De aanvraag wordt ingediend in de Nederlandse of Engelse taal met gebruikmaking van een daartoe op [*www.rvo.nl/dhi*](http://www.rvo.nl/dhi) beschikbaar gesteld middel en voorzien van de daarin genoemde bijlagen waarvoor modellen beschikbaar worden gesteld door RVO.

De aanvraag bevat in ieder geval:

    – Referentienummer van het ontvangen RVO-advies;

    – Indien van toepassing: Partnerformulieren;

    – Projectplan;

    – Begroting waarbij ook de financiering van het eigen aandeel (per partner) inzichtelijk wordt gemaakt (projectuitgaven versus projectinkomsten);

    – Ingevulde en ondertekende de-minimisverklaring voor zowel de aanvrager als, in het geval van een samenwerkingsverband, de partners van het samenwerkingsverband, niet zijnde derden;

    – Voor een project in een ontwikkelingsland een bijlage over de ontwikkelingsrelevantie van het project;

    – Voor haalbaarheidsstudies: een intentieverklaring van de buitenlandse potentiële afnemer;

    – Voor demonstratieprojecten: een intentieverklaring van de gastheer als het demonstratieproject wordt uitgevoerd bij een externe organisatie die als gastheer optreedt;

    – Voor investeringsvoorbereidingsprojecten: een intentieverklaring van een onderneming in het doelland als deze onderneming mede zal gaan investeren in het project;

    – Indien van toepassing: ondertekende samenwerkingsovereenkomst die de medewerking van de partners aan de uitvoering van de activiteiten en de naleving van de gemaakte afspraken waarborgt, evenals de naleving van de aan een subsidieverlening te verbinden verplichtingen;

Tevens moet de aanvrager, en indien van toepassing de partners, verklaren dat zij op de hoogte zijn en zullen handelen naar de OESO richtlijnen ([*www.oesorichtlijnen.nl*](http://www.oesorichtlijnen.nl)) en de ILO-Verklaring inzake fundamentele principes en rechten op het werk, en dat zij hiernaar handelen. Ook dienen zij op de hoogte te zijn van de FMO-uitsluitingslijst en geen activiteiten uit te voeren die op deze lijst benoemd staan (   [*www.fmo.nl/exclusion-list*](http://www.fmo.nl/exclusion-list)).

In aanvulling hierop gelden in specifieke gevallen ook de IFC Performance Standards, de OECD-FAO Guidance for Responsible ***Agricultural*** Supply Chains en de VN Conventie over Biologische Diversiteit. Aanvragers en wanneer van toepassing ook deelnemers dienen te verklaren van deze richtlijnen op de hoogte te zijn en deze te onderschrijven. De aanvrager dient feiten of omstandigheden die wijzen op het schenden van deze richtlijnen onverwijld te melden bij RVO.nl 6.2 Herstelperiode

In het kader van de aanvraagprocedure wordt met nadruk gewezen op artikel 7, derde lid, van het Subsidiebesluit Ministerie van Buitenlandse Zaken. Mocht een aanvraag onvolledig worden ingediend, dan kan de minister (met gebruikmaking van artikel 4:5 van de Algemene wet bestuursrecht) vragen om een aanvulling. Als datum en tijd van ontvangst van de aanvraag zal vervolgens gelden de datum en tijd waarop de aanvulling is ontvangen. Daarnaast geldt in het algemeen dat het niet volledig indienen van aanvragen of onvoldoende onderbouwen van (onderdelen van) de aanvraag mogelijk leidt tot afwijzing van een subsidieaanvraag op basis van het niet of niet in voldoende mate voldoen aan de aan aanvragen gestelde vereisten en criteria.

Kortheidshalve verwijzen naar andere onderdelen van de aanvraag, websites of bijlagen is niet voldoende, tenzij in de aanvraagdocumenten uitdrukkelijk is aangegeven dat daarmee (geheel of gedeeltelijk) kan worden volstaan. Indien onderdelen van de aanvraagdocumenten niet worden ingevuld, loopt de aanvrager het risico op afwijzing van de aanvraag. 7. Beoordeling en verdeling beschikbare middelen 7.1 Beoordeling

De bepalingen van de Algemene wet bestuursrecht, het Subsidiebesluit Ministerie van Buitenlandse Zaken en de Subsidieregeling Ministerie van Buitenlandse Zaken 2006 zijn onverkort van toepassing op de beoordeling van aanvragen en de uiteindelijke subsidieverstrekking in het kader van DHI. De aanvragen worden beoordeeld met inachtneming van deze regelgeving en overeenkomstig de maatstaven die in DHI zijn neergelegd.

Om voor subsidie in aanmerking te kunnen komen dient de aanvraag te voldoen aan de hiervoor, in het bijzonder in paragraaf 4 tot en met 6, opgenomen vereisten. Slechts de aanvragen die daaraan voldoen, worden inhoudelijk beoordeeld op kwaliteit aan de hand van de hierna volgende criteria, waaraan eveneens per criteria in voldoende mate moet worden voldaan om in aanmerking te kunnen komen voor subsidie. De volgende criteria zijn van toepassing:

Beleidsmatig

    – De mate waarin er sprake is van een nieuwe technologie of dienst op de doelmarkt of een nieuwe doelmarkt voor de aanvrager.

    – De mate waarin het uitvoeren van het DHI-project nut en noodzaak van overheidsondersteuning rechtvaardigt.

    – De mate waarin onderbouwd aannemelijk wordt gemaakt dat het project in het geval van ontwikkelingslanden voldoende ontwikkelingsrelevant is en in het geval van aanvragen voor demonstratieprojecten en haalbaarheidsstudies onderbouwd aannemelijk wordt gemaakt dat het project tot export door de Nederlandse aanvragers leidt.

    – De mate waarin in het geval van aanvragen voor demonstratieprojecten en haalbaarheidsstudies gericht op ontwikkelde en opkomende markten onderbouwd aannemelijk wordt gemaakt dat het project tot export door de Nederlandse aanvragers leidt, en in het geval van aanvragen voor investeringsvoorbereidingsprojecten gericht op ontwikkelde en opkomende markten aantoonbaar aannemelijk wordt gemaakt dat het project een substantiële positieve impact heeft op de Nederlandse aanvragers en daarmee op de Nederlandse economie.

Doelmarkt

    – De mate waarin onderbouwd aannemelijk wordt gemaakt dat er sprake is van een realistisch exportpotentieel op de doelmarkt en de mate waarin onderbouwd aannemelijk wordt gemaakt dat het project leidt tot het substantieel vergroten van de export naar die doelmarkt door de betrokken Nederlandse ondernemingen, dan wel, in het geval van investeringsvoorbereiding, de mate waarin onderbouwd aannemelijk wordt gemaakt dat de beoogde investering daadwerkelijk gaat plaatsvinden.

    – De vraag hoe reëel het is dat de doelmarkt de betreffende technologie/dienst kan bekostigen/financieren, dan wel dat de uiteindelijke investering gefinancierd kan worden.

    – De (politieke) haalbaarheid van de activiteiten in het doelland.

Organisatie

    – De mate waarin het project en de beoogde export of investering logisch aansluiten bij de reguliere activiteiten en/of strategie van de aanvrager.

    – De mate waarin de aanvrager over voldoende (aantoonbaar) relevante ervaring en kennis beschikt om het project succesvol te kunnen uitvoeren en daarna de beoogde export of investering te kunnen realiseren.

    – De mate waarin de continuïteit van de aanvrager en de betreffende activiteiten zijn gewaarborgd, rekening houdend met de financiële en organisatorische capaciteiten van de aanvrager.

Uitvoering

    – De mate waarin doelstellingen, knelpunten en beoogde resultaten voldoende duidelijk, reëel, meetbaar en tijdgebonden zijn

    – De mate waarin het projectplan en het activiteitenplan voldoende duidelijk, logisch en gespecificeerd zijn

    – De mate waarin de activiteiten lokaal geborgd zijn dan wel de mate waarin er lokaal maatregelen zijn genomen om ervoor te zorgen dat het project succesvol wordt opgezet en uitgevoerd.

    – De mate van redelijkheid en noodzakelijkheid van de projectbegroting.

    – De mate waarin sprake is van adequaat risicomanagement, bestaande uit een adequate risicoanalyse en adequate mitigerende maatregelen.

MVO

    – De mate waarin het project in overeenstemming is met de IMVO richtlijnen en beschreven is dat het project geen negatieve effecten heeft op onderwerpen als milieu, arbeidsomstandigheden en land- en mensenrechten.

    – De mate waarin de belangrijkste IMVO risico’s in kaart zijn gebracht en er maatregelen zijn geformuleerd om de belangrijkste IMVO risico’s te mitigeren. Indien enkele project specifieke MVO onderwerpen bij aanvraag nog onzeker zijn dan dienen deze minimaal onderdeel te zijn van de studie.

RVO kan bij de beoordeling extern advies inwinnen. 7.2 Verdeling beschikbare middelen

DHI kent jaarlijkse openstellingen. De beschikbare middelen worden verdeeld door behandeling van de aanvragen in volgorde van binnenkomst. Mochten op één dag binnengekomen aanvragen in geval van honorering de voor de betreffende openstelling beschikbare middelen overtreffen, dan wordt de volgorde van behandeling bepaald door middel van loting. 8. Afwijzingsgronden

Naast het bepaalde in artikel 4:35 van de Algemene wet bestuursrecht wordt een aanvraag voor subsidie afgewezen als er niet voldaan wordt aan het bepaalde in DHI of indien het subsidieplafond zou worden overschreden.

Aanvragen ten behoeve van transacties in een land waarop een sanctieregime van de Veiligheidsraad en/of van de EU van toepassing is, zullen met extra zorg beoordeeld worden. In geen geval mag de beoogde transactie leiden tot overtreding of ontduiking van de sancties of tot ondergraving van het Nederlandse beleid t.a.v het onder sancties vallende land. Het VR- en EU-sanctiebeleid wordt – uiteraard – in alle gevallen gehandhaafd. Vigerend exportbeleid en restricties die hieruit voortvloeien, zoals betreffende export van strategische en ‘dual use’ goederen, worden in alle gevallen gehandhaafd.

Voorts kan de verlangde subsidie worden geweigerd indien verstrekking niet verenigbaar is met het beleid ten aanzien van de buitenlandse betrekkingen, de buitenlandse handel en de ontwikkelingssamenwerking, zoals onder andere kenbaar uit de memories van toelichting bij de begrotingen van het Ministerie van Buitenlandse Zaken, uit het verkeer met de Staten-Generaal, uit de bekendmaking van beleidsregels of uit andere geschikte vormen van bekendmaking of mededeling. 9. Handhaving

RVO zal een steekproefsgewijze controle uitvoeren op het correcte gebruik van de subsidie waarbij op grond van de afgegeven beschikkingen wordt gecontroleerd op rechtmatigheid en doelmatigheid. 10. Verplichtingen

In de subsidieverleningsbeschikking zal aan de subsidieverlening in ieder geval een meldingsplicht worden opgenomen. De subsidieontvanger heeft de plicht om aan RVO te melden wanneer hij niet (geheel) aan de verplichtingen van de subsidie kan voldoen en/of de activiteiten waarvoor subsidie is verleend niet (geheel) kan uitvoeren. Alsmede dat de projectpartners en de eerste wezenlijke toeleverancier geen gebruik maken van kinderarbeid en/of dwangarbeid6, noch voor het project waar de aanvraag betrekking op heeft, noch voor andere activiteiten. De aanvrager dient eventuele feiten of omstandigheden die wijzen op kinder- of dwangarbeid bij deze organisaties onverwijld te melden bij RVO.nl 11. Administratieve lasten

Ter verantwoording van de administratieve lasten waarmee de aanvrager te maken krijgt is een toets uitgevoerd volgens een standaard kostenmodel. Daarbij is rekening gehouden met de indiening van een aanvraag voor subsidie, de beheerfase, de vaststelling van de subsidie en eventuele bezwaar- en beroepsprocedures. Uit de berekening blijkt dat het totale percentage administratieve lasten ten opzichte van het totaal beschikbare subsidiebudget 3,4% bedraagt. ANNEX 1 – FOCUSLANDEN

    – Algerije

    – Burkina Faso

    – Egypte

    – Ethiopië

    – Irak

    – Jemen

    – Jordanië

    – Kenia

    – Libanon

    – Libië

    – Mali

    – Marokko

    – Niger

    – Nigeria

    – Oeganda

    – Palestijnse Gebieden

    – Senegal

    – Soedan

    – Somalië

    – Tsjaad

    – Tunesië

    – Zuid-Soedan

ANNEX 2 – RESULTAATKETEN Resultaatketen

De gekozen methodiek voor het soort projecten onder DHI is de resultaatketen. Deze fungeert tevens als basis voor de monitoring en evaluatie. De resultaatketen beschrijft de logische stappen tussen de input van het project en korte- en langetermijneffecten die ermee worden beoogd. De resultaatketen bestaat uit de volgende hieronder beschreven afzonderlijke stappen.

Input

Activiteiten

Output

Outcome

Impact

Projectbudget

Demonstratieprojecten (D)

Haalbaarheidsstudies (H)

Investeringsvoorbereidingsprojecten (I)

D: Introductie van de betreffende technologie in het doelland gerealiseerd

H: Rapport t.b.v te nemen investeringsbesluit door buitenlandse potentiële afnemer opgesteld

I: Businessplan om financiering voor het beoogde project te verkrijgen opgesteld

De tot stand gekomen positionering van Nederlandse ondernemingen in nieuwe markten

In het geval van ontwikkelingslanden ook: groei van werkgelegenheid, overdracht van kennis en vaardigheden bij eigen personeel en in de keten en versterking van productiekracht van betrokken lokale ondernemingen

Vergroting van Nederlandse export

Vergroting van de Nederlandse investeringen

In het geval van ontwikkelingslanden ook: positieve bijdrage aan duurzame lokale ontwikkeling TOELICHTING Input

Onder input wordt verstaan de inzet van middelen (met name financieel, menselijk, materieel en technologisch) die nodig zijn voor de uitvoering van het project. Activiteiten

Activiteiten zijn de maatregelen of werkzaamheden waarmee input wordt gemobiliseerd om een specifieke output te bewerkstelligen. Onder DHI zijn 3 projectsoorten benoemd waarvan de activiteiten subsidiabel zijn (zie paragraaf 4.5): demonstratieprojecten, haalbaarheidsstudies en investeringsvoorbereidingsprojecten. Output

Onder output wordt verstaan hetgeen na de voltooiing van de activiteiten in het kader van DHI is gerealiseerd/opgeleverd. Bij demonstratieprojecten betreft dit de introductie van de betreffende technologie in het doelland. Bij haalbaarheidsstudies is dit een rapport ten behoeve van een te nemen investeringsbesluit door een buitenlandse potentiële afnemer. Bij investeringsvoorbereidingsproject gaat het om een gevalideerd businessplan om financiering voor het beoogde project te verkrijgen. Outcome

Outcome is het beoogde of verwezenlijkte korte-termijneffect van een interventie. In het geval van DHI wordt specifiek gedoeld op de tot stand gekomen positionering van Nederlandse ondernemingen in nieuwe markten en, in het geval van ontwikkelingslanden groei van werkgelegenheid, overdracht van kennis en vaardigheden bij zowel eigen personeel als in de keten en versterking van de productiekracht van betrokken lokale ondernemingen. Impact

Impact betreft de lange-termijneffecten van een project. Voor wat betreft DHI zijn in dit kader de volgende doelstellingen geïdentificeerd: het vergroten van de Nederlandse export, het vergroten van de Nederlandse investeringen en, in het geval van ontwikkelingslanden, het leveren van een positieve bijdrage aan duurzame lokale ontwikkeling.

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REGULATION (EU) NO 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 DECEMBER 2013 ON SUPPORT FOR RURAL DEVELOPMENT BY THE EUROPEAN ***AGRICULTURAL*** FUND FOR RURAL DEVELOPMENT (EAFRD) AND REPEALING COUNCIL REGULATION (EC) NO 1698/20051.1 IntroductionRegulation (EU) No 1305/2013 of the European Parliament and of the Council1 lays down rules governing Union support for rural development, financed by the European ***Agricultural*** Fund for Rural Development ('the EAFRD') and established by Regulation (EU) No 1306/2013 and complements Regulation (EU) No 1303/20132 of the European Parliament and the Council in this regard.Article 2(3) empowers the Commission to adopt delegated acts concerning the conditions under which a legal person may be considered to be a 'young farmer', and the setting of a grace period for the acquisition of occupational skills.Article 14(5) empowers the Commission to adopt delegated acts concerning the duration and content of farm and forest exchange schemes and farm and forest visits in order to ensure that they are clearly demarcated in relation to similar actions under other Union schemes.Article 16(5) empowers the Commission to adopt delegated acts concerning the specific Union quality schemes and the characteristics of groups of producers and the types of actions that may receive support under paragraph 2, the setting of conditions to prevent discrimination against certain products; and the setting of conditions on the basis of which commercial brands are to be excluded from support.Article 19(8) empowers the Commission to adopt delegated acts laying down the minimum content of business plans and the criteria to be used by Member states for setting the thresholds referred to in paragraph 4.Article 22(3) empowers the Commission to adopt delegated acts concerning the definition of the minimum environmental requirements referred to in paragraph 2 of this Article.Article 28(10) empowers the Commission to adopt delegated acts concerning the following:(a) the conditions applicable to commitments to extensify livestock farming;1 Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347, 20.12.2013, p. 4872 Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European ***Agricultural*** Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347, 20.12.2013, p. 3203(b) the conditions applicable to commitments to rear local breeds that are in danger of being lost to farming or to preserve plant genetic resources that are under threat of genetic erosion, and(c) the definition of eligible operations under paragraph 9.Articles 28(11), 29(6) and 30 (8) empower the Commission to adopt delegated acts as regards agri-environment-climate, organic farming and Natura 2000 and Water Framework Directive payments laying down the calculation method to be used in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013.Article 33(4) empowers the Commission to adopt delegated acts concerning the definition of the areas in which animal welfare commitments are to provide upgraded standards of production methods in order to ensure that animal welfare commitments are in accordance with the overall Union policy in this field.Article 34(5) empowers the Commission to adopt delegated acts concerning the types of operations eligible for support provided to public and private entities for the conservation and promotion of forest genetic resources for operations not covered under paragraphs 1, 2 and 3 of Article 34.Article 35(10) empowers the Commission to adopt delegated acts concerning the further specification of the characteristics of pilot projects, clusters, networks, short supply chains and local markets that will be eligible for support, as well as concerning the conditions for granting aid to cooperation operations.Article 36(5) empowers the Commission to adopt delegated acts concerning the minimum and maximum duration of the commercial loans to mutual funds referred to in point (b) of Article 38(3) and Article 39(4).Article 45(6) empowers the Commission to adopt delegated acts laying down the conditions under which other costs connected with leasing contracts, second hand equipment may be considered to be eligible expenditure and specifying the types of renewable energy infrastructure that are to be eligible for support.Article 47(6) empowers the Commission to adopt delegated acts laying down conditions applicable to conversion or adjustment of commitments under the measures referred to in Articles 28, 29, 33 and 34 and, specifying other situations in which reimbursement of the aid shall not be required.Article 58(7) empowers the Commission to adopt delegated acts to review the ***ceilings*** set out in Annex I in order to take account of the developments relating to the annual breakdown and to make technical adjustments without changing the overall allocations; or to take account of any other change provided for by a legislative act after the adoption of this Regulation.Article 89 empowers the Commission to adopt delegated acts laying down the conditions under which support approved by the Commission under Regulation (EC) No 1698/2005 may be integrated into support provided for under Regulation (EU) No 1305/2013, including for technical assistance and for the ex-post evaluations, as well as conditions for the transition from rural development support for Croatia under Regulation (EC) No 1085/2006 to support provided for under Regulation (EU) No 1305/2013.41.2 Legal BasisThe report is required under Article 83(2). Pursuant to this provision, the power to adopt delegated acts referred to in in Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6), Article 58(7) and Article 89 shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power is tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.1.3 Exercise of DelegationAt this stage, the Commission has adopted nine delegated acts under Regulation (EU) No 1305/2013.(A) The Commission adopted six delegated acts amending Annex I to review the ***ceilings*** set out in Annex I on the basis of Article 58(7): Commission Delegated Regulation (EU) No 994/20143, Commission Delegated Regulation (EU) No 1378/20144, Commission Delegated Regulation (EU) 2015/7915, Commission Delegated Regulation (EU) 2016/1426, Commission Delegated Regulation (EU) 2018/1627 and Commission Delegated Regulation (EU) 2019/718. These delegated acts, except Delegated Regulation (EU) 2015/791, reviewed the breakdown of Union support for rural development for Member States and years based on Member States’ use of the possibility of financial flexibility between pillars provided for in Regulation (EC) No 73/20099 and Regulation3 Commission Delegated Regulation (EU) No 994/2014 of 13 May 2014 amending Annexes VIII and VIIIc to Council Regulation (EC) No 73/2009, Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annexes II, III and VI to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 280, 24.9.2014, p. 14 Commission Delegated Regulation (EU) No 1378/2014 of 17 October 2014 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annexes II and III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 367, 23.12.2014, p. 165 Commission Delegated Regulation (EU) 2015/791 of 27 April 2015 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European ***Agricultural*** Fund for Rural Development, OJ L 127, 22.5.2015, p. 16 Commission Delegated Regulation (EU) 2016/142 of 2 December 2015 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annex III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 28, 4.2.2016, p. 87 Commission Delegated Regulation (EU) 2018/162 of 23 November 2017 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annexes II and III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 30, 2.2.2018, p. 68 Commission Delegated Regulation (EU) 2019/71 of 9 November 2018 amending Annex I to Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Annex III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 16, 18.1.2019, p. 19 Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common ***agricultural*** policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003, OJ L 30, 31.1.2009, p. 165(EU) No 1307/201310 (See in this respect point 3.3). Delegated Regulation (EU) 2015/791 reviewed Annex I following the revision of Council Regulation (EU, Euratom) No 1311/201311 by Council Regulation (EU, Euratom) 2015/62312 ***transferring***, for the European ***Agricultural*** Fund for Rural Development, the corresponding unused 2014 allocations into 2015 and 2016 expenditure ***ceilings***.In line with the common understanding on delegated acts13, Member States’ experts were consulted in the Expert Group for Direct Payments and the Expert Group for Rural Development on all these Delegated Acts. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.(B) Further to these six delegated acts based on Article 58(7), the Commission adopted one delegated act supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and introducing transitional provisions on the basis of Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6), and Article 89: Commission Delegated Regulation (EU) No 807/201414.This delegated act provided for the conditions under which a legal person may be considered to be a ‘young farmer’ and the setting of a grace period for the acquisition of occupational skills, provisions concerning the duration and content of farm and forest exchange schemes and farm and forest visits, provisions on the specific Union quality schemes, characteristics of groups of producers, and types of actions that may receive support, rules on the content of business plans and criteria to be used by Member States for granting support for farm and business development, minimum environmental requirements in the context of the afforestation and creation of woodland measure, conditions for local breeds and plant varieties in danger of being lost to farming and conservation of genetic resources under threat of genetic erosion and the definition of eligible operations , the10 Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, OJ L 347, 20.12.2013, p. 60811 Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020, OJ L 347, 20.12.2013, p. 88412 Council Regulation (EU, Euratom) 2015/623 of 21 April 2015 amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020, OJ L 103, 22.4.2015, p. 113 Common Understanding on delegated acts from 2011(not published) and Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts, annex to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1.14 Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and introducing transitional provisions, OJ L 227, 31.7.2014, p. 16calculation methods to be used to ensure that double funding is excluded when granting agri-environmental-climate, organic farming and Natura 2000 and Water Framework Directive payments, the definition of the areas in which animal welfare commitments are to provide upgraded standards of production methods, the types of operations eligible for support in the area of forest-environmental and climate services and forest conservations, the specification of the characteristics of pilot projects, clusters, networks, short supply chains, and local markets, eligible for support under the Co-operation measure, as well as conditions for granting support, the minimum and maximum duration of commercial loans to mutual funds, conditions, under which costs connected with leasing contracts and second hand equipment can be considered eligible, specifications of the types of renewable energy infrastructure eligible for support, conditions applicable to the conversion or adjustments of commitments under measures defined in articles 28, 29, 33 and 34 as well as specifications of other situations in which reimbursement of the aid should not be required, as well as transitional provisions as regards support approved by the Commission under Regulation (EC) No 1698/2005 and under Regulation (EC) No 1085/2006.Since its adoption, this delegated act has been amended twice. The first time on the basis of Article 89 by Commission Delegated Regulation (EU) 2015/136715 as regards transitional provisions for the 2007-2013 rural development programmes. The second time on the basis of Articles 2(3), 36(5) and 45(6) by Commission Delegated Regulation (EU) 2019/9416 as regards the conditions under which a legal person may be considered to be a ‘young farmer’, the minimum and maximum duration of commercial loans to mutual funds and as regards a correction connected with leasing contracts and second hand equipment.In line with the common understanding on delegated acts17, Member States’ experts were consulted in the Expert Group for Rural Development on these three Delegated Acts. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.Through these delegated acts, the Commission has used all its delegated powers provided for in Regulation (EU) No 1305/2013.1.4 ConclusionsThe Commission has exercised its delegated powers correctly. It cannot be excluded that the empowerments will be needed in future.15 Commission Delegated Regulation (EU) 2015/1367 of 4 June 2015 amending Delegated Regulation (EU) No 807/2014 as regards transitional provisions for the 2007-2013 rural development programmes, OJ L 211, 8.8.2015, p. 716 Commission Delegated Regulation (EU) 2019/94 of 30 October 2018 amending Delegated Regulation (EU) No 807/2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD) and introducing transitional provisions, OJ L 19, 22.1.2019, p. 517 See Footnote 13.72. REGULATION (EU) NO 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 DECEMBER 2013 ON THE FINANCING, MANAGEMENT AND MONITORING OF THE COMMON ***AGRICULTURAL*** POLICY AND REPEALING COUNCIL REGULATIONS (EEC) NO 352/78, (EC) NO 165/94, (EC) NO 2799/98, (EC) NO 814/2000, (EC) NO 1290/2005 AND (EC) NO 485/20082.1 IntroductionRegulation (EU) No 1306/2013 of the European Parliament and of the Council18 lays down rules on the financing, management and monitoring of the common ***agricultural*** policy. It therefore covers inter alia the financial and monitoring aspects of the fields covered by Regulations (EU) No 1305/2013, No 1307/2013 and No 1308/2013.As regards rules for paying agencies of Member States and other bodies:Article 8 empowers the Commission to adopt delegated acts concerning:(a) the minimum conditions for the accreditation of paying agencies and of the coordinating bodies referred to in Article 7(2) and in Article 7(4), respectively;(b) the obligations of the paying agencies as regards public intervention, as well as the rules on the content of their management and control responsibilities.As regards the financial management of the funds:Article 20(2) empowers the Commission to adopt delegated acts concerning:(a)the type of measures eligible for Union financing and the reimbursement conditions;(b)the eligibility conditions and calculation methods based on the information actually observed by the paying agencies or based on flat-rates determined by the Commission, or based on flat-rate or non-flat-rate amounts provided for by the sectoral ***agricultural*** legislation.Article 20(3) empowers the Commission to adopt delegated acts laying down rules on the valuation of operations in connection with public intervention, the measures to be taken in the case of loss or deterioration of products under the public intervention, and on the determination of the amounts to be financed.Article 40 empowers the Commission to adopt delegated acts laying down rules to make expenditure effected before the earliest possible date of payment or after the latest possible date of payment in certain cases eligible for Union financing.Article 46(1) empowers the Commission to adopt delegated acts concerning the conditions under which certain types of expenditure and revenue under the Funds are to be compensated.18 Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common ***agricultural*** policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, OJ L 347, 20.12.2013, p. 5498Article 46(2) empowers the Commission in case the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 170(3) of Regulation (EU, Euratom) No 966/2012, to adopt delegated acts concerning the method applicable to the commitments and the payment of the amounts.Article 46(3) empowers the Commission in the case of non-compliance by Member States with the obligation to ***notify*** the Commission pursuant to Article 102, to adopt delegated acts on the deferral of monthly payments to Member States referred to in Article 42 with regard to expenditure under the EAGF and laying down the conditions under which it will reduce or suspend interim payments to Member States under the EAFRD referred to in that Article.Article 46(4) empowers the Commission as regards suspension of payments in the case of late submission to adopt delegated acts pertaining to rules on:(a) the list of measures which fall under Article 42;(b) the rate of suspension of payments referred to in that Article.Article 50(1) empowers the Commission to adopt delegated acts supplementing specific obligations to be complied with by the Member States under this Chapter IV on clearance of account to ensure the correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information.Article 53(3) empowers the Commission to adopt delegated acts concerning the criteria and methodology for applying corrections.Article 57(1) empowers the Commission to adopt delegated acts concerning specific obligations to be complied with by the Member States to ensure correct and efficient application of the provisions relating to the conditions for the recovery of undue payments and interest thereon.As regards control systems and penalties:Article 62(1) empowers the Commission to adopt delegated acts laying down, where the proper management of the system so requires, additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EC) No 952/2013 of the European Parliament and of the Council to ensure that checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union.Article 63(4) provides that the Commission shall adopt delegated acts laying down the conditions for the partial or total withdrawal of aid in case of non –compliance with the conditions of aid or support, as provided for in the sectoral ***agricultural*** legislation.Article 64(6) empowers the Commission to adopt delegated acts:(a) identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3, from the list set out in paragraph 4 and within the limits laid down in paragraph 5, the administrative penalty and determining the specific rate to be imposed by Member States including in cases of non-quantifiable non-compliance;(b) identifying the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.9Article 65(2) empowers the Commission to adopt delegated acts concerning the market measures falling under the suspension and the rate and period of suspension of payments referred to in paragraph 1 to ensure the respect of the proportionality principle when applying paragraph 1.Article 66(3) empowers the Commission to adopt delegated acts laying down rules which ensure a non-discriminatory treatment, equity and the respect of proportionality when lodging a security, and:(a) specifying the responsible party in the event that an obligation is not met;(b) laying down the specific situations in which the competent authority may waive the requirement of a security;(c) laying down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;(d) laying down the specific conditions related to the security lodged in connection with advance payments;(e) setting out the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including the forfeiting of securities, the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications and when an obligation covered by that security has not been met either wholly or in part, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.Article 72(5) empowers the Commission to adopt delegated acts concerning rules applicable to periods, dates and time limits where the final date for submission of applications or amendments of an aid application, of a payment claim or of any supporting documents is a public holiday, a Saturday or a Sunday.Article 76(1) empowers the Commission to adopt delegated acts concerning:(a) specific definitions needed to ensure a harmonised implementation of the integrated system, in addition to those provided for in Regulation (EU) No 1307/2013 and Regulation (EU) No 1305/2013;(b) with regards to Articles 67 to 75, rules on further measures necessary to ensure the compliance with control requirements laid down in this Regulation or in sectoral ***agricultural*** legislation to be taken by the Member States in respect of producers, services, bodies, organisations or other operators, such as slaughterhouses or associations involved in the procedure for the granting of the aid, where this Regulation does not provide for relevant administrative penalties; such measures shall as far as possible, follow, mutatis mutandis, the provisions on penalties set out in paragraphs (1) to (5) of Article 77.Article 76(2) empowers the Commission to adopt delegated acts concerning(a) the basic features, technical rules, including, for the update of reference parcels, appropriate tolerance margins taking into account the outline and condition of the parcel, and including rules on the inclusion of landscape features located adjacent to a parcel, and quality requirements for the identification system for ***agricultural*** parcels provided for in Article 70 and for the identification of the beneficiaries as provided for in Article 73;10(b) the basic features, technical rules and quality requirements of the system for the identification and registration of payment entitlements provided for in Article 71;(c) the rules to establish the definition of the basis for the calculation of aid, including rules on how to deal with certain cases in which eligible areas contain landscape features or trees; such rules shall allow Member States for areas under permanent grassland to consider scattered landscape features and trees, the total area of which does not exceed a certain percentage of the reference parcel, to be automatically part of the eligible area without a requirement to map them for that purpose.Article 77(7) empowers the Commission to adopt delegated acts as regards administrative penalties:(a) identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3 from the list set out in paragraph 4 and within the limits laid down in paragraphs 5 and 6, the administrative penalty and determining the specific rate to be imposed by Member States, including in cases of non-quantifiable non-compliance;(b) identifying, the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.Article 79(2) empowers the Commission for measures not covered by the integrated system referred to in Chapter II of this Title to adopt delegated acts establishing a list of measures which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, are not to be subject to such scrutiny under this Chapter.Article 84(6) empowers the Commission to adopt delegated acts modifying the threshold of EUR 40 000 under which undertakings are only scrutinised for specific reasons to be indicated by the Member States in their annual programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme.Article 89(5) empowers the Commission as regards checks and penalties concerning the identity, provenance and quality of Union wine, to adopt delegated acts relating to:(a) the establishment of an analytical databank of isotopic data to help detect fraud to be constructed on the basis of samples collected by Member States;(b) rules on control bodies and the mutual assistance between them;(c) rules on the common use of the findings of Member States.As regards cross-compliance:Article 93(4), first subparagraph empowers the Commission to adopt delegated acts laying down the rules on maintenance of permanent pasture, in particular in order to ensure that measures are taken to maintain the land under permanent pasture at the level of farmers, including individual obligations to be respected such as obligation to reconvert areas into permanent pasture where it is established that the ratio of land under permanent pasture is decreasing. As regards the maintenance of permanent pasture, Article 93(4), second subparagraph empowers the Commission to adopt delegated acts to establish the conditions and methods for the determination of the ratio of permanent pasture and ***agricultural*** land that has to be maintained.11Article 101(1) empowers the Commission to adopt delegated acts:(a) establishing a harmonised basis for calculation of administrative penalties due to cross-compliance referred to in Article 99, taking into account reductions due to financial ***discipline***;(b) laying down the conditions for the application and calculation of the administrative penalties due to cross-compliance, including in the case of non-compliance directly attributable to the beneficiary concerned.As regards exchange rate and monetary practices:Article 106(5) empowers the Commission to adopt delegated acts containing rules on the specification on operative events for the exchange rate and the exchange rate to be used, taking into account certain criteria.Article 106(6) empowers the Commission to adopt delegated acts laying down rules on the exchange rate applicable when declarations of expenditure are drawn up and when public storage operations are recorded in the accounts of the paying agency.Article 107(2) empowers the Commission to adopt delegated acts, where exceptional monetary practices concerning a national currency are liable to jeopardise the application of Union law, derogating from this Section, in particular where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements or where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.As regards the monitoring of the Common ***Agricultural*** Policy:Article 110(1), third subparagraph empowers the Commission to adopt delegated acts regarding the content and construction of the common monitoring and evaluation framework measuring the performance of the CAP.As regards Transitional measures:Article 120 empowers the Commission to adopt delegated acts concerning the cases in which derogations from, and additions to, the rules provided for in this Regulation may apply in order to ensure the smooth transition from the arrangements provided for in the repealed Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 to those laid down in Regulation (EU) No 1306/2013.2.2 Legal BasisThe report is required under Article 115(2). Pursuant to this provision, the power to adopt delegated acts referred to in Articles 8, 20, 40, 46, 50, 53, 57, 62, 63, 64, 65, 66, 72, 76, 77, 79, 84, 89, 93, 101, 106, 107, 110 and 120 shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power is tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.122.3 Exercise of DelegationAt this stage, the Commission has adopted twenty-one delegated acts under Regulation (EU) No 1306/2013.(A) Four of these delegated acts have been adopted in 2014 and 2015 and are supplementing the rules of Regulation (EU) No 1306/2013:a) The Commission adopted Commission Delegated Regulation (EU) No 907/201419 on the basis of Articles 8(1), 40, 46(1), 46(2), 46(3), 46(4), 53(3), 57(1), 66(3), 79(2), 106(5) and (6) and 120. It supplements Regulation (EU) No 1306/2013 with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and the use of the euro.This delegated act lays down conditions for the accreditation of paying agencies and coordination bodies; obligations of paying agencies as regards public interventions; rules as regards non-compliance with the latest and the earliest payment deadline; rules on the compensation by paying agencies; rules in case of late adoption of the Union budget; the possibility for the Commission to defer monthly payments and to suspend payments in case of late submission; criteria and methodology for applying corrections in the framework of conformity clearance; the obligations of Member States following recovery procedures; rules for the security to be given to ensure payments; the exclusion of certain measures in the wine sector from the rules on scrutiny of transactions; the applicable exchange rate for drawing up declarations of expenditure; the determination of the operative events for the exchange rate in the field of export refunds and trade with third countries, for production refunds, for aid granted by quantity of marketed product or product to be used in a specific way, for private storage aid, for aid granted in the wine, milk and milk products and sugar sector, for aid granted in the field of School Fruit Scheme, for amounts linked to the authorisation to grant national financial assistance to producer organisations in the fruit and vegetables sector, for advances and securities as well as for other amounts or prices; the determination of the exchange rate to be used, provisions on the transition from old to new rules.The Commission amended this delegated act three times: In 2015 on the basis of Articles 40 and 53 through Commission Delegated Regulation (EU) 2015/16020 as regards payment deadlines and corrections in the framework of conformity clearance, in 2017 on the basis of Articles 64(6)(a) and 106(5) through Commission Delegated Regulation (EU) 2017/4021as regards the operative event for the exchange rate in the field of School Scheme (see also19 Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro, OJ L 255, 28.8.2014, p. 1820 Commission Delegated Regulation (EU) 2015/160 of 28 November 2014 amending Delegated Regulation (EU) No 907/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro, OJ L 27, 3.2.2015, p.7 21 Commission Delegated Regulation (EU) 2017/40 of 3 November 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014, OJ L 5, 10.1.2017, p. 1113point 4.3) and in 2018 on the basis of Article 40 and Article 106(6) through Commission Delegated Regulation (EU) 2018/96722 as regards non-compliance with payment deadlines and the applicable exchange rate for declarations of expenditure.In line with the common understanding on delegated acts23, Member States’ experts were consulted in the Expert Group for horizontal questions concerning the CAP – subgroup simplification. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.b) The Commission adopted Commission Delegated Regulation (EU) No 640/201424 on the basis of Articles 63(4), 64(6) 72(5), 76, Articles 77(7), 93(4) 101(1), and Article 120. It supplements Regulation (EU) No 1306/2013 with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance.This delegated act lays down provisions on conditions for the partial or total refusal or withdrawal of the aid or support; provisions identifying the administrative penalty and determining the specific rate to be imposed; provisions identifying the cases in which the administrative penalty is not applied; rules applicable to periods, dates and time limits where the final date for submission of applications or amendments is a public holiday, a Saturday or a Sunday; specific definitions needed to ensure a harmonised implementation of the integrated system; basic features and technical rules for the identification system for ***agricultural*** parcels and identification of beneficiaries; basic features, technical rules and quality requirements of the system for the identification and registration of payment entitlements; the basis for the calculation of aid, including rules on how to deal with certain cases in which eligible areas contain landscape features or trees; additional rules for intermediates such as services, bodies and organisations, which are involved in the procedure for granting the aid or support; the maintenance of permanent pasture in relation to cross compliance; a harmonised basis for the calculation of administrative penalties related to cross-compliance; conditions for the application and calculation of the administrative penalties related to cross compliance; an addition to the rules provided for in Regulation (EU) No 1306/2013 in order to ensure a smooth transition from repealed rules to the new rules.The Commission amended this delegated act two times: In 2016, on the basis of the same Articles on the basis of which the amended act was adopted, through Commission22 Commission Delegated Regulation (EU) 2018/967 of 26 April 2018 amending Delegated Regulation (EU) No 907/2014 as regards non-compliance with payment deadlines and as regards applicable exchange rate for drawing up declarations of expenditure, OJ L 174, 10.7.2018, p. 223 See footnote 13.24 Commission Delegated Regulation (EU) No 640/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, OJ L 181, 20.6.2014, p. 4814Delegated Regulation (EU) 2016/139325 and in 2017 through Commission Delegated Regulation (EU) 2017/72326 on the basis of Article 77 (7).In line with the common understanding on delegated acts27, Member States’ experts were consulted in the in the Expert Group for Horizontal Questions concerning the CAP, subgroup Cross-compliance and FAS, the Expert Group for Direct Payments and the Expert Group for Rural Development. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.c) The Commission adopted Commission Delegated Regulation (EU) No 906/201428 on the basis of Article 20(2) and (3). It supplements Regulation (EU) No 1306/2013 with regard to public intervention expenditure.The delegated act lays down the conditions and rules applicable to the financing by the European ***Agricultural*** Guarantee Fund (EAGF) of expenditure on intervention measures related to public storage.In line with the common understanding on delegated acts29, Member States’ experts were consulted in the Expert Group for Horizontal Questions concerning the CAP. The Regulations was ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.d) The Commission adopted Commission Delegated Regulation (EU) 2015/197130 on the basis of Article 50(1). It supplements Regulation (EU) No 1306/2013 with specific provisions on the reporting of irregularities concerning the European ***Agricultural*** Guarantee Fund and the European ***Agricultural*** Fund for Rural Development.The delegated act determines which irregularities are to be reported and establishes which data are to be provided by Member States to the Commission.25 Commission Delegated Regulation (EU) 2016/1393 of 4 May 2016 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance, OJ L 225, 19.8.2016, p. 4126 Commission Delegated Regulation (EU) 2017/723 of 16 February 2017 amending Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, OJ L 107, 25.4.2017, p. 127 See footnote 13.28 Commission Delegated Regulation (EU) No 906/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to public intervention expenditure, OJ L 255, 28.8.2014, p. 129 Common Understanding on delegated acts from 2011(not published).30 Commission Delegated Regulation (EU) 2015/1971 of 8 July 2015 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European ***Agricultural*** Guarantee Fund and the European ***Agricultural*** Fund for Rural Development and repealing Commission Regulation (EC) No 1848/2006, OJ L 293, 10.11.2015, p. 615In line with the common understanding on delegated acts31, Member States’ experts were consulted in the Expert Group Reporting and Analysis of the COCOLAF (Advisory Committee for Fraud Prevention and in the Expert Group for Horizontal Questions concerning the CAP. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.(B) Since Regulation (EU) No 1306/2013 covers inter alia the financial and monitoring aspects of the fields covered by Regulations (EU) No 1305/2013, No 1307/2013 and No 1308/2013, some of the delegated acts adopted under Regulation (EU) No 1306/2013 are acts which are also adopted under Regulation No 1308/2013. These delegated acts are therefore based on different basic acts. Their main provisions are taken in relation to Regulation No 1308/2013 (see in this respect point 4.3). The financial and monitoring aspects are taken on the basis of Regulation (EU) No 1306/2013.These delegated acts are the following acts:1) Commission Delegated Regulation (EU) No 499/201432 adopted on the basis of Article 64(6) lays down the penalties for the non-respect of recognition criteria of producer organisations.2) Commission Delegated Regulation (EU) 2015/56033 adopted on the basis of Article 64(6) laid down the penalties and rules for the cost recovery for producers who do not comply with the obligation to grub up areas planted with vines without an authorisation. This Regulation is not in force anymore. It has been repealed and replaced by Regulation Commission Delegated Regulation (EU) 2018/273 (see below).3) Commission Delegated Regulation (EU) 2015/136634 adopted on the basis of Article 106(5) lays down the operative event for the exchange rate for the amounts paid as aid in the apiculture sector pursuant to Article 55 of Regulation (EU) No 1308/2013.4) Commission Delegated Regulation (EU) 2015/182935 adopted on the basis of Article 64(6)(a) and Article 66(3)(d) lays down the administrative penalties for organisations submitting a proposal for an information and promotion programme under Regulation (EU) No 1144/2014.31 Common Understanding on delegated acts from 2011(not published).32 Commission Delegated Regulation (EU) No 499/2014 of 11 March 2014 supplementing Regulations (EU) No 1308/2013 of the European Parliament and of the Council and Regulation (EU) No 1306/2013 of the European Parliament and of the Council by amending Commission Implementing Regulation (EU) No 543/2011 relating to the fruit and vegetables and processed fruit and vegetables sectors, OJ L 145, 16.5.2014, p. 533 Commission Delegated Regulation (EU) 2015/560 of 15 December 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, OJ L 93, 9.4.2015, p. 134 Commission Delegated Regulation (EU) 2015/1366 of 11 May 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to aid in the apiculture sector, OJ L 211, 8.8.2015, p. 335 Commission Delegated Regulation (EU) 2015/1829 of 23 April 2015 supplementing Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning ***agricultural*** products implemented in the internal market and in third countries, OJ L 266, 13.10.2015, p. 3165) Commission Delegated Regulation (EU) 2016/114936 adopted on the basis of Article 63(4) lays down the conditions for the partial or total withdrawal of the aid in the wine sector.6) Commission Delegated Regulation (EU) 2016/123737 adopted on the basis of Article 66(3)(c) and (e) lays down the conditions for a security and its release and forfeiture related to import and export licences for ***agricultural*** products.7) Commission Delegated Regulation (EU) 2016/123838 adopted on the basis of Articles 64(6) and 66(3)(c) and (e) lays down the conditions for a security and its release and forfeiture related to public intervention and aid for private storage.8) Commission Delegated Regulation (EU) 2016/161239 adopted on the basis of Article 106(5) laid down the operative event for the exchange rate as regards the exceptional aid paid under this Regulation to eligible applicants reducing cow milk deliveries.9) Commission Delegated Regulation (EU) 2016/161340 adopted on the basis of Article 106(5) laid down the operative event for the exchange rate as regards the exceptional adjustment aid paid under this Regulation to milk producers and farmers in other livestock sectors.10) Commission Delegated Regulation (EU) 2016/24741 adopted on the basis of Article 64(6) laid down the penalties in case of irregular payments that are not due to obvious errors and in case of fraud or serious negligence for which the applicant is responsible as regards Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme. This Regulation is not in force anymore. It has been repealed and replaced by Regulation Commission Delegated Regulation (EU) 2017/40 (see next point).11) Commission Delegated Regulation (EU) 2017/4042 adopted on the basis of Articles 64(6)(a) and 106(5) lays down the administrative penalties in cases of non-compliance36 Commission Delegated Regulation (EU) 2016/1149 of 15 April 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector and amending Commission Regulation (EC) No 555/2008, OJ L 190, 15.7.2016, p. 137 Commission Delegated Regulation (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008, OJ L 206, 30.7.2016, p. 138 Commission Delegated Regulation (EU) 2016/1238 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage, OJ L 206, 30.7.2016, p. 1539 Commission Delegated Regulation (EU) 2016/1612 of 8 September 2016 providing aid for milk production reduction, OJ L 242, 9.9.2016, p. 440 Commission Delegated Regulation (EU) 2016/1613 of 8 September 2016 providing for exceptional adjustment aid to milk producers and farmers in other livestock sectors, OJ L 242, 9.9.2016, p. 1041 Commission Delegated Regulation (EU) 2016/247 of 17 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme, OJ L 46, 23.2.2016, p. 142 Commission Delegated Regulation (EU) 2017/40 of 3 November 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and17related to the implementation of the school scheme referred to in Section I of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013. It also amends at the same time Commission Delegated Regulation (EU) No 907/2014 (see point 2.3 A))) as regards the operative event for the exchange rate for this aid.12) Commission Delegated Regulation (EU) 2017/89143 adopted on the basis of Articles 62(1) and 64(6)(a) supplements Regulation (EU) No 1306/2013 as regards penalties to be applied in the fruit and vegetables and processed fruit and vegetables sectors.13) Commission Delegated Regulation (EU) 2018/27344 adopted on the basis of Articles 64(6) and 89(5) lays down rules for identifying the proportionate and graduated specific rate for the administrative penalty to be imposed by Member States as regards the scheme of authorisation for vine planting, for identifying the cases in which the administrative penalties are not to be imposed. It also as establishes an analytical data bank of isotopic data to help detect fraud to be constructed on the basis of samples collected by Member States and provides for the rules on control bodies and rules on the common use of the findings of Member States.In line with the common understanding on delegated acts45, Member States’ experts were consulted in the Expert Group for Horizontal Questions concerning the CAP and in the Expert Group for ***Agricultural*** Markets, in particular concerning aspects falling under the single CMO Regulation. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.The Commission has not adopted any delegated act pursuant to Articles 65, 84, 107 and 110, because the Commission has not identified any need in this regard.2.4 ConclusionsThe Commission has exercised its delegated powers correctly. It cannot be excluded that the empowerments will be needed in future.vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014, OJ L 5, 10.1.2017, p. 143 Commission Delegated Regulation (EU) 2017/891 of 13 March 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011, OJ L 138, 25.5.2017, p. 444 Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, ***notifications*** and publication of ***notified*** information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560, OJ L 58, 28.2.2018, p. 145 See footnote 13.183. REGULATION (EU) NO 1307/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 DECEMBER 2013 ESTABLISHING RULES FOR DIRECT PAYMENTS TO FARMERS UNDER SUPPORT SCHEMES WITHIN THE FRAMEWORK OF THE COMMON ***AGRICULTURAL*** POLICY AND REPEALING COUNCIL REGULATION (EC) NO 637/2008 AND COUNCIL REGULATION (EC) NO 73/20093.1 IntroductionRegulation (EU) No 1307/201346 establishes rules on payments granted directly to farmers under the support schemes listed in Annex I ('direct payments').Article 2 empowers the Commission to adopt delegated acts amending the list of support schemes set out in Annex I to the extent necessary to take account of any new legislative acts on support schemes which may be adopted after the adoption of this Regulation.Article 4(3) empowers the Commission to adopt delegated acts establishing:(a) the framework within which Member States are to establish the criteria to be met by farmers in order to fulfil the obligation to maintain an ***agricultural*** area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;(b) the framework within which Member States shall define the minimum activity to be carried out on ***agricultural*** areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;(c) the criteria to determine the predominance of grasses and other herbaceous forage and the criteria to determine the established local practices referred to in point (h) of paragraph 1.Article 6(3) empowers the Commission to adopt delegated acts adapting the national ***ceilings*** set out in Annex II in order to take account of the developments relating to the total maximum amounts of direct payments that may be granted.Article 7(3) empowers the Commission to adopt delegated acts adapting the net ***ceilings*** set out in Annex III in order to take account of the developments relating to the total maximum amounts of direct payments that may be granted.Article 8(3) empowers the Commission to adopt delegated acts laying down rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to paragraph 1 of this Article in order to ensure the correct application of the adjustments of direct payments with respect to financial ***discipline***.Article 9(5) empowers the Commission to adopt delegated acts laying down:(a) criteria for determining the cases where a farmer's ***agricultural*** area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation;(b) criteria for establishing the distinction between receipts resulting from ***agricultural*** and non-***agricultural*** activities;(c) criteria for establishing the amounts of direct payments referred to in paragraphs 2 and 4, especially concerning direct payments in the first year of allocation of payment46 For reference see footnote 10.19entitlements where the value of the payment entitlements is not yet definitively established, as well as concerning direct payments for new farmers;(d) criteria that farmers are to meet in order to prove for the purposes of paragraphs 2 and 3 that their ***agricultural*** activities are not insignificant and that their principal business or company objects consist of exercising an ***agricultural*** activity.Article 20(6) empowers the Commission to adopt delegated acts adapting the amounts set out in Annex VI in order to take account of the consequences of the return of de-mined land to use for ***agricultural*** activities as ***notified*** by Croatia.Article 35(1) empowers the Commission to adopt delegated acts concerning:(a) rules on eligibility and access in respect of the basic payment scheme of farmers in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, ***transfer*** of payment entitlements, merger or scission of the holding, and the application of the contract clause referred to in Article 24(8);(b) rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:(i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,(ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,(iii) on the cases where a sale or lease contract may affect the allocation of payment entitlements;(c) rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves;(d) rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and in the case of ***transfer*** of payment entitlements referred to in Article 34(4);(e) criteria for applying options under points (a), (b) and (c) of the third subparagraph of Article 24(1);(f) criteria for applying limitations on the number of payment entitlements to be allocated in accordance with Article 24(4) to (7);(g) criteria for the allocation of payment entitlements pursuant to Article 30(6) and (7);(h) criteria for setting the reduction coefficient referred to in Article 32(5).Article 35(2) empowers the Commission to adopt delegated acts laying down rules on the content of the declaration and the requirements for the activation of payment entitlements.Article 35(3) empowers the Commission to adopt delegated acts laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 32(6).Article 36(6) empowers the Commission to adopt delegated acts concerning rules on eligibility and the access of farmers to the single area payment scheme.20Article 39(3) empowers the Commission to adopt delegated acts laying down further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.Article 43(12) empowers the Commission to adopt delegated acts:(a) adding equivalent practices to the list set out in Annex IX;(b) establishing appropriate requirements applicable to the national or regional certification schemes referred to in point (b) of paragraph 3 of this Article, including the level of assurance to be provided by those schemes;(c) establishing detailed rules for the calculation of the amount referred to in Article 28(6) of Regulation (EU) No 1305/2013 for the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to this Regulation, and any further equivalent practices added to that Annex pursuant to point (a) of this paragraph for which a specific calculation is needed in order to avoid double funding.Article 44(5) empowers the Commission to adopt delegated acts:(a) recognising other types of genera and species than those referred to in paragraph 4 of this Article; and(b) laying down the rules concerning the application of the precise calculation of shares of different crops.Article 45(5) empowers the Commission to adopt delegated acts laying down detailed rules on maintenance of permanent grassland.Article 45(6) empowers the Commission to adopt delegated acts in accordance with Article 70:(a) laying down the framework for the designation of further sensitive areas referred to in the second subparagraph of paragraph 1 of this Article;(b) establishing detailed methods for the determination of the ratio of permanent grassland and of the total ***agricultural*** area that has to be maintained pursuant to paragraph 2 of this Article;(c) defining the period in the past referred to in the first subparagraph of paragraph 3 of this Article.Article 46(9) empowers the Commission to adopt delegated acts:(a) laying down further criteria for the types of areas referred to in paragraph 2 of this Article to qualify as ecological focus area;(b) adding other types of areas than those referred to in paragraph 2 that can be taken into account for the purpose of respecting the percentage referred to in paragraph 1;(c) adapting Annex X in order to establish the conversion and weighting factors referred to in paragraph 3 and in order to take into account the criteria and/or types of areas to be defined by the Commission under points (a) and (b) of this paragraph;(d) setting rules for the implementation referred to in paragraphs 5 and 6, including the minimum requirements on such implementation;(e) establishing the framework within which Member States are to define the criteria to be met by holdings in order to be considered to be in close proximity for the purposes of paragraph 6;21(f) establishing the methods for determination of the percentage of total land surface area covered by forest and the ratio of forest land to ***agricultural*** land referred to in paragraph 7.Article 50(11) empowers the Commission to adopt delegated acts concerning the conditions under which a legal person may be considered to be eligible to receive the payment for young farmers.Article 52(9) empowers the Commission to adopt delegated acts laying down:(a) the conditions for granting coupled support;(b) rules on consistency with other Union measures and on the cumulation of support.Article 52(10) empowers the Commission to adopt delegated acts supplementing this Regulation as regards voluntary coupled support measures in order to avoid beneficiaries of voluntary coupled support suffering from structural market imbalances in a sector.Article 57(3) empowers the Commission to adopt delegated acts concerning rules and conditions for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton.Article 58(5) empowers the Commission to adopt delegated acts concerning rules on the conditions for the granting of that payment, on the eligibility requirements and on agronomic practices.Article 59(3) empowers the Commission to adopt delegated laying down:(a) criteria for the approval of interbranch organisations;(b) obligations for producers;(c) rules governing the situation where the approved interbranch organisation does not satisfy the criteria referred to in point (a).Article 64(5) empowers the Commission to adopt delegated acts setting out the conditions for participation in the small farmers scheme where the situation of the participating farmer has changed.Article 67(1) empowers the Commission to adopt delegated acts on the necessary measures regarding ***notifications*** to be made by Member States to the Commission for the purposes of this Regulation, for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments or for the purpose of complying with requirements laid down in international agreements which have been concluded by a Council decision, including ***notification*** requirements under those agreements. In so doing, the Commission shall take into account the data needs and synergies between potential data sources.Article 67(2) empowers the Commission to adopt delegated acts in laying down further rules on:(a) the nature and type of the information to be ***notified***;(b) the categories of data to be processed and maximum retention periods;(c) access rights to the information or information systems made available;(d) the conditions of publication of the information.Article 73 empowers the Commission to adopt delegated acts concerning the necessary measures to protect any acquired rights and legitimate expectations of farmers in order to ensure a smooth22transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in Regulation (EU) No 1307/2013.3.2 Legal BasisThe report is required under Article 70(2). Pursuant to this provision, the power to adopt delegated acts referred to in Article 2, 4, 6, 7, 8, 9, 20, 35, 36, 39, 43, 44, 45, 46, Article 50, Article 52, 57, 58, 59, 64, 67 and Article 73 shall be conferred on the Commission for a period of seven years from 1 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power is tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.3.3 Exercise of DelegationAt this stage, the Commission has adopted fifteen delegated acts under Regulation (EU) No 1307/2013.A) Commission Delegated Regulation (EU) No 502/201447 adopted on basis of Article 8(3) supplements Council Regulation (EC) No 73/2009 and Regulation (EU) No 1307/2013 and lays down the basis of calculation for reductions to be applied to farmers by Member States due to the linear reduction of payments in 2014 and financial ***discipline*** for ***calendar*** year 2014.In line with the common understanding on delegated acts48, Member States’ experts were consulted in the Expert Group for Direct Payments. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.B) Commission Delegated Regulation (EU) No 639/201449 adopted on the basis of Articles 4(3), 8(3), 9(5), 35(1), (2) and (3), 36(6), 39(3), 43(12), 44(5), 45(5) and (6), 46(9), 50(11), 52(9), 57(3), 58(5), 59(3), 67(1) and (2) supplements Regulation (EU) No 1307/2013. It defines the framework for criteria on maintaining the ***agricultural*** area in a state suitable for grazing or cultivation, the framework for minimum activities on ***agricultural*** areas naturally kept in a state suitable for grazing or cultivation, the predominance of grasses and other herbaceous forage in case of permanent grassland and the established local practices in case of permanent grassland. It lays down the basis of calculation for reductions to be applied to farmers by Member States due to financial ***discipline***. It defines the cases where agricultural47 Commission Delegated Regulation (EU) No 502/2014 of 11 March 2014 supplementing Council Regulation (EC) No 73/2009 and Regulation (EU) No 1307/2013 of the European Parliament and of the Council as regards the basis of calculation for reductions to be applied to farmers by Member States due to the linear reduction of payments in 2014 and financial ***discipline*** for ***calendar*** year 2014, OJ L 145, 16.5.2014, p. 2048 Common Understanding on delegated acts from 2011(not published).49 Commission Delegated Regulation (EU) No 639/2014 of 11 March 2014 supplementing Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy and amending Annex X to that Regulation, OJ L 181, 20.6.2014, p. 123areas are mainly areas naturally kept in a state suitable for grazing or cultivation, receipts obtained from non-***agricultural*** activities, the amount of direct payments referred to in Article 9(2) and (4) of R1307/2013 and in Art. 13(2) of R 639/2014, the criteria for proving that ***agricultural*** activities are not insignificant and that the principal business or company objects consist of exercising an ***agricultural*** activity. It lays down rules for the application of the basic payment scheme provided for in Sections 1, 2, 3 and 5 of Chapter 1 of Title III of Regulation (EU) No 1307/2013 and of the Single area payment scheme provided for in Article 36 of Regulation (EU) No 1307/2013. It provides for rules for the payment for ***agricultural*** practices beneficial for the climate and the environment (“greening”), in particular related to equivalence, crop diversification, the maintenance of permanent grassland and the ratio of permanent grassland, criteria for qualification as ecological focus area and adapts Annex X of Regulation (EU) No 1307/2013 by setting out the conversion and weighing factors referred to in Article 46(3) of that Regulation for the different types of ecological focus areas. It lays down rules for the access of legal persons and group of natural persons to the payments of young farmers; detailed conditions for granting coupled support; the obligations and possibilities for Member States as regards the crop-specific payment for cotton and detailed rules on the ***notifications*** to be done by Member States.The Commission amended this delegated act five times:In 2015 through Commission Delegated Regulation (EU) 2015/138350 on the basis of Article 52(9) as regards the eligibility conditions in relation to the identification and registration requirements for animals for coupled support.In 2016 through Commission Delegated Regulation (EU) 2016/14151 on the basis of Article Articles 50(11) and 52(9) and Article 67(1) and (2) as regards certain provisions on the payment for young farmers and on voluntary coupled support and derogating from Article 53(6) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council.In 2017 through Commission Delegated Regulation (EU) 2017/115552 on the basis of Article 35(2) and (3), Articles 44(5)(b) and 46(9)(a) and (c), Article 50(11), Article 52(9)(a) and Article 67(1) and (2)(a) as regards the control measures relating to the cultivation of hemp, certain provisions relating to the greening (especially as regards the Ecological Focus50 Commission Delegated Regulation (EU) 2015/1383 of 28 May 2015 amending Delegated Regulation (EU) No 639/2014 as regards the eligibility conditions in relation to the identification and registration requirements for animals for coupled support under Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 214, 13.8.2015, p. 151 Commission Delegated Regulation (EU) 2016/141 of 30 November 2015 amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the payment for young farmers and on voluntary coupled support and derogating from Article 53(6) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 28, 4.2.2016, p. 252 Commission Delegated Regulation (EU) 2017/1155 of 15 February 2017 amending Delegated Regulation (EU) No 639/2014 as regards the control measures relating to the cultivation of hemp, certain provisions on the greening payment, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements and certain ***notification*** requirements relating to the single area payment scheme and the voluntary coupled support, and amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 167, 30.6.2017, p. 124Area), reflecting the results of review of greening after one year of implementation, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements and certain ***notification*** requirements relating to the single area payment scheme and the voluntary coupled support, and amending Annex X to Regulation (EU) No 1307/2013 on conversion and weighting factors.In 2018 through Commission Delegated Regulation (EU) 2018/70753 on the basis of Articles 35(3), 52(9) and 67(1) and (2) as regards the eligibility criteria for support for hemp under the basic payment scheme and certain requirements in respect of voluntary coupled support and through Commission Delegated Regulation (EU) 2018/178454 on the basis of Articles 45(6)(b) and 46(9)(a) as regards certain provisions on the greening practices established by Regulation (EU) No 1307/2013 following the amendments brought by Regulation (EU) 2017/239355.In line with the common understanding on delegated acts56, Member States’ experts were consulted on all these delegated acts in the Expert Group for Direct Payments. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.C) In addition to Commission Delegated Regulation (EU) 2017/1155 (mentioned above under point B)) amending Annex X to Regulation (EU) No 1307/2013, the Commission adopted the following delegated acts in order to adapt the Annexes of Regulation (EU) No 1307/2013:1) Commission Delegated Regulation (EU) No 994/201457 amending on the basis of Articles 6(3), 7(3) and 20(6) Annexes II on national ***ceilings***, III on net ***ceilings*** and VI on financial provisions applying to Croatia to Regulation (EU) No 1307/2013.2) Commission Delegated Regulation (EU) No 1001/201458 amending on the basis of Article 46(9)(c) Annex X on conversion and weighting factors to Regulation (EU) No53 Commission Delegated Regulation (EU) 2018/707 of 28 February 2018 amending Delegated Regulation (EU) No 639/2014 as regards the eligibility criteria for support for hemp under the basic payment scheme and certain requirements in respect of voluntary coupled support, OJ L 119, 15.5.2018, p. 154 Commission Delegated Regulation (EU) 2018/1784 of 9 July 2018 amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the greening practices established by Regulation (EU) No 1307/2013 of the European Parliament and of the Council, OJ L 293, 20.11.2018, p. 155 Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common ***agricultural*** policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy, (EU) No 1308/2013 establishing a common organisation of the markets in ***agricultural*** products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, OJ L 350, 29.12.2017, p. 1556 See footnote 13.57 For reference see footnote 3.251307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy3) Commission Delegated Regulation (EU) No 1378/201459 amending on the basis of Articles 6(3) and 7(3) Annexes II on national ***ceilings*** and III on net ***ceilings*** to Regulation (EU) No 1307/2013.4) Commission Delegated Regulation (EU) 2015/85160 amending on the basis of Articles 6(3), 7(3) and 20(6) Annexes II on national ***ceilings***, III on net ***ceilings*** and VI on financial provisions applying to Croatia to Regulation (EU) No 1307/2013.5) Commission Delegated Regulation (EU) 2016/14261 amending on the basis of Article 7(3) Annex III on net ***ceilings*** to Regulation (EU) No 1307/2013.6) Commission Delegated Regulation (EU) 2018/16262 amending on the basis of Articles 6(3) and 7(3) Annexes II on national ***ceilings*** and III on net ***ceilings*** to Regulation (EU) No 1307/2013.7) Commission Delegated Regulation (EU) 2019/7163 amending on the basis of Article 7(3) Annex III on net ***ceilings*** to Regulation (EU) No 1307/2013.Some of these delegated acts have at the same time amended Annex I to Regulation (EU) No 1305/2013. They are therefore also mentioned in point 1.3 of this report.In line with the common understanding on delegated acts64, Member States’ experts were consulted in the Expert Group for Direct Payments and the Expert Group for Rural Development when the act was also taken under Regulation (EU) 1305/2013). The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.D) Commission Delegated Regulation (EU) 2017/118365 adopted on the basis of Article 67(2) supplements Regulations (EU) No 1307/2013 and (EU) No 1308/2013 (see in this respect also point 4.3) with regard to the ***notifications*** to the Commission of information and documents. It creates a legal framework that in particular requests Member States to designate a single liaison body responsible to carry out certain tasks.58 Commission Delegated Regulation (EU) No 1001/2014 of 18 July 2014 amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy, OJ L 281, 25.9.2014, p. 159 For reference see footnote 4.60 Commission Delegated Regulation (EU) 2015/851 of 27 March 2015 amending Annexes II, III and VI to Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common ***agricultural*** policy, OJ L 135, 2.6.2015, p. 861 For reference see footnote 662 For reference see footnote 7.63 For reference see footnote 8.64 See footnote 13.65 Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regard to the ***notifications*** to the Commission of information and documents, OJ L 171, 4.7.2017, p. 10026In line with the common understanding on delegated acts66, Member States’ experts were consulted in the Expert Group for Direct Payments and in the Expert Group for Horizontal Questions concerning the CAP. The Regulations were ***notified*** to the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection to any of the Delegated Regulations.The Commission has not adopted any delegated act pursuant to Articles 43(12)(a), 44(5)(a), 46(9)(b), 52 (10), 64(5) and 73.Article 43(12)(a) concerns the addition of practices equivalent to the ***agricultural*** practices beneficial for the climate and the environment. Based on the experience with ‘standard greening measures’ and the application of the equivalent practices based on the list in Annex IX of Regulation (EU) No 1307/2013 the Commission did not identify a need to extend the list by adding a new practice.44(5)(a) concerns the recognition of types of genera and species other than those defined in the regulation for the purpose of crop diversification obligation. The Commission’s experience with the implementation based on the existing crop breakdown showed that it offered sufficient leeway for farmers while further criteria would risk diluting the obligation.Article 46(9)(b) concerns the addition of types of Ecological focus areas (EFA) other than those set in the Regulation. The conclusion on the implementation of the EFA obligation both within the ‘Review of Greening after a year of implementation’ of 2016 and the dedicated EFA report of 2017 did not prove that such addition was necessary.Article 52(10) concerns voluntary coupled support in case of structural market imbalances. The condition of structural market imbalances has not been fulfilled since the existence of the empowerment67.Article 64(5) concerns the small farmers scheme and empowers the Commission to adopt delegated acts setting out the conditions for participation in the scheme where the situation of the participating farmer has changed. Given that farmers can enter the scheme only once in 2015 (the exception being only cases of inheritance) and considering that farmers can withdraw from the scheme at any year, the Commission did not identify a need for exercising this empowerment.Article 73 concerns transitional measures. Those have been adopted by Regulation (EU) No 1310/2013 of the European Parliament and of the Council68. The empowerment was therefore not used by the Commission.66 Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts, annex to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1.67 The empowerment of Art. 52 (10) has been introduced by Regulation (EU) 2017/2393 (for full reference see footnote 55)68 Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European ***Agricultural*** Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No273.4 ConclusionsThe Commission has exercised its delegated powers correctly. It cannot be excluded that the empowerments will be needed in future.4. REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 DECEMBER 2013 ESTABLISHING A COMMON ORGANISATION OF THE MARKETS IN ***AGRICULTURAL*** PRODUCTS AND REPEALING COUNCIL REGULATIONS (EEC) NO 922/72, (EEC) NO 234/79, (EC) NO 1037/2001 AND (EC) NO 1234/20074.1 IntroductionRegulation (EU) No 1308/201369 establishes a common organisation of the markets in ***agricultural*** products. It lays down rules for different sectors of ***agricultural*** products.Article 3 (4) empowers the Commission to update the definitions concerning the rice sector set out in Part I of Annex II.Article 4 empowers the Commission to adjust the description of products and references in this Regulation to the headings or subheadings of the combined nomenclature.Article 18 empowers the Commission to lay down the conditions under which it may decide to grant private storage aid for the products listed in Article 17.Article 19 (1) empowers the Commission to provide for rules as regards the requirements and conditions to be met by products on public intervention.Article 19(2) empowers the Commission to provide for rules as regards the quality criteria for both buying-in and sales of common wheat, durum wheat, barley, maize and paddy rice.Article 19(3) empowers the Commission to provide for rules as regards appropriate storage capacity and the efficiency of the public intervention system in terms of cost-effectiveness, distribution and access for operator.Article 19(4) empowers the Commission to provide for certain conditions for private storage.Article 19 (5) empowers the Commission to provide for certain rules for the proper functioning of the public intervention and private storage systems.Article 19 (6) empowers the Commission as regards the classification of carcasses.Article 24 empowers the Commission to provide for different rules as regards Aid for the supply of fruit and vegetables and of milk and milk products in educational establishments1308/2013of the European Parliament and of the Council as regards their application in the year 2014, OJ L 347, 20.12.2013, p. 86569 Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in ***agricultural*** products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347, 20.12.2013, p. 67128Article 30 empowers the Commission to provide for different rules as regards aid in the olive oil and table olives sectorArticle 37 empowers the Commission to provide for different rules as regards aid in the fruit and vegetables sector.Article 53 empowers the Commission to provide for different rules as regards the support programmes in the wine sector.Article 56 empowers the Commission to provide for different rules as regards aid in the apiculture sector.Article 59 empowers the Commission to provide for different rules as regards aid in the hops sector.Article 69 empowers the Commission to provide for different rules as regards the scheme of authorisation for vine planting.Article 75 (2) empowers the Commission to adopt rules on marketing standards by sectors or products, at all stages of the marketing, as well as derogations and exemptions from such standards in order to adapt to constantly changing market conditions, to evolving consumer demands, to developments in relevant international standards and to avoid creating obstacles to product innovation.Article 75 (6) empowers the Commission to modify the list of sectors in paragraph 1 for which marketing standards may apply.Article 76 (4) empowers the Commission to adopt specific derogations to additional requirements for marketing of products in the fruit and vegetable sector.Article 77 (5) empowers the Commission to laying down derogations to the obligation for certification for hops.Article 78 (3) and (4) empowers the Commission concerning the modifications, derogations or exemptions to the definitions and sales descriptions provided for in Annex VII, as well as concerning the rules on their specification and application.Article 78 (5) empowers the Commission to specify the milk products in respect of which the animal species from which the milk originates is to be stated, if it is not bovine, and to lay down the necessary rules.Article 79 empowers the Commission to lay down rules on tolerance for one or more specific standards in excess of which the entire batch of products shall be considered not to respect that standard.Article 80 (4) empowers the Commission concerning rules on the national procedures for unmarketable wine products, and derogations therefrom concerning the withdrawal or destruction of wine products that do not comply with the requirements.Article 83 (4) empowers the Commission setting out the conditions for national rules for spreadable fat and for wine products, as well as the conditions for the holding, circulation and use of the products obtained from the experimental practices.Articles 86, 87(2) and 88 (3) empower the Commission as regards optional reserved terms.29Article 89 empowers the Commission as regards Marketing standards related to import and export.Articles 100 (3) and 109 empower the Commission as regards certain rules related to the designation of origin and geographical indications in the wine sector.Article 114 empowers the Commission as regards certain rules related to traditional terms in the wine sector.Article 122 empowers the Commission as regards certain rules related to the labelling and presentation in the wine sector.Articles 125(4), 132, 140 (2) and 143 empower the Commission as regards certain rules for the Sugar sector.Article 145 (4) empowers the Commission as regards rules on the vineyard register and related obligations for operators in the wine sector.Article 166 empowers the Commission as regards rules on producer organisations and associations and interbranch organisations.Articles 177, 181 (2), 185, 186, 190 (3), 192 (4), 202 empower the Commission as regards trade with third countries.Article 219(1) empowers the Commission to adopt Measures against threats of market disturbance caused by significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market, where that situation, or its effects on the market, is likely to continue or deteriorate. Where, in cases of threats of market disturbances, imperative grounds of urgency so require, the urgency procedure as provided for in Article 228 shall apply.Article 223 empowers the Commission to lay down rules as regards the necessary measures regarding communications to be made by undertakings, Member States and third countries.Article 231 empowers the Commission concerning transitional rules necessary to protect the acquired rights and legitimate expectations of undertakings.4.2 Legal BasisThe report is required under Article 227(2). Pursuant to this provision, the power to adopt delegated acts referred to in Regulation (EU) No 1308/2013 shall be conferred on the Commission for a period of seven years from 20 December 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power is tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.4.3 Exercise of DelegationAt this stage, the Commission has adopted sixty-two delegated acts under Regulation (EU) No 1308/2013.30A) Delegated acts supplementing Regulation (EU) No 1308/201Forty delegated acts have been adopted to supplement Regulation (EU) No 1308/2013, in particular as regards the different sectors:As regards private storage:Commission Delegated Regulation (EU) No 501/201470 adopted on the basis of Article 19(1) and Article 19(4)(a) supplemented Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 826/2008 as regards certain requirements related to the ***agricultural*** products benefiting from private storage aid. This delegated act has been repealed by Commission Delegated Regulation (EU) 2016/1238.Commission Delegated Regulation (EU) 2016/123871 adopted on the basis of Articles 19(1), (2), (3), (4)(a) and (5) and 223(2)(a) supplements Regulation (EU) No 1308/2013 with regard to public intervention and aid for private storage (see also point 2.3 B)).This delegated act has been amended through Commission Delegated Regulation (EU) 2018/14972 with regard to the compositional requirements and quality characteristics of milk and milk products eligible for public intervention and aid for private storage.As regards the classification of beef, pig and sheep carcasses:Commission Delegated Regulation (EU) 2017/118273 adopted on the basis of Article 19(6)(a) to (d), Article 223(1) and Article 223(2)(a) supplements Regulation (EU) No 1308/2013 as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals.As regards aid for the supply of fruit and vegetables and of milk and milk products in educational establishments:Commission Delegated Regulation (EU) No 500/201474 adopted on the basis of Article 24 (1) (c) and (2) (b) supplemented Regulation (EU) No 1308/2013 by amending Commission70 Commission Delegated Regulation (EU) No 501/2014 of 11 March 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 826/2008 as regards certain requirements related to the ***agricultural*** products benefiting from private storage aid, OJ L 145, 16.5.2014, p. 1471 For reference see footnote38.72 Commission Delegated Regulation (EU) 2018/149 of 15 November 2017 amending Delegated Regulation (EU) 2016/1238 with regard to the compositional requirements and quality characteristics of milk and milk products eligible for public intervention and aid for private storage, OJ L 26, 31.1.2018, p. 1173 Commission Delegated Regulation (EU) 2017/1182 of 20 April 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals, OJ L 171, 4.7.2017, p. 7474 Commission Delegated Regulation (EU) No 500/2014 of 11 March 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No31Regulation (EC) No 288/2009 as regards the granting of aid for accompanying measures in the framework of a School Fruit and Vegetables Scheme. This delegated act has been repealed by Commission Delegated Regulation (EU) 2016/247 (see below).Commission Delegated Regulation (EU) No 1047/201475 adopted on the basis of Article 27(1)(b supplemented Regulation (EU) No 1308/2013 as regards the national or regional strategy to be drawn up by Member States for the purpose of the school milk scheme. This delegated act has been repealed by Commission Delegated Regulation (EU) 2017/40 (see below).Commission Delegated Regulation (EU) 2016/24776 adopted on the basis of Article 24 supplements Regulation (EU) No 1308/2013 with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme (see also point 2.3 B)). This delegated act has been repealed by Commission Delegated Regulation (EU) 2017/40 (see below).Commission Delegated Regulation (EU) 2017/4077 adopted on the basis of Article 24 and Article 223(2) supplements Regulation (EU) No 1308/2013 with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amends Commission Delegated Regulation (EU) No 907/2014 (see also point 2.3 A))As regards the support programmes in the Olive-oil and table-olives sector:Commission Delegated Regulation (EU) No 611/201478 adopted on the basis of Article 30 supplements Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the support programmes for the olive-oil and table-olives sectorThe Commission amended this delegated act through Commission Delegated Regulation (EU) 2017/196279 adopted on the basis of Article 30 to simplify and clarify the support programmes for the olive-oil and table-olives.288/2009 as regards the granting of aid for accompanying measures in the framework of a School Fruit and Vegetables Scheme, OJ L 145, 16.5.2014, p. 1275 Commission Delegated Regulation (EU) No 1047/2014 of 29 July 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national or regional strategy to be drawn up by Member States for the purpose of the school milk scheme, OJ L 291, 7.10.2014, p. 476 For reference see footnote 41.77 For reference see footnote 42.78 Commission Delegated Regulation (EU) No 611/2014 of 11 March 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the support programmes for the olive-oil and table-olives sector, OJ L 168, 7.6.2014, p. 5579 Commission Delegated Regulation (EU) 2017/1962 of 9 August 2017 amending Delegated Regulation (EU) No 611/2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the support programmes for the olive-oil and table-olives sector, OJ L 279, 28.10.2017, p. 2832As regards support (and trade with third countries) in the fruit and vegetables and processed fruit and vegetables sector:Commission Delegated Regulation (EU) No 499/201480 adopted on the basis of Article 37(c)(iv) and (d)(xiii), Article 173(1)(b) and (c) and (f), Article 181(2) and Article 231(1) supplements Regulations (EU) No 1308/2013 and Regulation (EU) No 1306/2013 of the European Parliament and of the Council by amending Commission Implementing Regulation (EU) No 543/2011 relating to the fruit and vegetables and processed fruit and vegetables sectors.(see also point 2.3 B)).Commission Delegated Regulation (EU) 2017/89181 adopted on the basis of Article 37(a)(i), (ii), (iii) and (vi), (b), (c), (d)(i), (iii) to (vi), (viii), (x), (xi) and (xii) and (e)(i), Article 173(1)(b), (c), (d) and (f) to (j), Article 181(2), Article 223(2)(a) and Article 231(1) supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors and amending Commission Implementing Regulation (EU) No 543/2011 (see also point 2.3 B)).This delegated act was amended on the basis of Article 37 through Commission Delegated Regulation (EU) 2018/114582 as regards producer organisations in the fruit and vegetables sector.As regards national support programmes in the wine sector:Commission Delegated Regulation (EU) No 612/201483 adopted on the basis of Article 53(b), (c), (e), (f) and (h) supplements Regulation (EU) No 1308/2013 by amending Commission Regulation (EC) No 555/2008 as regards new measures under the national support programmes in the wine sector.Commission Delegated Regulation (EU) 2016/114984 adopted on the basis of Article 53 supplements Regulation (EU) No 1308/2013 as regards the national support programmes in the wine sector and amending Commission Regulation (EC) No 555/2008 (see also point 2.3 B)).80 For reference see footnote 32.81 For reference see footnote 43.82 Commission Delegated Regulation (EU) 2018/1145 of 7 June 2018 amending Delegated Regulation (EU) 2017/891 as regards producer organisations in the fruit and vegetables sector, OJ L 208, 17.8.2018, p. 183 Commission Delegated Regulation (EU) No 612/2014 of 11 March 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 555/2008 as regards new measures under the national support programmes in the wine sector, OJ L 168, 7.6.2014, p. 6284 For reference see footnote 36.33As regards the apiculture sector:Commission Delegated Regulation (EU) 2015/136685 adopted on the basis of Articles 56(1), 223(2) and 231(1) supplements Regulation (EU) No 1308/2013 with regard to aid in the apiculture sector (see also point 2.3 B)).As regards vine planting:Commission Delegated Regulation (EU) 2015/56086 adopted on the basis of Article 69 supplements Regulation (EU) No 1308/2013 as regards the scheme of authorisations for vine plantings (see also point 2.3 B)). This delegated act was repealed by Commission Delegated Regulation (EU) 2018/273 (see below).Commission Delegated Regulation (EU) 2018/27387 adopted on the basis of Articles 69, 89, 145(4), 147(3) and 223(2) and point 5 of Section D of Part II of Annex VIII of 11 December 2017 supplements Regulation (EU) No 1308/2013 as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, ***notifications*** and publication of ***notified*** information and repeals Commission Delegated Regulation (EU) 2015/560 (see also point 2.3 B)).This delegated act was amended through Commission Delegated Regulation (EU) 2019/84088 adopted on the basis of Article 89(a) and Article 147(3)(d) to implement the Agreement concluded between the European Union and Canada concerning trade in wines and spirits and to exempt retailers from holding an inward and outward register.As regards oenological practices:Commission Delegated Regulation (EU) 2015/157689 adopted on the basis of Article 75(2) and (3)(g) and Article 147(3)(e) amended Regulation (EC) No 606/2009 as regards certain oenological practices and Regulation (EC) No 436/2009 as regards the registering of those practices in the wine sector registers.Commission Delegated Regulation (EU) 2016/76590 adopted on the basis of Article 75(2) and (3)(g) and Article 147(3)(e) amended Regulation (EC) No 606/2009 as regards certain oenological practices.85 For reference see footnote 34.86 For reference see footnote 33.87 For reference see footnote 44.88 Commission Delegated Regulation (EU) 2019/840 of 12 March 2019 amending Delegated Regulation (EU) 2018/273 as regards the importation of wine originating in Canada and exempting retailers from holding an inward and outward register, OJ L 138, 24.5.2019, p. 7489 Commission Delegated Regulation (EU) 2015/1576 of 6 July 2015 amending Regulation (EC) No 606/2009 as regards certain oenological practices and Regulation (EC) No 436/2009 as regards the registering of those practices in the wine sector registers, OJ L 246, 23.9.2015, p. 190 Commission Delegated Regulation (EU) 2016/765 of 11 March 2016 amending Regulation (EC) No 606/2009 as regards certain oenological practices, OJ L 127, 18.5.2016, p. 134Commission Delegated Regulation (EU) 2017/196191 adopted on the basis of Article 75(2) and (3)(g) amended Regulation (EC) No 606/2009 as regards certain oenological practices.Regulation (EC) No 606/2009 has been repealed by Commission Delegated Regulation (EU) 2019/934 (see below).Commission Delegated Regulation (EU) 2019/93492 adopted on the basis of Article 75(2) and Article 80(4) supplements Regulation (EU) No 1308/2013 as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files. It also repeals Regulation (EC) 606/2009.As regards marketing standards for olive oil:Commission Delegated Regulation (EU) 2015/183093 adopted on the basis of Article 75(2) amends Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis.Commission Delegated Regulation (EU) 2016/122694 adopted on the basis of Article 86 amends Annex IX to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the optional reserved terms for olive oil.Commission Delegated Regulation (EU) 2016/209595 adopted on the basis of Article 75 (2) amends Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis.Commission Delegated Regulation (EU) 2018/109696 adopted on the basis of Article 75(2) amends Implementing Regulation (EU) No 29/2012 as regards the requirements for certain indications on the labelling of olive oil.91 Commission Delegated Regulation (EU) 2017/1961 of 2 August 2017 amending Regulation (EC) No 606/2009 as regards certain oenological practices, OJ L 279, 28.10.2017, p. 2592 Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files, OJ L 149, 7.6.2019, p. 193 Commission Delegated Regulation (EU) 2015/1830 of 8 July 2015 amending Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis, OJ L 266, OJ L 266, 13.10.2015, p. 994 Commission Delegated Regulation (EU) 2016/1226 of 4 May 2016 amending Annex IX to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the optional reserved terms for olive oil, OJ L 202, 28.7.2016, p. 595 Commission Delegated Regulation (EU) 2016/2095 of 26 September 2016 amending Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis, OJ L 326, 1.12.2016, p. 196 Commission Delegated Regulation (EU) 2018/1096 of 22 May 2018 amending Implementing Regulation (EU) No 29/2012 as regards the requirements for certain indications on the labelling of olive oil, OJ L 197, 3.8.2018, p. 335As regards marketing standards for bananas:Commission Delegated Regulation (EU) 2017/122997 adopted on the basis of Article 75(2) corrects certain language versions of Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for ***notifications*** in the banana sector.As regards marketing standards for eggs:Commission Delegated Regulation (EU) 2017/216898 adopted on the basis of Article 75(2) amends Regulation (EC) No 589/2008 as regards marketing standards for free range eggs where hens' access to open air runs is restricted.As regards marketing standards for fruit and vegetables:Commission Delegated Regulation (EU) 2019/42899 adopted on the basis of Article 75(2) amends Implementing Regulation (EU) No 543/2011 as regards marketing standards in the fruit and vegetables sector.As regards the designations of origin and geographical indications and traditional terms in the wine sector:Commission Delegated Regulation (EU) 2017/1353100 adopted on the basis of Article 100(3) amended Regulation (EC) No 607/2009 as regards the wine grape varieties and their synonyms that may appear on wine labels.Commission Delegated Regulation (EU) 2019/33101 adopted on the basis of Article 109, Article 114 and Article 122 supplements Regulation (EU) No 1308/2013 as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation. It also repeals Regulation (EC) No 607/2009.97 Commission Delegated Regulation (EU) 2017/1229 of 3 May 2017 correcting certain language versions of Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for ***notifications*** in the banana sector, OJ L 177, 8.7.2017, p. 698 Commission Delegated Regulation (EU) 2017/2168 of 20 September 2017 amending Regulation (EC) No 589/2008 as regards marketing standards for free range eggs where hens' access to open air runs is restricted, OJ L 306, 22.11.2017, p. 699 Commission Delegated Regulation (EU) 2019/428 of 12 July 2018 amending Implementing Regulation (EU) No 543/2011 as regards marketing standards in the fruit and vegetables sector, OJ L 75, 19.3.2019, p. 1100 Commission Delegated Regulation (EU) 2017/1353 of 19 May 2017 amending Regulation (EC) No 607/2009 as regards the wine grape varieties and their synonyms that may appear on wine labels, OJ L 190, 21.7.2017, p. 5101 Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation, OJ L 9, 11.1.2019, p. 236As regards the sugar sector:Commission Delegated Regulation (EU) 2016/1166102 adopted on the basis of Article 125(4)(b) amends Annex X to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards purchase terms for beet in the sugar sector as from 1 October 2017.As regards producer organisations:Commission Delegated Regulation (EU) 2016/232103 adopted on the basis of Articles 173(1) and 223(2) supplements Regulation (EU) No 1308/2013 with regard to certain aspects of producer cooperation.As regards trade with third countries:Commission Delegated Regulation (EU) 2015/1538104 adopted on the basis of Article 177(1)(b), Article 177(2)(a), (b) and (e), and Article 192(4) supplements Regulation (EU) No 1308/2013 with regard to import licence applications, release for free circulation and proof of refining of sugar products of CN code 1701 under preferential agreements, for the marketing years 2015/16 and 2016/17 and amends Commission Regulations (EC) No 376/2008 and (EC) No 891/2009.Commission Delegated Regulation (EU) 2016/1237105 adopted on the basis of Article 177 supplements Regulation (EU) No 1308/2013 with regard to the rules for applying the system of import and export licences.Commission Delegated Regulation (EU) 2018/94106 adopted on the basis of Article 185 fixes a flat-rate reduction for the import duty for sorghum in Spain imported from third countries. This delegated acts expired on 28 February 2018.As regards communication requirements:Commission Delegated Regulation (EU) 2017/1183107 adopted on the basis of Article 223(2) supplements (EU) No 1308/2013 (and Regulations (EU) No 1307/2013) with regard to the ***notifications*** to the Commission of information and documents (see also point 3.3 D)).102 Commission Delegated Regulation (EU) 2016/1166 of 17 May 2016 amending Annex X to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards purchase terms for beet in the sugar sector as from 1 October 2017, OJ L 193, 19.7.2016, p. 17103 Commission Delegated Regulation (EU) 2016/232 of 15 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation, OJ L 44, 19.2.2016, p. 1104 Commission Delegated Regulation (EU) 2015/1538 of 23 June 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to import licence applications, release for free circulation and proof of refining of sugar products of CN code 1701 under preferential agreements, for the marketing years 2015/16 and 2016/17 and amending Commission Regulations (EC) No 376/2008 and (EC) No 891/2009, OJ L 242, 18.9.2015, p. 1105 For reference see footnote 37.106 Commission Delegated Regulation (EU) 2018/94 of 16 November 2017 fixing a flat-rate reduction for the import duty for sorghum in Spain imported from third countries, OJ L 17, 23.1.2018, p. 7107 For reference see footnote 65.37Commission Delegated Regulation (EU) 2017/1965108 adopted on the basis of Article 223(2)(a) amends Delegated Regulation (EU) 2016/1237 as regards the nature and type of information to be ***notified*** for licences in the rice sectorB) Temporary exceptional support measuresTwenty-two delegated acts have been adopted to take temporary exceptional support measures to address or prevent market disturbances on the basis of Article 219 (1)109:1) Commission Delegated Regulation (EU) No 913/2014110 laying down temporary exceptional support measures for producers of peaches and nectarines.2) Commission Delegated Regulation (EU) No 932/2014111 laying down temporary exceptional support measures for producers of certain fruit and vegetables and amending Delegated Regulation (EU) No 913/2014.3) Commission Delegated Regulation (EU) No 950/2014112 opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid.This delegated act has been repealed by Commission Delegated Regulation (EU) No 992/2014113, since the aid scheme did not seem adequate to react effectively and efficiently against the market disturbances that resulted from the ban on imports of dairy product from the Union to Russia.4) Commission Delegated Regulation (EU) No 949/2014114 laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2014.5) Commission Delegated Regulation (EU) No 1031/2014115 laying down further temporary exceptional support measures for producers of certain fruit and vegetables.108 Commission Delegated Regulation (EU) 2017/1965 of 17 August 2017 amending Delegated Regulation (EU) 2016/1237 as regards the nature and type of information to be ***notified*** for licences in the rice sector, OJ L 279, 28.10.2017, p. 36109 Except Commission Delegated Regulation (EU) 2017/1165, all temporary exception measures have been adopted on the basis of Article 219 (1) in conjunction with Article 228 (urgency procedure).110 Commission Delegated Regulation (EU) No 913/2014 of 21 August 2014 laying down temporary exceptional support measures for producers of peaches and nectarines, OJ L 248, 22.8.2014, p. 1111 Commission Delegated Regulation (EU) No 932/2014 of 29 August 2014 laying down temporary exceptional support measures for producers of certain fruit and vegetables and amending Delegated Regulation (EU) No 913/2014, OJ L 259, 30.8.2014, p. 2112 Commission Delegated Regulation (EU) No 950/2014 of 4 September 2014 opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid, OJ L 265, 5.9.2014, p. 22113 Commission Delegated Regulation (EU) No 992/2014 of 22 September 2014 repealing Delegated Regulation (EU) No 950/2014, OJ L 279, 23.9.2014, p. 17114 Commission Delegated Regulation (EU) No 949/2014 of 4 September 2014 laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2014, OJ L 265, 5.9.2014, p. 21386) Commission Delegated Regulation (EU) No 1263/2014116 providing for temporary exceptional aid to milk producers in Estonia, Latvia and Lithuania.7) Commission Delegated Regulation (EU) No 1336/2014117 laying down temporary exceptional measures for the milk and milk product sector in the form of advancing the public intervention period for butter and skimmed milk powder in 2015.8) Commission Delegated Regulation (EU) No 1370/2014118 providing for temporary exceptional aid to milk producers in Finland.9) Commission Delegated Regulation (EU) 2015/1369119 amending Delegated Regulation (EU) No 1031/2014 laying down further temporary exceptional support measures for producers of certain fruit and vegetables.10) Commission Delegated Regulation (EU) 2015/1549120 laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2015 and advancing the public intervention period for butter and skimmed milk powder in 2016.11) Commission Delegated Regulation (EU) 2015/1852121 opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid.12) Commission Delegated Regulation (EU) 2015/1853122 providing for temporary exceptional aid to farmers in the livestock sectors.13) Commission Delegated Regulation (EU) 2016/558123 authorising agreements and decisions of cooperatives and other forms of producer organisations in the milk and milk products sector on the planning of production.115 Commission Delegated Regulation (EU) No 1031/2014 of 29 September 2014 laying down further temporary exceptional support measures for producers of certain fruit and vegetables, OJ L 284, 30.9.2014, p. 22116 Commission Delegated Regulation (EU) No 1263/2014 of 26 November 2014 providing for temporary exceptional aid to milk producers in Estonia, Latvia and Lithuania, OJ L 341, 27.11.2014, p. 3117 Commission Delegated Regulation (EU) No 1336/2014 of 16 December 2014 laying down temporary exceptional measures for the milk and milk product sector in the form of advancing the public intervention period for butter and skimmed milk powder in 2015, OJ L 360, 17.12.2014, p. 13118 Commission Delegated Regulation (EU) No 1370/2014 of 19 December 2014 providing for temporary exceptional aid to milk producers in Finland, OJ L 366, 20.12.2014, p. 18119 Commission Delegated Regulation (EU) 2015/1369 of 7 August 2015 amending Delegated Regulation (EU) No 1031/2014 laying down further temporary exceptional support measures for producers of certain fruit and vegetables, OJ L 211, 8.8.2015, p. 17120 Commission Delegated Regulation (EU) 2015/1549 of 17 September 2015 laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2015 and advancing the public intervention period for butter and skimmed milk powder in 2016, OJ L 242, 18.9.2015, p. 28121 Commission Delegated Regulation (EU) 2015/1852 of 15 October 2015 opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid, OJ L 271, 16.10.2015, p. 15122 Commission Delegated Regulation (EU) 2015/1853 of 15 October 2015 providing for temporary exceptional aid to farmers in the livestock sectors, OJ L 271, 16.10.2015, p. 253914) Commission Delegated Regulation (EU) 2016/921124 laying down further temporary exceptional support measures for producers of certain fruit and vegetables.This delegated act has been amended by Commission Delegated Regulation (EU) 2017/376125 to reallocate unused quantities ***notified*** pursuant to Article 2(4) of that Regulation.15) Commission Delegated Regulation (EU) 2016/1614126 laying down temporary exceptional measures for the milk and milk products sector in the form of extending the public intervention period for skimmed milk powder in 2016 and advancing the public intervention period for skimmed milk powder in 2017 and derogating from Delegated Regulation (EU) 2016/1238 as regards the continued application of Regulation (EC) No 826/2008 with respect to aid for private storage under Implementing Regulation (EU) No 948/2014 and of Regulation (EU) No 1272/2009 with respect to public intervention under this Regulation.16) Commission Delegated Regulation (EU) 2016/1612127 providing aid for milk production reduction (see also point 2.3 B)).17) Commission Delegated Regulation (EU) 2016/1613128 providing for exceptional adjustment aid to milk producers and farmers in other livestock sectors (see also point 2.3 B)).18) Commission Delegated Regulation (EU) 2017/286129 amending Delegated Regulation (EU) 2016/1613 as regards livestock farmers in earthquake-stricken regions of Italy.19) Commission Delegated Regulation (EU) 2017/1165130 laying down temporary exceptional support measures for producers of certain fruits.123 Commission Delegated Regulation (EU) 2016/558 of 11 April 2016 authorising agreements and decisions of cooperatives and other forms of producer organisations in the milk and milk products sector on the planning of production, OJ L 96, 12.4.2016, p. 18124 Commission Delegated Regulation (EU) 2016/921 of 10 June 2016 laying down further temporary exceptional support measures for producers of certain fruit and vegetables, OJ L 154, 11.6.2016, p. 3125 Commission Delegated Regulation (EU) 2017/376 of 3 March 2017 amending Delegated Regulation (EU) 2016/921 as regards reallocation of unused quantities ***notified*** pursuant to Article 2(4) of that Regulation, OJ L 58, 4.3.2017, p. 8126 Commission Delegated Regulation (EU) 2016/1614 of 8 September 2016 laying down temporary exceptional measures for the milk and milk products sector in the form of extending the public intervention period for skimmed milk powder in 2016 and advancing the public intervention period for skimmed milk powder in 2017 and derogating from Delegated Regulation (EU) 2016/1238 as regards the continued application of Regulation (EC) No 826/2008 with respect to aid for private storage under Implementing Regulation (EU) No 948/2014 and of Regulation (EU) No 1272/2009 with respect to public intervention under this Regulation, OJ L 242, 9.9.2016, p. 15127 For reference see footnote 39.128 For reference see footnote 40.129 Commission Delegated Regulation (EU) 2017/286 of 17 February 2017 amending Delegated Regulation (EU) 2016/1613 as regards livestock farmers in earthquake-stricken regions of Italy, OJ L 42, 18.2.2017, p. 7130 Commission Delegated Regulation (EU) 2017/1165 of 20 April 2017 laying down temporary exceptional support measures for producers of certain fruits, OJ L 170, 1.7.2017, p. 314020) Commission Delegated Regulation (EU) 2017/1533131 amending Delegated Regulation (EU) 2017/1165 as regards the temporary exceptional support measures for producers of peaches and nectarines in Greece, Spain and Italy.In line with the common understanding on delegated acts132, Member States’ experts were consulted in the Expert Group for ***Agricultural*** Markets, in particular concerning aspects falling under the single CMO Regulation on all these Regulations. The Regulations were ***notified*** to the European Parliament and the Council stating the reasons for the use of the urgency procedure, when this procedure was used133. Neither the European Parliament nor the Council issued any objection to any of these Delegated Regulations.On 20 February 2015, the Commission adopted a Delegated Regulation amending Regulation (EC) No 376/2008 as regards the obligation to present a licence for imports of ethyl alcohol of ***agricultural*** origin and repealing Regulation (EC) No 2336/2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of ***agricultural*** origin.The Delegated Act removed the obligation to present an import licence for the import of ethyl alcohol of ***agricultural*** origin into the EU, including the lodging of a security. It also removed the obligation for the EU to establish and publish an EU balance sheet for ethyl alcohol of ***agricultural*** origin and the quarterly obligation for Member States to provide information on production, disposal and stocks.On 20 May 2015, the European Parliament objected to the delegated act. In consequence, it has not entered into force.The Commission has not adopted any delegated act pursuant to Article 3 (4), 4, 18, 59, 75 (6), 76 (4), 77 (5), 78, 79, 83, 87, 88, 132, 140, 143, 166, 186, 190 and 202.Article 3 (4) concerns the definitions concerning the rice sector. The Commission did not identify until now any need to amend the definitions laid down.Article 4 concerns the adjustments to the Common Customs Tariff nomenclature used for ***agricultural*** products. So far the amendments Common Customs Tariff nomenclature did not require any amendment of Regulation (EU) No 1308/2013.Article 18 concerns the conditions for granting private storage aid for products listed in Article 17. With regard to dairy products and other eligible animal products, the Commission considered that it is preferable not to set in advance the conditions under which the Commission may decide to grant private storage aid. This may create expectations for operators in the relevant sector and therefore condition their business decisions. The Commission has proved to be effective when131 Commission Delegated Regulation (EU) 2017/1533 of 8 September 2017 amending Delegated Regulation (EU) 2017/1165 as regards the temporary exceptional support measures for producers of peaches and nectarines in Greece, Spain and Italy, OJ L 233, 9.9.2017, p. 1132 See footnote 13.133 See footnote 109.41making use of Private Storage Aid, and the decision to recur to this instrument has always been based on a sound market analysis. Generally, the three elements set by the basic act (reference thresholds, cost and need to provide swift answer) have been sufficient until now in order to launch private storage when the situation so required.Article 59 concerns aid in the hop sector. The Commission did not identify until now any need to regulate further the hops sector.Article 75 (6) concerns marketing standards for other sectors than those laid down in Article 75 (1). The Commission did not identify any specific need for extending the list contained in Article 75(1) so far. The Commission is currently evaluating the role of marketing standards in general.Article 76 concerns specific derogations for the marketing of products in the fruit and vegetable sector. The Commission did not identify until now any need to lay down such derogations.Article 77 (5) concerns derogations to the obligation for certification for hops. The Commission did not identify until now any need to lay down such derogations.Article 78 (2) and (4) concerns modifications, derogations or exemptions to the definitions and sales descriptions provided for in Annex VII and their specification and application. The Commission did not identify until now any need to amend or supplement Annex VII based on evolving consumer demand, technical progress or the need for product innovation. Moreover, there are no reports from Member States having difficulties in properly understanding the definitions and sales descriptions provided for in Annex VII.Article 78 (5) concerns rules on the indication of the animal species from which the milk in milk products originates. Annex VII currently requires that, as regards milk, the animal species from which the milk originates shall be stated, if it is not bovine. The Commission did not identify until now any the need for to extend such rules to other milk products.Article 79 concerns tolerance related to marketing standards. In the case of olive oil, fruit and vegetables and wine, the limits are embedded in the standard, which therefore already integrate the notion of uncertainty of the methods of analysis in the level set as limit for the various parameters. Therefore the use of tolerance in the methods to express results is not required. Generally, tolerance rules have not proved necessary for the sectors, as there is no “undue hardship” even in the absence of such tolerance rules.Article 83 concerns national rules for certain products and sectors. The Commission did not identify the need to set out further rules in this regard.Article 87 and 88 concerns rules for additional optional reserved terms. Currently there are no optional reserved terms for dairy products, but several specific optional reserved terms defined with respect to poultry meat and eggs, as provided for in Article 85. The Commission did not identify the need for reserving any additional optional reserved term, based on expectations of consumers, developments in scientific and technical knowledge, the situation in the market or developments in marketing standards and in international standards.Article 132 concerns the purchase terms and delivery contracts in in the sugar sector. Annex XI referred only to the transitional period until the end of the 2016/2017 marketing year. Between 2013 and 2017 it has not been necessary to amend it.42Article 140 concerns the use of industrial sugar, industrial isoglucose or industrial syrup. Between 2013 and 2017 it was not necessary to amend the conditions of use of industrial sugar.Article 143 concerns measures in the sugar sector. Until the end of the 2016/2017 marketing year it was not necessary to amend such rules.Article 166 concerns measures to facilitate the adjustment of supply to market requirements. No requests for such rules have been made by stakeholders.Article 186 concerns rules for tariff quota for the import of ***agricultural*** products. This empowerment has not yet been used, but the Commission services are working on a draft delegated regulation on a new administration system of ***agricultural*** tariff quota manages by licences.Article 190 concerns derogations to the obligations related to the attestation and labelling of hop products. The Commission did not identify until now any need for such rules.Article 202 concerns export refunds. In the context of the Nairobi WTO Ministerial Conference in 2015, the EU agreed to abolish farming export subsidies and hence, the empowerment has not been used.4.4 ConclusionsThe Commission has exercised its delegated powers correctly. With the exception of the empowerment of Article 202, it cannot be excluded that the empowerments will be needed in future.The Commission has decided to submit this Report some months before the ultimate legal deadline mentioned in points 1.2, 2.2 , 3.2 and 3.4 of this Report, because this will allow the European Parliament and the Council to have an overall picture of the use of the empowerments for delegated acts in the four main Regulations of the Common ***Agricultural*** Policy, when the co-legislators are discussing the proposals of the Commission for the Common ***Agricultural*** Policy post 2020134.The Commission invites the European Parliament and the Council to take note of this Report.134 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing rules on support for strategic plans to be drawn up by Member States under the Common ***agricultural*** policy (CAP Strategic Plans) and financed by the European ***Agricultural*** Guarantee Fund (EAGF) and by the European ***Agricultural*** Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council, COM/2018/392 final - 2018/0216 (COD); Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common ***agricultural*** policy and repealing Regulation (EU) No 1306/2013, COM/2018/393 final - 2018/0217 (COD); Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in ***agricultural*** products, (EU) No 1151/2012 on quality schemes for ***agricultural*** products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for ***agriculture*** in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for ***agriculture*** in favour of the smaller Aegean islands, COM/2018/394 final/2

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[***Netherlands Government Gazette: Regulation of the Minister of Agriculture, Nature and Food Quality of 22 October 2018, no. WJZ / 18032383, concerning exemption of the phosphate rights system for young stock in suckler cows (Sufferers Regulation suckler cows)***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5TMF-SX51-F0YC-N0P8-00000-00&context=1516831)

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**Body**

Amsterdam: Netherlands Government has issued the following official announcement:

The Minister of ***Agriculture***, Nature and Food Quality,

Having regard to Article 38, first and third paragraph, of the Fertilizers Act;

Decision: Article 1

In this arrangement the following definitions apply:

driver:

    natural person who is likely to determine or co-determine, directly or indirectly, the policy of the company, with the exception of the administrator appointed by the court; young cattle for suckler cows:

    young cattle that become suckler cow and do not become milk or calf cows; law:

    Fertilizers Act; suckler cow:

    cow, not being milking or calf cow, which has at least once calved and is kept for the production of one or more calves for meat farming.

Article 2

    1. In one ***calendar*** year, a farmer is exempted from the prohibition referred to in Article 21b of the Act, insofar as he produces animal fertilizers with young cattle for suckler cows at his farm if:

        a. milk cows or calf cows or female calves for dairy farming are not kept on the farm during the relevant ***calendar*** year;

        b. he ensures that with female bovine animals kept on the holding in the relevant ***calendar*** year no animal fertilizers are produced on a farm that produces milk intended for consumption or processing;

        c. in the event that the Minister has established a phosphate right in respect of the company in accordance with Article 23, third to sixth and ninth paragraph, of the Act, a ***notification*** of the expiry of this phosphate right from the ***calendar*** year in which for the first time the the company makes use of the exemption, is registered in accordance with Article 31, paragraph 2, of the Act prior to that ***calendar*** year, and

        d. in the relevant ***calendar*** year, he does not import female cattle from, or goes out to, a farmer who is not exempt.

    2. Notwithstanding the first paragraph, a farmer is exempted in 2018 if:

        a. a ***notification*** of the expiry of the phosphate duty has been registered with effect from that date before 1 January 2019;

        b. the first paragraph, parts a, b and d are satisfied in the part of 2018 that remains after the time of registration as referred to in Article 3, third paragraph, and

        c. the phosphate right after registration of the ***notification*** of the expiry of the phosphate right does not ***transfer*** to another company.

    3. Subsection 1, subsection c, and subsection 2 shall apply mutatis mutandis to a phosphate law which the minister has determined in accordance with Article 23, third up to and including the sixth and ninth paragraph, of the Act in respect of another company whose farmer has been in the 3 years prior to the year in which he uses the exemption for the first time with the company.

    4. The first paragraph does not apply to a farmer who, after 8 March 2018, started producing animal fertilizers with young cattle for suckler cows at his farm, if it is assumed that the establishment of that farm or the keeping of young stock for suckler cows that company has the predominant purpose of avoiding the application of the first paragraph, part c, and third paragraph.

Article 3

    1. A farmer is only exempt if he ***notifies*** the minister at the same time as ***notification*** of the expiry of the phosphate duty, using a means made available by the Minister.

    2. Notwithstanding the first paragraph, the farmer who does not ***notify*** the expiry of a phosphate duty, must report no later than 1 December of the year preceding the year in which he wishes to make use of the exemption for the first time.

    3. Contrary to the second paragraph, the farmer who wishes to make use of the exemption with effect from 2018 must report to the Minister by 1 December 2018 at the latest.

Article 4

    1. If a farmer has reported that he wishes to make use of the exemption with his company and subsequently a phosphate duty is determined on the grounds of Article 23, third to sixth and ninth paragraphs, of the law with regard to the company, he is only exempt if a ***notification*** of the phasing-in of this phosphate right with immediate effect is registered in accordance with Article 31 (2) of the Act.

    2. If a farmer has reported that he wishes to make use of the exemption with his company and subsequently a higher phosphate duty is set pursuant to Article 23, third to sixth and ninth paragraphs, of the law with regard to the company than for that ***notification*** was established, he is only exempt if a ***notification*** of the immediate cancellation of this increase is registered in accordance with Article 31, paragraph 2, of the Act.

    3. The first and second paragraphs shall apply mutatis mutandis to a phosphate law that is determined with regard to another farm of which the farmer is a director.

Article 5

This regulation comes into effect on the day after the date of issue of the Government Gazette in which it is placed. Article 6

This regulation is cited as: Exemption Regulation for suckler cows.

This regulation will be placed with the explanatory notes in the Government Gazette.

The Hague, October 22, 2018

The Minister of ***Agriculture***, Nature and Food Quality, CJ Schouten EXPLANATION I. General 1. Reason and purpose

On January 1, 2018 the system of phosphate rights for dairy cattle came into effect. The purpose of this system is to ensure that the phosphate production by dairy cattle from 2018 under the sector ***ceiling*** of 84.9 million kilograms of phosphate per year and to contribute to the phosphate production of Dutch livestock as a whole under the national production ***ceiling*** of 172.9 million kilograms per year.

The phosphate rights system focuses on those farms that keep cattle that are needed for the production of milk. In the Fertilizers Act, the application of the system has been linked to the existing animal categories as included in Appendix D to the Implementation Regulation for Fertilizers Act (Urm). In the first place, this concerns animals that are kept for the production of milk, namely the category 'milk and calf cows' (category 100 from Appendix D Urm). In the second place it concerns young cattle. These are the animal categories' young cattle younger than 1 year for dairy farming, and female rearing calves for beef cattle up to 1 year '(category 101) and' young cattle older than 1 year, namely all cattle aged 1 year and older including other beef cattle, but with the exception of red meat bulls and breeding bulls' (category 102). These categories of animals together are referred to in the Fertilizers Act as 'dairy cattle' (Article 1, first paragraph, part kk).

Because there is a group of companies (between 2,500 and 3,000) where no dairy and calf cows are kept, but where young stock is kept that is predominantly bred for the replacement of dairy and calf cows, the Meststoffenwet has opted for including both young cattle categories under the concept of 'dairy cattle'. These companies can in fact contribute significantly to the growth of the dairy farming sector and to the phosphate production by that sector.

This choice has the effect that all farms that keep young cattle (category 101 and category 102) are covered by the phosphate rights system, also suckler cows. These are farms whose young cattle are not intended for dairy farming, but which keep their cattle for the production of meat.

If it is certain that the animals on these farms are not kept for dairy farming, the production of animal manure on these farms does not contribute to the phosphate production of dairy farming. At the same time, the margins on these farms are often smaller than on dairy farms. This makes it difficult for them to purchase phosphate rights. This problem is made even more difficult if, on the reference date for the granting of phosphate rights, less female young stock was present than normal.

The aim of this regulation is to exempt companies that produce meat only, but which keep suckling cows as part of the business operations, exempt from the obligation to have phosphate rights. Naturally, it must be ensured that female cattle from these farms do not end up on dairy farms.

This exemption serves to further define the phosphate rights system, so that it is more in line with the category of cattle that ensures phosphate production in dairy farming. As cows and young cattle kept for dairy farming do contribute to phosphate production in dairy farming, no exemption is granted for animals within that category.

This exemption regulation is a temporary measure. Parallel to this, a legislative proposal is being prepared that ensures that young stock in suckler cows remains outside the system of phosphate rights. The consequences of the phosphate rights system for keepers of suckler cows are such that it is not desirable to wait for this amendment. 2. Main lines / content

This regulation exempts the obligation to have phosphate rights for young cattle for suckler cows. The scheme applies to companies that meet a number of criteria.

Firstly, no dairy or calf cows or young cattle for dairy farming may be kept on the farm in a ***calendar*** year that uses the exemption. This will prevent the keeping of both bovine animals for which phosphate rights are needed on one farm and cattle that are exempted. This criterion has been included with a view to the enforceability of the phosphate rights system. In that light also applies that female cattle may only be grafted in and scraped to companies that operate under the exemption that year.

In addition, the farmer must ensure that female bovine animals kept on the farm in a year in which the exemption is used are not subsequently kept on dairy farms. If after the sale, for example, the animal were to be used for dairy farming, the holder of the animal should always have access to phosphate rights. That is why not only with regard to the next holder of the animal, but with regard to all future holders, it is not allowed to produce companies that produce milk intended for consumption or processing. The exempted farmer is responsible for this. No distinction is made between future holders in the Netherlands or abroad. After all, phosphate produced in the Netherlands by young stock that is later used abroad as dairy cattle also falls under the phosphate ***ceiling*** for dairy farming. Because the consequences for the exempt company can be great if an animal ends up later on a milk producing company, the seller will have to make good agreements with the buyer. This can be done, for example, by including a chain clause in the purchase agreement that is concluded, so that it must be agreed with successive buyers that the animal does not produce animal fertilizers on a milk producing farm.

Finally, if initial phosphate rights have been determined with regard to a company, these rights must be waived. After all, the extension ban does not apply to exempt companies, so these companies no longer need phosphate rights. If the farmer has already alienated the phosphate rights, he will have to ensure that he acquires sufficient rights to have at least the same number as initially allocated. This criterion can not be circumvented by starting a new company. If a farmer wants to make use of the exemption with a company and in the three years prior to the year in which the company has been using the exemption for the first time, a company that has been granted phosphate rights, all the latter company granted phosphate rights expire.

If at any time in a ***calendar*** year the criteria for exemption are not met, the exemption does not apply and the company concerned will have sufficient phosphate rights for the amount of animal fertilizers produced on the farm during the entire ***calendar*** year. For the year 2018, the phosphate rights must expire as of 1 January 2019. The farmer must ensure that the ***notification*** of the expiry of the assigned phosphate rights is registered before that date. Furthermore, in 2018 only the other criteria of Article 2, first paragraph, need to be met from the moment the farmer has applied for the exemption. The exemption then applies to the quantity of animal fertilizers produced for the suckler cows during the entire year 2018 with young cattle. 3. European aspects 3.1 State aid

The phosphate rights system has been ***notified*** to the European Commission in the context of state aid. The European Commission has concluded that the system is in line with the conditions for state aid. The European Commission has indicated that state aid ***notification*** of the exemption regulation in question is not necessary.

Companies that demonstrably do not contribute to phosphate production in dairy farming can use exemption from the obligation to have phosphate rights. Because one of the criteria for the use of the exemption is that the granted phosphate rights are waived, it is prevented that an advantage is created for participating companies that distorts competition. 3.2 Technical requirements

The criteria to be fulfilled in order to benefit from the exemption may affect trade and be qualified as technical requirements within the meaning of Directive (EU) 2015/1535 of the European Parliament and of the Council of the European Union of 9 September 2015 on an information procedure in the field of technical regulations and rules on information society services (codification) (PbEU 2015, L 241). This arrangement has therefore been ***notified*** to the European Commission in the framework of the aforementioned directive. No comments were received in this respect. 4. Regulatory pressure / financial consequences

This arrangement has regulatory pressure effects. The administrative costs for this scheme amount to a total of € 11,700. The basis for the calculation is that about 1,300 suckler cows use this scheme. The administrative burden relates to the one-off reporting by companies that want to qualify for the exemption and make a ***notification*** of the expiry of the allocated phosphate rights. This costs about 15 minutes per company. The administrative burden therefore amounts to an average of € 9 per company. 5. Consultation

Representatives of the owners of suckler cows, namely LTO Nederland, Vleesvee NL, Stichting Zeldzame Huisdierrassen and a few individual suckler cows, were consulted about this scheme. The scope of the regulation is supported by these sector parties. 6. Entry into force

This regulation takes effect the day after the date of publication in the Government Gazette. This deviates from the policy on fixed change moments for regulations, in order to prevent significant unwanted private disadvantages. The phosphate rights system is linked to ***calendar*** years. Publication in October 2018 is necessary to give entrepreneurs the opportunity to use the exemption for the ***calendar*** year 2018. This is because the ***notification*** of the expiry of phosphate rights by these entrepreneurs must be made at such a time that they are registered no later than 31 December 2018. II. Article wise Article 1

The phosphate rights system applies to dairy cattle. In Article 1, section kk, of the Fertilizers Act the concept of dairy cattle is defined. This also includes young cattle that later receive one or more calves for meat farming and suckle. This is the subject of the exemption regulation in question. In Article 1, the term 'young stock for suckler cows' is used for the application of this regulation. This involves the actual destination of the young stock. Article 2

A farmer is only exempt from the obligation to have phosphate rights for young stock for suckler cows, if the criteria of Article 2 are met. The phosphate rights system looks on ***calendar*** years; a company must have sufficient phosphate rights for the quantity of animal fertilizers produced in the relevant ***calendar*** year with dairy cattle. The criteria in Article 2, first paragraph, are therefore also linked to ***calendar*** years. An exception is made for the year 2018, because this regulation will enter into effect during that year.

If a company makes use of the exemption in a ***calendar*** year, no dairy or calf cows or female young cattle for dairy farming may be kept on that farm in that ***calendar*** year (first paragraph, part a). Female bovine animals that are kept on the farm during that ***calendar*** year may also not be kept on dairy farms (first paragraph, part b). This means that the animal may not be removed to a milk-producing company, but may not end up on a milk-producing farm later on. This is a result obligation. The exempted farmer is responsible for ensuring that no animal fertilizers are produced on a milk producing farm with female bovine animals removed from the farm. In addition, female bovine animals may only be grafted from, and culled to, companies that make use of the exemption during that ***calendar*** year (first paragraph, subsection d).

In the first paragraph, under c, it is arranged that a waiver must be made of the rights assigned to the company upon the entry into force of the phosphate rights system. Obviously this only applies if rights have been assigned to the company and insofar as these rights have not already expired. If the farmer has already alienated the phosphate rights, he will have to ensure that he acquires sufficient rights to allow the same number of rights to be canceled as initially allocated to his business. The rights must lapse with effect from the ***calendar*** year in which the exemption is used for the first time. The farmer is ***notified*** of the expiring of rights in accordance with Article 31, first paragraph, of the Act. This ***notification*** must be registered prior to the ***calendar*** year in which the exemption is used for the first time. The ***notification*** must therefore be made at such a time that it is registered by the Minister no later than 31 December. The interested party must take into account the registration period of the minister. Pursuant to the General Administrative Law Act, the Minister must decide on the registration of a ***notification*** within a reasonable period. This period expires in any case after eight weeks, unless the Minister postpones the decision to register.

In case of use of the exemption with effect from 2018, the ***notification*** must be made at such a time that it is registered no later than 31 December 2018 (second paragraph) and the rights have to be canceled as of 1 January 2019. When using the exemption with effect from 2018, the prohibition on keeping dairy cows or calves for dairy farming, the requirement that female bovine animals kept on the farm will not be kept on milk-producing holdings, and the restrictions on scoring and scrapping, the part of 2018 that remains after registration for the exemption. If, before that ***notification***, dairy or calf cows or young cattle were kept for dairy farming, female bovine animals kept at a later stage on milk-producing holdings or animals were entered or culled, this does not preclude the use of the exemption with effect from that date. from 2018.

The third paragraph seeks to prevent a farmer from moving his young stock for suckler cows to another farm and making use of the exemption with that company, without renouncing the rights granted to the original farm. In that case, the farmer could both cash in on the originally granted phosphate rights and keep his livestock. In order to prevent this, the phosphate rights that have been granted to other companies that the farmer has been director in the three years preceding the year with effect from which the exemption was first used must also be waived. It is not important here whether the farmer is still a director. The term director refers to the natural person who (also) determines the policy of the company. This can be a board member, but also someone else who determines or co-determines the policy. This can also be a natural person who is director of another company, if that other company determines the policy of the company that wants to make use of the exemption.

The fourth paragraph ensures that the exemption can not be used by companies that have been set up exclusively to prevent the waiving of granted phosphate rights. Examples include situations where not the farmer himself but a straw man sets up a new company in order to make use of the exemption without renouncing phosphate rights. Because the controversy of this exemption regulation was discussed with sector parties for the first time on March 9, 2018, it is conceivable that the scheme will be anticipated from that moment on. That is why the fourth paragraph focuses on farmers who started producing animal fertilizers with young cattle for suckler cows at their farm after 8 March 2018. Article 3

Because a company must always comply with the criteria during the ***calendar*** year in which the exemption is used, it must be reported prior to the first ***calendar*** year that a company wishes to make use of the exemption. This provides insight for the supervisor as to which companies are subject to supervision of the exemption criteria. If a phosphate right has been set by the Minister with regard to the company, the ***notification*** will be made simultaneously with the ***notification*** of the expiry of that phosphate duty. If no phosphate duty has been established, the ***notification*** shall be made no later than 1 December of the year preceding the year in which the exemption is used for the first time or, in the event of the exemption from 2018, on 1 December 2018. If the report is not made in time, the exemption does not apply. Article 4

Article 4 deals with the situation that, after a farmer has reported that he wishes to make use of the exemption, the determination of the phosphate right on the farm is not yet irrevocable (ie that there is an objection or appeal procedure against it, or can be set) or revised. It must be prevented that a higher phosphate duty is set than the phosphate duty for which a ***notification*** of cancellation has been registered when the ***notification*** is established or revised after the time of receipt of the ***notification***. This may be the case if no phosphate right has yet been established at the time of ***notification***, or if, for example, an objection procedure still runs. Article 4 stipulates that in those cases a ***notification*** of the cancellation of the rights received later must be made without delay, so that the ratio of Article 2, first paragraph, part c, is not undermined. This also applies to rights that are received after the time of ***notification*** by other companies of which the farmer is a director. If this ***notification*** is not made without delay, the exemption does not apply. The rights expire immediately after registration of the ***notification***. The situation in which a lower phosphate duty is established after the ***notification*** does not need to be regulated in Article 4, because the entire phosphate duty is no longer valid and, in the case of a reduction, there are no rights for which an expired ***notification*** must still be registered.

The Minister of ***Agriculture***, Nature and Food Quality, CJ Schouten

Note: This is automated translation, it may have errors. Please always refer to original text in original language provided below.

De Minister van Landbouw, Natuur en Voedselkwaliteit,

Gelet op artikel 38, eerste en derde lid, van de Meststoffenwet;

Besluit: Artikel 1

In deze regeling wordt verstaan onder:

bestuurder:

    natuurlijke persoon van wie aannemelijk is dat hij direct of indirect het beleid van het bedrijf bepaalt of mede bepaalt, met uitzondering van de door de rechter benoemde bewindvoerder; jongvee voor de zoogkoeienhouderij:

    jongvee dat zoogkoe wordt en geen melk- of kalfkoe wordt; wet:

    Meststoffenwet; zoogkoe:

    koe, niet zijnde melk- of kalfkoe, die tenminste eenmaal heeft gekalfd en wordt gehouden voor de productie van een of meer kalveren voor de vleesveehouderij.

Artikel 2

    1. Een landbouwer is in een kalenderjaar vrijgesteld van het verbod, bedoeld in artikel 21b, van de wet, voor zover hij op zijn bedrijf dierlijke meststoffen produceert met jongvee voor de zoogkoeienhouderij, indien:

        a. in het desbetreffende kalenderjaar op het bedrijf niet tevens melk- of kalfkoeien of vrouwelijk jongvee voor de melkveehouderij worden gehouden;

        b. hij ervoor zorgt dat met in het desbetreffende kalenderjaar op het bedrijf gehouden vrouwelijke runderen nadien geen dierlijke meststoffen worden geproduceerd op een bedrijf dat melk bestemd voor consumptie of verwerking produceert;

        c. in het geval de minister ten aanzien van het bedrijf een fosfaatrecht heeft vastgesteld overeenkomstig artikel 23, derde tot en met zesde en negende lid, van de wet, een kennisgeving van het vervallen van dit fosfaatrecht met ingang van het kalenderjaar waarin voor het eerst met het bedrijf gebruik wordt gemaakt van de vrijstelling, is geregistreerd overeenkomstig artikel 31, tweede lid, van de wet voorafgaand aan dat kalenderjaar, en

        d. hij in het desbetreffende kalenderjaar geen vrouwelijke runderen inschaart van, of uitschaart naar, een landbouwer die niet is vrijgesteld.

    2. In afwijking van het eerste lid is een landbouwer in 2018 vrijgesteld indien:

        a. voor 1 januari 2019 een kennisgeving van het vervallen van het fosfaatrecht met ingang van die datum is geregistreerd;

        b. aan het eerste lid, onderdelen a, b en d, is voldaan in het gedeelte van 2018 dat resteert na het tijdstip van aanmelding als bedoeld in artikel 3, derde lid, en

        c. het fosfaatrecht na registratie van de kennisgeving van het vervallen van het fosfaatrecht niet overgaat naar een ander bedrijf.

    3. Het eerste lid, onderdeel c, en tweede lid, zijn van overeenkomstige toepassing op een fosfaatrecht dat de minister overeenkomstig artikel 23, derde tot en met zesde en negende lid, van de wet, heeft vastgesteld ten aanzien van een ander bedrijf waarvan de landbouwer bestuurder is geweest in de 3 jaren voorafgaand aan het jaar waarin hij voor het eerst met het bedrijf gebruik maakt van de vrijstelling.

    4. Het eerste lid is niet van toepassing op een landbouwer die na 8 maart 2018 op zijn bedrijf dierlijke meststoffen met jongvee voor de zoogkoeienhouderij is gaan produceren, indien moet worden aangenomen dat de oprichting van dat bedrijf of het houden van jongvee voor de zoogkoeienhouderij op dat bedrijf, in overwegende mate ten doel heeft de toepassing van het eerste lid, onderdeel c, en derde lid, te vermijden.

Artikel 3

    1. Een landbouwer is slechts vrijgesteld indien hij zich daartoe, gelijktijdig met de kennisgeving van het vervallen van het fosfaatrecht, bij de minister aanmeldt met gebruikmaking van een door de minister beschikbaar gesteld middel.

    2. In afwijking van het eerste lid meldt de landbouwer die geen kennisgeving van het vervallen van een fosfaatrecht doet, zich aan uiterlijk op 1 december van het jaar voorafgaand aan het jaar waarin hij voor het eerst van de vrijstelling gebruik wil gaan maken.

    3. In afwijking van het tweede lid meldt de landbouwer die met ingang van 2018 gebruik wil maken van de vrijstelling zich uiterlijk op 1 december 2018 aan bij de minister.

Artikel 4

    1. Indien een landbouwer heeft gemeld dat hij met zijn bedrijf gebruik wil maken van de vrijstelling en nadien een fosfaatrecht op grond van artikel 23, derde tot en met zesde en negende lid, van de wet ten aanzien van het bedrijf wordt vastgesteld, is hij slechts vrijgesteld indien onverwijld een kennisgeving van het met onmiddellijke ingang vervallen van dit fosfaatrecht wordt geregistreerd overeenkomstig artikel 31, tweede lid, van de wet.

    2. Indien een landbouwer heeft gemeld dat hij met zijn bedrijf gebruik wil maken van de vrijstelling en nadien een hoger fosfaatrecht op grond van artikel 23, derde tot en met zesde en negende lid, van de wet ten aanzien van het bedrijf wordt vastgesteld dan voor die melding was vastgesteld, is hij slechts vrijgesteld indien onverwijld een kennisgeving van het met onmiddellijke ingang vervallen van deze verhoging wordt geregistreerd overeenkomstig artikel 31, tweede lid, van de wet.

    3. Het eerste en tweede lid zijn van overeenkomstige toepassing op een fosfaatrecht dat wordt vastgesteld ten aanzien van een ander bedrijf waarvan de landbouwer bestuurder is.

Artikel 5

Deze regeling treedt in werking met ingang van de dag na de datum van uitgifte van de Staatscourant waarin zij wordt geplaatst. Artikel 6

Deze regeling wordt aangehaald als: Vrijstellingsregeling zoogkoeienhouderij.

Deze regeling zal met de toelichting in de Staatscourant worden geplaatst.

's-Gravenhage, 22 oktober 2018

De Minister van Landbouw, Natuur en Voedselkwaliteit, C.J Schouten TOELICHTING I. Algemeen 1. Aanleiding en doel

Op 1 januari 2018 is het stelsel van fosfaatrechten voor melkvee in werking getreden. Doel van dit stelsel is te borgen dat de fosfaatproductie door melkvee vanaf 2018 onder het sectorplafond van 84,9 miljoen kilogram fosfaat per jaar blijft en eraan bij te dragen dat de fosfaatproductie van de Nederlandse veehouderij als geheel onder het nationale productieplafond van 172,9 miljoen kilogram per jaar blijft.

Het fosfaatrechtenstelsel richt zich op die bedrijven die runderen houden die benodigd zijn voor de productie van melk. In de Meststoffenwet is voor de toepassing van het stelsel aansluiting gezocht bij de bestaande diercategorieën zoals opgenomen in bijlage D bij de Uitvoeringsregeling Meststoffenwet (Urm). Het gaat dan in de eerste plaats om dieren die gehouden worden voor de productie van melk, te weten de categorie ‘melk- en kalfkoeien’ (categorie 100 uit bijlage D Urm). In de tweede plaats gaat het om jongvee. Dit zijn de diercategorieën ‘jongvee jonger dan 1 jaar voor de melkveehouderij, en vrouwelijke opfokkalveren voor de vleesveehouderij tot 1 jaar’ (categorie 101) en ‘jongvee ouder dan 1 jaar, te weten alle runderen van 1 jaar en ouder inclusief overig vleesvee, maar met uitzondering van roodvleesstieren en fokstieren’ (categorie 102). Deze categorieën dieren tezamen worden in de Meststoffenwet aangeduid als ‘melkvee’ (artikel 1, eerste lid, onderdeel kk).

Omdat er een groep bedrijven (tussen 2.500 en 3.000) bestaat waar geen melk- en kalfkoeien gehouden worden, maar waar wel jongvee wordt gehouden dat in overwegende mate wordt gefokt voor de vervanging van melk- en kalfkoeien, is er in de Meststoffenwet voor gekozen om ook beide jongveecategorieën onder het begrip ‘melkvee’ te scharen. Deze bedrijven kunnen namelijk in belangrijke mate bijdragen aan de groei van de melkveehouderijsector en aan de fosfaatproductie door die sector.

Deze keuze heeft als effect dat alle bedrijven die jongvee (categorie 101 en categorie 102) houden, onder het fosfaatrechtenstelsel vallen, ook zoogkoeienbedrijven. Dit zijn bedrijven waarvan het jongvee niet bedoeld is voor de melkveehouderij, maar die hun runderen houden voor de productie van vlees.

Als zeker kan worden gesteld dat de dieren op deze bedrijven niet voor de melkveehouderij worden gehouden, draagt de productie van dierlijke mest op deze bedrijven niet bij aan de fosfaatproductie van de melkveehouderij. Tegelijkertijd zijn de marges op deze bedrijven vaak kleiner dan op melkveebedrijven. Daardoor is het voor hen moeilijk om fosfaatrechten bij te kopen. Dat probleem doet zich extra gevoelen als er op de peildatum voor het toekennen van fosfaatrechten minder vrouwelijk jongvee aanwezig was dan normaal.

Onderhavige regeling heeft tot doel bedrijven die uitsluitend vlees produceren, maar als onderdeel van de bedrijfsvoering jongvee houden dat zoogkoe wordt, vrij te stellen van de verplichting om fosfaatrechten te hebben. Vanzelfsprekend dient hierbij te worden gegarandeerd dat vrouwelijke runderen van deze bedrijven niet op melkveebedrijven terecht komen.

Deze vrijstelling dient ter nadere afbakening van het fosfaatrechtenstelsel, zodat dit beter aansluit op de categorie runderen die zorgt voor de fosfaatproductie in de melkveehouderij. Omdat koeien en jongvee die worden gehouden voor de melkveehouderij wel bijdragen aan de fosfaatproductie in de melkveehouderij, wordt voor dieren binnen die categorie geen vrijstelling verleend.

Deze vrijstellingsregeling is een tijdelijke maatregel. Parallel hieraan wordt een wetsvoorstel voorbereid dat zorgt dat jongvee in de zoogkoeienhouderij buiten het stelsel van fosfaatrechten blijft. De consequenties van het fosfaatrechtenstelsel voor de houders van zoogkoeien zijn van dien aard dat het niet wenselijk is te wachten op deze wetswijziging. 2. Hoofdlijnen/inhoud

Met deze regeling wordt vrijstelling verleend van de verplichting om fosfaatrechten te hebben voor jongvee voor de zoogkoeienhouderij. De regeling geldt voor bedrijven die aan een aantal criteria voldoen.

Ten eerste mogen op het bedrijf in een kalenderjaar dat van de vrijstelling gebruik wordt gemaakt, geen melk- of kalfkoeien of jongvee voor de melkveehouderij worden gehouden. Hiermee wordt voorkomen dat op één bedrijf zowel runderen worden gehouden waarvoor fosfaatrechten nodig zijn, als runderen waarvoor een vrijstelling geldt. Dit criterium is opgenomen met het oog op de handhaafbaarheid van het fosfaatrechtenstelsel. In dat licht geldt ook dat vrouwelijke runderen alleen mogen worden ingeschaard van, en uitgeschaard naar bedrijven die dat jaar onder de vrijstelling opereren.

Verder dient de landbouwer te verzekeren dat vrouwelijke runderen die op het bedrijf zijn gehouden in een jaar waarin van de vrijstelling gebruik wordt gemaakt, nadien niet worden gehouden op melkproducerende bedrijven. Indien het dier na bijvoorbeeld verkoop immers alsnog zou worden aangewend voor de melkveehouderij, had de houder van het dier steeds over fosfaatrechten moeten beschikken. Daarom geldt niet alleen met betrekking tot de eerstvolgende houder van het dier, maar met betrekking tot alle toekomstige houders dat het geen bedrijven mogen zijn die melk bestemd voor consumptie of verwerking produceren. De vrijgestelde landbouwer is hiervoor verantwoordelijk. Daarbij wordt geen onderscheid gemaakt tussen toekomstige houders in Nederland of in het buitenland. Immers, ook fosfaat dat in Nederland wordt geproduceerd door jongvee dat later in het buitenland als melkvee wordt aangewend, valt onder het fosfaatplafond voor de melkveehouderij. Omdat de gevolgen voor het vrijgestelde bedrijf groot kunnen zijn als een dier later alsnog op een melkproducerend bedrijf terecht komt, zal de verkoper goede afspraken moeten maken met de koper. Dit kan bijvoorbeeld door een kettingbeding op te nemen in de koopovereenkomst die wordt gesloten, zodat met opeenvolgende kopers steeds opnieuw moet worden overeengekomen dat met het dier geen dierlijke meststoffen worden geproduceerd op een melkproducerend bedrijf.

Tot slot moet, indien ten aanzien van een bedrijf initieel fosfaatrechten zijn vastgesteld, afstand worden gedaan van deze rechten. Op vrijgestelde bedrijven is het uitbreidingsverbod immers niet van toepassing, dus hebben deze bedrijven niet langer fosfaatrechten nodig. Indien de landbouwer de fosfaatrechten reeds heeft vervreemd, zal hij ervoor moeten zorgen dat hij voldoende rechten verwerft om over ten minste hetzelfde aantal te beschikken als initieel is toegewezen. Dit criterium kan niet worden omzeild door een nieuw bedrijf te starten. Indien een landbouwer met een bedrijf gebruik wil maken van de vrijstelling en in de drie jaren voorafgaand aan het jaar waarin met het bedrijf voor het eerst gebruik wordt gemaakt van de vrijstelling bestuurder is geweest van een bedrijf waaraan fosfaatrechten zijn toegekend, moeten ook alle oorspronkelijk aan laatstgenoemd bedrijf toegekende fosfaatrechten vervallen.

Indien op enig moment in een kalenderjaar niet aan de criteria voor vrijstelling wordt voldaan, is de vrijstelling niet van toepassing en zal het desbetreffende bedrijf over voldoende fosfaatrechten moeten beschikken voor de op het bedrijf in het gehele kalenderjaar geproduceerde hoeveelheid dierlijke meststoffen. Voor het jaar 2018 geldt dat de fosfaatrechten per 1 januari 2019 dienen te vervallen. De landbouwer moet ervoor zorgen dat de kennisgeving van het vervallen van de toegekende fosfaatrechten voor die datum is geregistreerd. Voorts geldt dat in 2018 slechts aan de overige criteria van artikel 2, eerste lid, hoeft te zijn voldaan vanaf het moment dat de landbouwer zich heeft aangemeld voor de vrijstelling. De vrijstelling geldt dan voor de op het bedrijf in het gehele jaar 2018 met jongvee voor de zoogkoeienhouderij geproduceerde hoeveelheid dierlijke meststoffen. 3. Europese aspecten 3.1 Staatssteun

Het fosfaatrechtenstelsel is bij de Europese commissie genotificeerd in het kader van staatssteun. De Europese Commissie heeft geconcludeerd dat het stelsel in overeenstemming is met de voorwaarden voor staatssteun. De Europese Commissie heeft aangegeven dat staatssteunnotificatie van de onderhavige vrijstellingsregeling niet nodig is.

Bedrijven die aantoonbaar geen bijdrage leveren aan de fosfaatproductie in de melkveehouderij, kunnen gebruik maken van vrijstelling van de verplichting om over fosfaatrechten te beschikken. Doordat één van de criteria voor gebruik van de vrijstelling is dat afstand wordt gedaan van de toegekende fosfaatrechten, wordt voorkomen dat voor deelnemende bedrijven een voordeel ontstaat dat de mededinging verstoort. 3.2 Technische voorschriften

De criteria waaraan moet worden voldaan om van de vrijstelling gebruik te kunnen maken, kunnen de handel beïnvloeden en zijn aan te merken als technische voorschriften in de zin van Richtlijn (EU) 2015/1535 van het Europees Parlement en de Raad van de Europese Unie van 9 september 2015 betreffende een informatieprocedure op het gebied van technische voorschriften en regels betreffende de diensten van de informatiemaatschappij (codificatie) (PbEU 2015, L 241). Deze regeling is dan ook in het kader van voornoemde richtlijn bij de Europese Commissie genotificeerd. In dat verband zijn geen opmerkingen ontvangen. 4. Regeldruk/financiële gevolgen

Deze regeling heeft regeldrukeffecten. De administratieve lasten voor deze regeling bedragen in totaal eenmalig € 11.700 Basis voor de berekening is dat circa 1.300 zoogkoeienhouders gebruik maken van deze regeling. De administratieve lasten hebben betrekking op het eenmalig doen van een melding door bedrijven die in aanmerking willen komen voor de vrijstelling en het doen van een kennisgeving van het vervallen van de toegekende fosfaatrechten. Dit kost ca. 15 minuten per bedrijf. De administratieve lasten komen derhalve neer op gemiddeld € 9 per bedrijf. 5. Consultatie

Over deze regeling zijn vertegenwoordigers van de houders van zoogkoeien, te weten LTO Nederland, Vleesvee NL, Stichting Zeldzame Huisdierrassen en enkele individuele zoogkoeienhouders geraadpleegd. De strekking van de regeling wordt door deze sectorpartijen gesteund. 6. Inwerkingtreding

Deze regeling treedt de dag na de datum van publicatie in de Staatscourant in werking. Daarmee wordt afgeweken van het beleid inzake vaste verandermomenten voor regelgeving, om aanmerkelijke ongewenste private nadelen te voorkomen. Het fosfaatrechtenstelsel is gekoppeld aan kalenderjaren. Publicatie in oktober 2018 is nodig om ondernemers de gelegenheid te geven de vrijstelling te gebruiken voor het kalenderjaar 2018. Dit omdat de kennisgeving van het vervallen van fosfaatrechten door deze ondernemers op zodanig tijdstip moet worden gedaan dat deze uiterlijk 31 december 2018 is geregistreerd. II. Artikelsgewijs Artikel 1

Het fosfaatrechtenstelsel is van toepassing op melkvee. In artikel 1, onderdeel kk, van de Meststoffenwet is het begrip melkvee gedefinieerd. Daaronder valt ook jongvee dat later een of meer kalfjes voor de vleesveehouderij krijgt en zoogt. Daarop ziet de onderhavige vrijstellingsregeling. In artikel 1 wordt voor de toepassing van deze regeling invulling gegeven aan het begrip ‘jongvee voor de zoogkoeienhouderij’. Daarbij gaat het om de daadwerkelijke bestemming van het jongvee. Artikel 2

Een landbouwer is slechts vrijgesteld van de verplichting om fosfaatrechten te hebben voor jongvee voor de zoogkoeienhouderij, indien aan de criteria van artikel 2 is voldaan. Het fosfaatrechtenstelsel ziet op kalenderjaren; een bedrijf moet over voldoende fosfaatrechten beschikken voor de op het bedrijf in het desbetreffende kalenderjaar met melkvee geproduceerde hoeveelheid dierlijke meststoffen. De criteria in artikel 2, eerste lid, zijn daarom eveneens gekoppeld aan kalenderjaren. Daarbij wordt een uitzondering gemaakt voor het jaar 2018, omdat deze regeling in de loop van dat jaar in werking treedt.

Indien een bedrijf in een kalenderjaar van de vrijstelling gebruik maakt, mogen in dat kalenderjaar geen melk- of kalfkoeien of vrouwelijk jongvee voor de melkveehouderij op dat bedrijf worden gehouden (eerste lid, onderdeel a). Ook mogen vrouwelijke runderen die in dat kalenderjaar op het bedrijf worden gehouden, nadien niet worden gehouden op melkproducerende bedrijven (eerste lid, onderdeel b). Dat wil zeggen dat het dier niet mag worden afgevoerd naar een melkproducerend bedrijf, maar ook later niet op een melkproducerend bedrijf terecht mag komen. Het gaat hier om een resultaatsverplichting. De vrijgestelde landbouwer is er verantwoordelijk voor dat met van het bedrijf afgevoerde vrouwelijke runderen geen dierlijke meststoffen worden geproduceerd op een melkproducerend bedrijf. Bovendien geldt ook dat vrouwelijke runderen slechts mogen worden ingeschaard van, en uitgeschaard naar, bedrijven die dat kalenderjaar van de vrijstelling gebruik maken (eerste lid, onderdeel d).

In het eerste lid, onderdeel c, is geregeld dat afstand moet worden gedaan van de rechten die bij de inwerkingtreding van het fosfaatrechtenstelsel aan het bedrijf zijn toegewezen. Vanzelfsprekend geldt dit alleen indien aan het bedrijf rechten zijn toegewezen en voor zover deze rechten niet al eerder zijn komen te vervallen. Indien de landbouwer de fosfaatrechten reeds heeft vervreemd, zal hij ervoor moeten zorgen dat hij voldoende rechten verwerft om hetzelfde aantal rechten te kunnen laten vervallen als initieel aan zijn bedrijf is toegewezen. De rechten dienen te vervallen met ingang van het kalenderjaar waarin voor het eerst gebruik wordt gemaakt van de vrijstelling. Van het vervallen van rechten wordt door de landbouwer een kennisgeving gedaan overeenkomstig artikel 31, eerste lid, van de wet. Deze kennisgeving moet worden geregistreerd voorafgaand aan het kalenderjaar waarin voor het eerst van de vrijstelling gebruik wordt gemaakt. De kennisgeving moet dus op zodanig tijdstip worden gedaan, dat deze uiterlijk op 31 december is geregistreerd door de minister. De belanghebbende moet daarbij rekening houden met de registratietermijn van de minister. Ingevolge de Algemene wet bestuursrecht dient de minister binnen een redelijke termijn te beslissen over registratie van een kennisgeving. Deze termijn verstrijkt in ieder geval na acht weken, tenzij de minister het besluit tot registratie verdaagt.

In geval van gebruikmaking van de vrijstelling met ingang van 2018, moet de kennisgeving op zodanig tijdstip worden gedaan dat deze uiterlijk 31 december 2018 is geregistreerd (tweede lid) en dienen de rechten te vervallen met ingang van 1 januari 2019. Bij gebruikmaking van de vrijstelling met ingang van 2018 gelden het verbod om melk- of kalfkoeien of jongvee voor de melkveehouderij te houden, de eis dat op het bedrijf gehouden vrouwelijke runderen nadien niet worden gehouden op melkproducerende bedrijven, en de beperkingen ten aanzien van in- en uitscharen, slechts voor het gedeelte van 2018 dat resteert na aanmelding voor de vrijstelling. Indien voorafgaand aan die aanmelding melk- of kalfkoeien of jongvee voor de melkveehouderij zijn gehouden, vrouwelijke runderen zijn gehouden die later worden gehouden op melkproducerende bedrijven of dieren zijn ingeschaard of uitgeschaard, staat dat dus niet in de weg aan het gebruik van de vrijstelling met ingang van 2018.

Het derde lid strekt ertoe te voorkomen dat een landbouwer zijn jongvee voor de zoogkoeienhouderij verplaatst naar een ander bedrijf en met dat bedrijf gebruik maakt van de vrijstelling, zonder dat afstand wordt gedaan van de rechten die aan het oorspronkelijke bedrijf zijn toegekend. In dat geval zou de landbouwer immers zowel de oorspronkelijk toegekende fosfaatrechten kunnen verzilveren, als zijn veestapel kunnen behouden. Om dit te voorkomen moet ook afstand worden gedaan van de fosfaatrechten die zijn toegekend aan andere bedrijven waarvan de landbouwer bestuurder is geweest in de 3 jaren voorafgaand aan het jaar met ingang waarvan voor het eerst gebruik wordt gemaakt van de vrijstelling. Daarbij is niet van belang of de landbouwer daarvan nog steeds bestuurder is. Met de term bestuurder wordt verwezen naar de natuurlijke persoon die het beleid van het bedrijf (mede)bepaalt. Dit kan een bestuurslid zijn, maar ook een ander die het beleid bepaalt of medebepaalt. Dit kan ook een natuurlijke persoon zijn die bestuurder is van een ander bedrijf, als dat andere bedrijf het beleid (mede)bepaalt van het bedrijf dat gebruik wil maken van de vrijstelling.

Het vierde lid zorgt ervoor dat de vrijstelling niet kan worden gebruikt door bedrijven die uitsluitend zijn opgericht om te voorkomen dat afstand moet worden gedaan van toegekende fosfaatrechten. Daarbij kan bijvoorbeeld worden gedacht aan situaties waarbij niet de landbouwer zelf, maar een stroman een nieuw bedrijf opricht teneinde gebruik te kunnen maken van de vrijstelling zonder afstand te doen van fosfaatrechten. Omdat op 9 maart 2018 voor het eerst met sectorpartijen is gesproken over de contouren van deze vrijstellingsregeling, is denkbaar dat vanaf dat moment geanticipeerd is op de regeling. Daarom is de het vierde lid toegespitst op landbouwers die na 8 maart 2018 op hun bedrijf dierlijke meststoffen met jongvee voor de zoogkoeienhouderij zijn gaan produceren. Artikel 3

Omdat een bedrijf gedurende het kalenderjaar waarin van de vrijstelling gebruik wordt gemaakt, steeds aan de criteria moet voldoen, moet voorafgaand aan het eerste kalenderjaar worden gemeld dat een bedrijf van de vrijstelling gebruik wil maken. Daarmee wordt voor de toezichthouder inzichtelijk welke bedrijven onderwerp zijn van toezicht op de vrijstellingscriteria. Indien ten aanzien van het bedrijf een fosfaatrecht is vastgesteld door de minister, wordt de melding gedaan gelijktijdig met de kennisgeving van het vervallen van dat fosfaatrecht. Als geen fosfaatrecht is vastgesteld wordt de melding uiterlijk op 1 december van het jaar voorafgaand aan het jaar waarin voor het eerst van de vrijstelling gebruik wordt gemaakt of, bij gebruik van de vrijstelling met ingang van 2018, op 1 december 2018 gedaan. Indien de melding niet tijdig wordt gedaan, is de vrijstelling niet van toepassing. Artikel 4

Artikel 4 ziet op de situatie dat, nadat een landbouwer heeft gemeld dat hij gebruik wil maken van de vrijstelling, de vaststelling van het op het bedrijf rustende fosfaatrecht nog niet onherroepelijk is (dat wil zeggen dat daartegen een bezwaar- of beroepsprocedure loopt, of nog kan worden ingesteld) of wordt herzien. Voorkomen moet worden dat bij vaststelling of herziening van de vaststelling na het tijdstip van ontvangst van de melding, een groter fosfaatrecht wordt vastgesteld dan het fosfaatrecht waarvoor een kennisgeving van vervallen is geregistreerd. Dit kan aan de orde zijn wanneer op het moment van melding nog geen fosfaatrecht is vastgesteld, of wanneer bijvoorbeeld nog een bezwaarprocedure tegen de vaststelling loopt. Artikel 4 bepaalt dat in die gevallen onverwijld een kennisgeving van het vervallen van de later ontvangen rechten moet worden gedaan, zodat de ratio van artikel 2, eerste lid, onderdeel c, niet wordt ondergraven. Dit geldt ook voor rechten die na het tijdstip van melding worden ontvangen door andere bedrijven waarvan de landbouwer bestuurder is. Indien deze kennisgeving niet onverwijld wordt gedaan, is de vrijstelling niet van toepassing. De rechten vervallen onmiddellijk na registratie van de kennisgeving. De situatie dat na de melding een lager fosfaatrecht wordt vastgesteld behoeft geen regeling in artikel 4, omdat het erom gaat dat het gehele fosfaatrecht vervalt en er bij verlaging geen sprake is van rechten waarvoor nog een kennisgeving van vervallen moet worden geregistreerd.

De Minister van Landbouw, Natuur en Voedselkwaliteit, C.J Schouten

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[***United Kingdom Intellectual Property Office Publishes Application for Trademark "SUPERAGER"***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5VRC-7911-F12F-F4HG-00000-00&context=1516831)

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fire extinguishing compositions, tempering and soldering preparations, chemical substances for preserving foodstuffs, tanning substances, adhesives used in industry , paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, colorants, mordants, raw natural resins, metals in foil and powder form for painters, decorators, printers and artists, bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, industrial oils and greases, lubricants, dust absorbing, wetting and binding compositions, fuels (including motor spirit) and illuminants, candles and wicks for lighting, pharmaceutical and veterinary preparations, sanitary preparations for medical purposes, dietetic food and substances adapted for medical or veterinary use, food for babies, dietary supplements for humans and animals, plasters, materials for dressings, material for stopping teeth, dental wax, disinfectants, preparations for destroying vermin, fungicides, herbicides, common metals and their alloys, metal building materials, transportable buildings of metal, materials of metal for railway tracks, non-electric cables and wires of common metal, ironmongery, small items of metal hardware, pipes and tubes of metal, safes, goods of common metal not included in other classes, ores, machines and machine tools, motors and engines (except for land vehicles), machine coupling and transmission components (except for land vehicles), ***agricultural*** implements other than hand-operated, incubators for eggs, automatic vending machines, hand tools and implements (hand- operated), cutlery, side arms, razors, hygienic and beauty implements for humans and animals, eyelash curlers, farriers' knives, flat irons, hair styling appliances, crimping irons, curling tongs, hand implements for hair curling, body art tool, manicure and pedicure tools, cuticle tweezers, cuticle nippers, emery files, fingernail polishers, electric or non-electric, nail buffers, electric or non-electric, manicure sets, manicure sets, nail care personal manicure pedicure set travel grooming kit, electric, nail extractors, nail drawers , nail nippers, nail files, nail files, electric, nail clippers, electric or non-electric, needle files, pedicure sets, hair cutting and removal implements, beard clippers, depilation appliances, electric and non-electric, hair clippers for personal use, nasal hair trimmers, electric and non-electric, hair-removing tweezers, razors, electric or non-electric, razors, razor cases, razor blades, shaving cases, food preparation implements, kitchen knives and cutlery, ceramic knives, high-carbon steel knife sharpening sharpener rods for kitchen knife, nut cracker, cheese slicers, non-electric, choppers , cutlery, implements for decanting liquids , egg slicers, non-electric, forks, ladles, ladles for wine, mincing knives, fleshing knives, meat choppers multi chopper dice, mince, nutcrackers, oyster openers, paring knives, pizza cutters, non-electric, chrome-coated stand and pizza wooden handle wheel slicer, scaling knives, silver plate , spatulas , spoons, sugar tongs, table cutlery, knives, forks and spoons, table forks, vegetable slicers, vegetable knives, vegetable shredders, vegetable choppers, hand-operated tools and implements for treatment of materials, and for construction, repair and maintenance, snake drain tool toilet steel cleaner pipe sink kitchen &#38; bathroom, bench vices, can openers, non-electric, tin openers, cap and lid jar opener, non-electric, cutters, goffering irons, hand tools, hand-operated, hand pumps, ice picks, irons , knives, machetes, money scoops, needle-threaders, palette knives, paring irons , priming irons , instruments for punching tickets, rammers, pestles for pounding, rams , ratchets , scissors, shear blades, shearers , shears, tool belts , tweezers, wick trimmers , animal slaughtering and butchering implements, hunting knives, instruments and tools for skinning animals, ***agricultural***, gardening and landscaping tools, ***agricultural*** implements, hand-operated, border shears, budding knives, apparatus for destroying plant parasites, hand-operated, diggers , ditchers , earth rammers , fruit pickers , garden tools, hand-operated, grafting tools , Hainault scythes, hoes , insecticide vaporizers, insecticide atomizers, scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, compact discs, DVDs and other digital recording media, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment, computers, computer software, fire-extinguishing apparatus, recorded content, downloadable ring tones for mobile phones, x-ray films, exposed, x-ray photographs, other than for medical purposes, databases , animated cartoons, cinematographic film, exposed, downloadable music files, downloadable image files, electronic publications, downloadable, films, exposed, software, computer programmes, recorded, computer software, recorded, computer programs , computer software applications, downloadable, interfaces for computers, monitors , games software, computer game software, firmware, computer operating systems, computer operating programs, recorded, information technology and audio-visual equipment, amplifiers, demagnetizing apparatus for magnetic tapes, electronic agendas, electronic book readers, magnetic encoders, communications equipment, acoustic conduits, acoustic couplers, electric apparatus for commutation, high-frequency apparatus, radios, satellites for scientific purposes, sound transmitting apparatus, speaking tubes, switchboards, transmitters of electronic signals, transmitters, transmitting sets , transponders, computer networking and data communications equipment, point-to-point communications equipment, answering machines, cell phone straps, cordless telephones, facsimile machines, hands free kits for phones, intercommunication apparatus, mobile telephones, photo telegraphy apparatus, radio pagers, radiotelegraphy sets, radiotelephony sets, smartphones, telegraphs, telephone receivers, telephone apparatus, telephone transmitters, teleprinters, teletypewriters, video telephones, walkie-talkies, broadcasting equipment, antennas and aerials as communications apparatus, aerials, antennas, masts for wireless aerials, data storage devices, compact discs, compact discs , disks, magnetic, encoded magnetic cards, encoded identification bracelets, magnetic, floppy disks, holograms, identity cards, magnetic, magnetic tapes, magnetic data media, memory cards for video game machines, optical data media, optical discs, phonograph records, sound recording discs, punched card machines for offices, sound recording carriers, sound recording strips, USB flash drives, video cassettes, video game cartridges, videotapes, replicating apparatus, blueprint apparatus, photocopiers, photocopiers , image scanners, scanners, printers, plotters, printers for use with computers, toner cartridges, unfilled, for printers and photocopiers, data processing equipment and accessories, bar code readers, calculating machines, computer peripheral devices, couplers, data processing apparatus, electronic pocket translators, invoicing machines, mathematical instruments, optical character readers, readers, voting machines, calculators, abacuses, adding machines, circular slide rules, pocket calculators, ticket dispensers, ticket dispensers, payment terminals, money dispensing and sorting devices, automated teller machines , cash registers, mechanisms for coin-operated apparatus, coin-operated mechanisms, coin-operated mechanisms for television sets, peripherals adapted for use with computers, computer keyboards, electronic pens, magnetic tape units for computers, monitors , mouse , mouse pads, wrist rests for use with computers, computers and computer hardware, bags adapted for laptops, computer hardware, computers, juke boxes for computers, laptop computers, notebook computers, sleeves for laptops, tablet computers, computer components and parts, computer memory devices, disk drives for computers, microprocessors, modems, processors, central processing units, audio, visual and photographic devices, 3d spectacles, audio- and video-receivers, compact disc players, dvd players, head cleaning tapes , light-emitting electronic pointers, portable media players, tape recorders, audio devices and radio receivers, cabinets for loudspeakers, cassette players, apparatus for changing record player needles, cleaning apparatus for phonograph records, cleaning apparatus for sound recording discs, diaphragms, dictating machines, headphones, horns for loudspeakers, juke boxes, musical, coin-operated musical automata , loudspeakers, portable speakers, megaphones, microphones, needles for record players, styli for record players, record players, sound recording apparatus, sound reproduction apparatus, sounding apparatus and machines, personal stereos, tone arms for record players, vehicle radios, display devices, television receivers and film and video devices, camcorders, cinematographic cameras, digital photo frames, digital signs, editing appliances for cinematographic films, apparatus for editing cinematographic film, electronic notice boards, film cutting apparatus, fluorescent screens, magic lanterns, neon signs, projection screens, projection apparatus, teleprompters, television apparatus, totalizators, video recorders, video screens, electronics stands, image capturing and developing devices, cameras, carriers for dark plates [photography], cases especially made for photographic apparatus and instruments, centering apparatus for photographic transparencies, darkroom lamps , darkrooms , diaphragms , drainers for use in photography, photographic racks, drying racks , drying apparatus for photographic prints, enlarging apparatus, epidiascopes, filters , filters for ultraviolet rays, for photography, flash-bulbs , flashlights , frames for photographic transparencies, glazing apparatus for photographic prints, heliographic apparatus, lenses for astrophotography, radiological apparatus for industrial purposes, radiology screens for industrial purposes, screens , screens for photoengraving, shutter releases , shutters , slide projectors, transparency projection apparatus, speed measuring apparatus , spools , stands for photographic apparatus, transparencies, slides , tripods for cameras, viewfinders, photographic, washing trays, x-ray apparatus not for medical purposes, apparatus and installations for the production of x-rays, not for medical purposes, signal cables for it, av and telecommunication, coaxial cables, fibre optic cables, optical fibre, light conducting filaments, optical fibres , telegraph wires, telephone wires, magnets, magnetizers and demagnetizers, decorative magnets, electromagnetic coils, magnets, fridge magnets, sockets, plugs and other contacts electric connections, plugs, sockets and other contacts , solenoid valves , switches, electric, terminals , thermionic valves, thermionic tubes, transistors, eyeglasses, spectacle lenses, spectacle frames, spectacle cases, spectacles , sunglasses, sunglasses, wrap-a-rounds, safety, security, protection and signalling devices, baby monitors, fire extinguishers, fire extinguishing apparatus, fire beaters, fire hose nozzles, fire engines, fire pumps, fire hose, smoke detectors, sprinkler systems for fire protection, traffic cones, video baby monitors, alarms and warning equipment, sound alarms, alarm bells, electric, alarms, anti-theft warning apparatus, fire alarms, theft prevention installations, electric, access control devices, electrified fences, encoded key cards, locks, electric, signalling apparatus, beacons, luminous, bells, buzzers, dog whistles, electric door bells, flashing lights, blinkers , fog signals, non-explosive, marking buoys, naval signalling apparatus, optical lanterns, optical lamps, road signs, luminous or mechanical, signal bells, signal lanterns, signalling panels, luminous or mechanical, signalling whistles, signalling buoys, signals, luminous or mechanical, mechanical signs, signs, luminous, sirens, traffic-light apparatus , vehicle breakdown warning triangles, whistle alarms, protective and safety equipment, asbestos gloves for protection against accidents, surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth, orthopaedic articles, suture materials, physical therapy equipment, belts, electric, for medical purposes, galvanic therapeutic appliances, heating cushions, electric, for medical purposes, heating cushions, electric, for medical purposes, heating pads, electric, for medical purposes, hot air therapeutic apparatus, hot air vibrators for medical purposes, massage apparatus, foot &#38; body massager , physical exercise apparatus, for medical purposes, physiotherapy apparatus, massage apparatus, aesthetic massage apparatus, gloves for massage, vibromassage apparatus, physiotherapy and rehabilitation equipment, body rehabilitation apparatus for medical purposes, hearing protection devices, ear plugs , hearing protectors, feeding aids and pacifiers, breast pumps, dummies for babies, babies' pacifiers, feeding bottle teats, teething rings, sex aids, love dolls , sex toys, medical and veterinary apparatus and instruments, abdominal pads, condoms, orthopaedic and mobility aids, arch supports for footwear, bandages for joints, anatomical, supportive bandages, bandages, elastic, corsets for medical purposes, crutches, knee bandages , orthopaedic, supports for flat feet,, gel foot cushions, apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, flues and installations for conveying exhaust gases, chimney flues, chimney blowers, flues for heating boilers, gas condensers, other than parts of machines, sun tanning appliances, tanning apparatus, sanitary installations, water supply and sanitation equipment, clean chambers , cooling installations for water, shower apparatus, shower heads, shower installation, shower hoses, flushing tanks, heaters for baths, mixer taps for water pipes, pipes , showers, sinks, taps for pipes , toilet bowls, toilet seats, toilets, portable, lighting and lighting reflectors, aquarium lights, arc lamps, burners for lamps, carbon for arc lamps, ***ceiling*** lights, chandeliers, Chinese lanterns, fairy lights for festive decoration, multi - purpose push on light, curling lamps, discharge tubes, electric, for lighting, diving lights, filaments for electric lamps, flares, gas lamps, luminous house numbers, incandescent burners, laboratory lamps, lamp mantles, lamp casings, lamp glasses, lamp chimneys, lamp globes, battery powered stick-on led touch light, globes for lamps, lamp reflectors, lamp shades, electric lamps, lamps, lampshade holders, lanterns for lighting, light bulbs, light bulbs, electric, light diffusers, light-emitting diodes lighting apparatus, lighters, lighting apparatus and installations, lights, electric, for Christmas trees, electric lights for Christmas trees, magnesium filaments for lighting, miners' lamps, oil lamps, pocket torches, electric, pocket searchlights, safety lamps, sockets for electric lights, street lamps, standard lamps, mains powered frog, snail &#38; turtle led garden light, torches for lighting, flashlights, searchlights, luminous tubes for lighting, ultraviolet ray lamps, not for medical purposes, vehicle lighting and lighting reflectors, anti-dazzle devices for automobiles , anti-glare devices for vehicles, anti-dazzle devices for vehicles , bicycle lights, cycle lights, headlights for automobiles, lamps for directional signals of automobiles, light bulbs for directional signals for vehicles, lighting installations for air vehicles, lighting apparatus for vehicles, lights for vehicles, lights for automobiles, automobile lights, vehicle headlights, vehicle reflectors, food and beverage cooking, heating, cooling and treatment equipment, autoclaves, pressure cookers, electric, bakers' ovens, barbecues, bread toasters, toasters, bread baking machines, bread-making machines, coffee roasters, coffee percolators, electric, coffee machines, electric, cookers, cooking utensils, electric, cooking apparatus and installations, cooking rings, deep fryers, electric, apparatus for dehydrating food waste, extractor hoods for kitchens, food steamers, electric, fruit roasters, heated display cabinets, heaters, electric, for feeding bottles, heating plates, hot plates, kettles, electric, kitchen ranges , lava rocks for use in barbecue grills, malt roasters, microwave ovens , microwave ovens for industrial purposes, multicookers, dual hob top griddle plate, oven fittings made of fireclay, pasteurisers, plate warmers, pressure cooking saucepans, electric, roasters, roasting jacks, roasting spits, roasting apparatus, griddles, grills , rotisseries, structural plates for ovens, framework of metal for ovens, waffle irons, electric, electric appliances for making yogurt, fireplaces, fireplaces, domestic, filters for industrial and household use, filters for air conditioning, filters for drinking water, industrial treatment installations, gas scrubbing apparatus, refining towers for distillation, gas cleaners and purifiers, gas scrubbers, scrubbers , oil-scrubbing apparatus, industrial ovens and furnaces , coolers for furnaces, cooling vats for furnaces, dental ovens, flare stacks for use in the oil industry, forges, portable, furnaces, other than for laboratory use, ovens, other than for laboratory use, germicidal burners, hot air ovens, kiln furniture , kilns, chemical processing equipment, chromatography apparatus for industrial purposes, distillation columns, distillation apparatus, polymerisation installations, stills, personal heating and drying implements, bed warmers, blankets, electric, not for medical purposes, electric fans for personal use, footmuffs, electrically heated, footwarmers, electric or non-electric, hair dryers, hand drying apparatus for washrooms, heating cushions, electric, not for medical purposes, heating pads, electric, not for medical purposes, hot air bath fittings, hot water bottles, pocket warmers, warming pans, drying installations, air driers , desiccating apparatus, drying apparatus, drying apparatus for fodder and forage, forage drying apparatus, drying apparatus and installations, laundry dryers, electric, refrigerating and freezing equipment, beverage cooling apparatus, cooling installations for liquids, cooling installations and machines, cooling appliances and installations, cooling installations for tobacco, freezers, ice machines and apparatus, ice boxes, ice chests, milk cooling installations, refrigerating cabinets, refrigerating apparatus and machines, refrigerating chambers, walk-in refrigerators, refrigerating containers, refrigerating appliances and installations, refrigerating display cabinets, refrigerators, regulating and safety accessories for water and gas installations, air valves for steam heating installations, fuel economisers, fuel economizers, level controlling valves in tanks, regulating accessories for water or gas apparatus and pipes, regulating and safety accessories for gas pipes, regulating and safety accessories for water apparatus, regulating and safety accessories for gas apparatus, safety accessories for water or gas apparatus and pipes, nuclear installations, nuclear reactors, atomic piles, processing installations for fuel and nuclear moderating material, installations for processing nuclear fuel and nuclear moderating material, heating, ventilating, and air conditioning and purification equipment , air cooling apparatus, aquarium heaters, electrically heated carpets, central heating radiators, dampers , radiator caps, radiators, electric, radiators , ventilation hoods for laboratories, air treatment equipment, air deodorising apparatus, air filtering installations, air purifying apparatus and machines, air sterilisers, deodorising apparatus, not for personal use, germicidal lamps for purifying air, humidifiers for central heating radiators, electric humidifiers, room humidifiers, ionization apparatus for the treatment of air or water, ventilation hoods, heating, ventilation and air conditioning systems, air conditioning installations, installations for conditioning air, air conditioning apparatus, expansion tanks for central heating installations, fans , fans , ventilation installations and apparatus, vehicle heating, ventilation and air conditioning systems, air conditioners for vehicles, defrosters for vehicles, heaters for vehicles, heating apparatus for defrosting windows of vehicles, ventilation installations for vehicles, igniters, friction lighters for igniting gas, gas lighters, vehicles, apparatus for locomotion by land, air or water, firearms, ammunition and projectiles, explosives, fireworks, precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes, jewellery, precious stones, horological and chronometric instruments, gemstones, pearls and precious metals, and imitations thereof, agates, alloys of precious metal, beads for making, beads for making jewellery, diamonds, gold, unwrought or beaten, ingots of precious metals, iridium, jet, unwrought or semi-wrought, olivine, peridot, osmium, palladium, pearls made of amberoid , platinum , precious metals, unwrought or semi-wrought, rhodium, ruthenium, semi-precious stones, silver thread , silver, unwrought or beaten, spinel , spun silver , jewellery, amulets, badges of precious metal, bracelets, brooches, chains , charms, trinkets , clasps for jewellery clasps for , cloisonne jewellery , cuff links, earrings, gold thread, hat ornaments of precious metal, ivory jewellery, ivory, jewellery of yellow amber, of yellow amber, jewellery, jewellery findings, lockets , medals, necklaces , ornamental pins, ornaments , paste jewellery, paste pearls ,pins , precious stones, rings , threads of precious metal, wire of precious metal, jewellery stand, tie clips, tie pins, time instruments, glass clocks, alarm clocks, anchors , atomic clocks, barrels, cases for clock- and watchmaking, cases for watches , chronographs , chronometers, chronometric instruments, chronoscopes, clock hands , clock cases, clocks, clocks and watches, electric, clockworks, control clocks, master clocks, dials , movements for clocks and watches, pendulums , stopwatches, sundials, watch bands, straps for wristwatches, watch straps, watch chains, watch springs, watch glasses, watch crystals, watch cases, watches, wristwatches, other articles of precious metals and precious stones, and imitations thereof, boxes of precious metal, coins, copper tokens, key rings , aluminium clip snap hook small keyring, works of art of precious metal, statues and figurines, made of or coated with precious or semi-precious metals or stones, or imitations thereof, busts of precious metal, figurines of precious metal, statuettes of precious metal, statues of precious metal, ornaments, made of or coated with precious or semi-precious metals or stones, or imitations thereof, ornaments of jet, shoe ornaments of precious metal, jewellery boxes and watch boxes, jewellery cases, jewellery rolls, musical instruments, paper, cardboard and goods made from these materials, not included in other classes, bookbinding material, photographs, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters and office requisites (except furniture), instructional and teaching material (except apparatus), plastic materials for packaging (not included in other classes), printers' type, printing blocks, works of art and figurines of paper and cardboard, and architects' models, aquarelles , watercolours , architects' models, engravings, etchings, figurines of papier mache, laser etched crystal glass paper weight, graphic prints, graphic representations, lithographic works of art, lithographs, oleographs, paintings [pictures], framed or unframed, photo-engravings, pictures, portraits, decoration and art materials and media, canvas for painting, chalk for lithography, charcoal pencils, compasses for drawing, drawing boards, drawing materials, drawing instruments, drawing sets, pens, drawing pens, fibertip pens, marker pens, marking pens, colouring pens, highlighter pens, felt pens, ballpoint pens, , drawing rulers, drawing squares, drawing T-squares, engraving plates, etching needles, French curves, graining combs, hand-rests for painters, house painters' rollers, lithographic stones, modelling wax, not for dental purposes, modelling materials, modelling paste, apparatus for mounting photographs, paint trays, paintbrushes, painters' brushes, pantographs , papier mache, pastels, photograph stands, plastics for modelling, polymer modelling clay, square rulers, stencil plates, stencils, tracing cloth, vignetting apparatus, Xuan paper for Chinese painting and calligraphy, arts, crafts and modelling equipment, artists' watercolour saucers, artists' watercolour saucers, artists' watercolour saucers, watercolour, saucers for artists, erasing shields, modelling clay, moulds for modelling clays, moulds for modelling clays , painters' easels, palettes for painters, tracing needles for drawing purposes, filtering materials of paper, filter paper, filtering materials , bags and articles for packaging, wrapping and storage of paper, cardboard or plastics, bill organizer box , absorbent sheets of paper or plastic for foodstuff packaging, sandwich bags, bags of paper or plastics, for packaging, bottle envelopes of cardboard or paper, bottle wrappers of cardboard or paper, boxes of cardboard or paper, cardboard tubes, conical paper bags, covers wrappers , cream containers of paper, garbage bags of paper or of plastics, hat boxes of cardboard, humidity control sheets of paper or plastic for foodstuff packaging, packaging material made of starches, packing materials of paper or cardboard, paper ribbons, paper bows, plastic film for wrapping, plastic bubble packs for wrapping or packaging, plastic cling film, extensible, for palletization, sheets of reclaimed cellulose for wrapping, stuffing of paper or cardboard, viscose sheets for wrapping, wrapping paper, packing paper, stationery and educational supplies, adhesive tape dispensers , bookends, bookmarkers, cabinets for stationery , cases for stamps , chalk holders, chart pointers, non-electronic, clipboards, clips for offices, staples for offices, copying paper , correcting tapes , desk mats, document files , document holders , drawing pads, drawing pins, thumbtacks, elastic bands for offices, envelopes , files , finger-stalls , folders for papers, jackets for papers, folders , holders for stamps , index cards , indexes, ink, inking sheets for duplicators, inking sheets for document reproducing machines, labels, not of textile, loose-leaf binders, ledgers, letter trays, manifolds , marking chalk, marking pens , moisteners, note books, office requisites, except furniture, pads , paper clasps, paper for radiograms, paper knives, paper cutters, paper knives , paper-clips, paperweights, pen clips, pen wipers, postcards, school supplies , sealing stamps, sealing wax, sealing compounds for stationery purposes, sealing wafers, seals, shields , stamp stands, stamps , stands for pens and pencils, stationery, steatite , stencil cases, stencils , tags for index cards, luggage identifier, tailors' chalk, tracing patterns, tracing paper, transparencies , trays for sorting and counting money, writing or drawing books, writing materials, writing paper, writing cases , writing and stamping implements, balls for ball-point pens, blotters, fountain pens, ink sticks, ink stones , inking pads, inkstands, inkwells, moisteners for gummed surfaces , nibs, nibs of gold, pen cases, boxes for pens, pencil leads, pencil holders, pencil lead holders, penholders, slate pencils, stamp pads, steel pens, wristbands for the retention of writing instruments, writing chalk, writing cases , writing brushes, writing instruments, correcting and erasing implements, correcting fluids , correcting ink , erasing products, rubber erasers, scrapers for offices, writing board erasers, office machines, address plates for addressing machines, addressing machines, composing frames , credit card imprinters, non-electric, document laminators for office use, duplicators, envelope sealing machines, for offices, franking machines for office use, postage meters for office use, hand labelling appliances, inking ribbons, mimeograph apparatus and machines, numbering apparatus, office perforators, paper shredders for office use, pencil sharpening machines, electric or non-electric, pencil sharpeners, electric or non-electric, punches , rollers for typewriters, sealing machines for offices, spools for inking ribbons, stapling presses , typewriter ribbons, typewriter keys, typewriters, electric or non-electric, printing and bookbinding equipment, binding strips , bookbinding material, bookbinding apparatus and machines , bookbinding chromolithographs, chromos, cloth for bookbinding, bookbinding cloth, composing sticks, cords for bookbinding, bookbinding cords, electrotypes, fabrics for bookbinding, galley racks , hectographs, Indian inks, inking ribbons for computer printers, numbers , obliterating stamps, printers' blankets, not of textile, printers' ringlets, printing blocks, printing type, printing sets, portable , steel letters, type letters, educational equipment, arithmetical tables, calculating tables, biological samples for use in microscopy , blackboards, histological sections for teaching purposes, paint boxes , rosaries, chaplets, teaching materials , terrestrial globes, writing slates, photo albums and collectors' albums, albums, scrapbooks, adhesives for stationery or household purposes, adhesive tapes for stationery or household purposes, adhesive bands for stationery or household purposes, adhesives for stationery or household purposes, glue for stationery or household purposes, pastes for stationery or household purposes, gluten for stationery or household purposes, gummed tape , gummed cloth for stationery purposes, gums for stationery or household purposes, isinglass for stationery or household purposes, self-adhesive tapes for stationery or household purposes, starch paste for stationery or household purposes, address stamps, almanacs, announcement cards , atlases, blueprints, plans, books, ***calendars***, cards, charts, catalogues, cigar bands, comic books, diagrams, embroidery designs , flyers, forms, printed, geographical maps, graphic reproductions, greeting cards, handwriting specimens for copying, holders for check books, musical greeting cards, newsletters, newspapers, passport holders, periodicals, photographs , postage stamps, posters, printed timetables, prints , prospectuses, sewing patterns, stickers , tickets, trading cards other than for games, ***transfers***, decalcomanias, manuals handbooks ,page holders, pamphlets, song books, paper and cardboard, advertisement boards of paper or cardboard, carbon paper, cardboard, electrocardiograph paper, paper, paper for recording machines, paper sheets , luminous paper, paper tapes and cards for the recordal of computer programmes, parchment paper, perforated cards for jacquard looms, signboards of paper or cardboard, silver paper, waxed paper, wood pulp board , wood pulp paper, industrial paper and cardboard, money holders, money clips, disposable paper products, bags for microwave cooking, bibs of paper, coasters of paper, drawer liners of paper, perfumed or not, face towels of paper, flags of paper, flower-pot covers of paper, covers of paper for flower pots, handkerchiefs of paper, mats for beer glasses, paper coffee filters, placards of paper or cardboard, place mats of paper, table linen of paper, table napkins of paper, tablecloths of paper, tablemats of paper, tissues of paper for removing make-up, toilet paper, hygienic paper, towels of paper, rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes, plastics in extruded form for use in manufacture, packing, stopping and insulating materials, flexible pipes, not of metal, flexible pipes, tubes, hoses, and fittings therefor, including valves, non-metallic, canvas hose pipes, clack valves of rubber, compressed air pipe fittings, not of metal, connecting hose for vehicle radiators, flexible tubes, not of metal, hoses of textile material, junctions, not of metal, for pipes, junctions for pipes, not of metal, pipe gaskets, joint packings for pipes, reinforcing materials, not of metal, for pipes, valves of India-rubber or vulcanized fibre, watering hose, garden irrigation watering system easy way to water plants, flexible expandable garden car water hose, aluminium triple telescopic car wash window brush hose, sealants and fillers, asbestos packing, caulking materials, chemical compositions for repairing leaks, cotton wool for packing , cylinder jointing, expansion joint fillers, fillers for expansion joints, gaskets, joint packings, seals, lute, rubber seals for jars, rubber stoppers, sealant compounds for joints, stops of rubber, water-tight rings, stuffing rings, weather-stripping compositions, leather and imitations of leather, and goods made of these materials and not included in other classes, animal skins, hides, trunks and travelling bags, umbrellas and parasols, walking sticks, whips, harness and saddlery, building materials , non-metallic rigid pipes for building, asphalt, pitch and bitumen, non-metallic transportable buildings, monuments, not of metal, furniture, mirrors, picture frames, goods of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, household or kitchen utensils and containers, combs and sponges, brushes , brush-making materials, articles for cleaning purposes, steel wool, unworked or semi-worked glass , glassware, porcelain and earthenware not included in other classes, statues, figurines, plaques and works of art, made of materials such as porcelain, terra-cotta or glass, included in the class, busts of porcelain, ceramic, earthenware or glass, china ornaments, figurines of porcelain, ceramic, earthenware or glass, statuettes of porcelain, ceramic, earthenware or glass, majolica, piggy banks, signboards of porcelain or glass, statues of porcelain, ceramic, earthenware or glass, works of art of porcelain, ceramic, earthenware or glass, unworked and semi-worked glass, not specified for use, enamelled glass, fibreglass other than for insulation or textile use, fiberglass other than for insulation or textile use, fibreglass thread, not for textile use, fiberglass thread, not for textile use, fused silica, other than for building, glass, unworked or semi-worked, except building glass, glass wool other than for insulation, glass incorporating fine electrical conductors, glass for vehicle windows , mosaics of glass, not for building, opal glass, opaline glass, plate glass , powdered glass for decoration, vitreous silica fibres, not for textile use, gardening articles, flower pots, flower-pot covers, not of paper, covers, not of paper, for flower pots, gardening gloves, holders for flowers and plants , indoor terrariums , indoor terrariums , nozzles for watering hose, nozzles for watering cans, roses for watering cans, sprinklers, syringes for watering flowers and plants, sprinklers for watering flowers and plants, vases, watering devices, sprinkling devices, watering cans, window-boxes, brushes and brush-making articles, brooms, brush goods, material for brush-making, brushes, brushes for footwear, extendable telescopic squeegee blade and brush for windows, hand held car glass home window cleaning squeegee, electric brushes, except parts of machines, brushes for cleaning tanks and containers, feather-dusters, acrylic bannister cleaner &#38; duster, duster heads, lamp-glass brushes, nail brushes, pig bristles, scrubbing brushes, tar-brushes, long handled, toilet brushes, tableware, cookware and containers, cake stand, aerosol dispensers, not for medical purposes, autoclaves, non-electric, pressure cookers, non-electric, colander, baking mats, baskets for domestic use, laundry basket, laundry bags, basting spoons , basting brushes, beaters, non-electric, blenders, non-electric, for household purposes, bottles, bowls, washing up bowl, fruit bowl , aluminium casserole pot, basins, boxes of glass, food cover, bread baskets, domestic, bread boards, bread bins, buckets, pails, bulb basters, butter dishes, butter-dish covers, cabarets, microwave caddy, cake moulds , candelabra, candlesticks, candle rings, candle extinguishers, candle jars , candy boxes, boxes for sweetmeats, cauldrons, ceramics for household purposes, cheese-dish covers, chopsticks, closures for pot lids, coasters, not of paper and other than table linen, coffee grinders, hand-operated, coffee services , coffee filters, non-electric, coffee percolators, non-electric, coffeepots, non-electric, confectioners' decorating bags , containers for household or kitchen use, cookery moulds, cookie cutters, cookie jars, cooking pot sets, cooking skewers of metal, cooking pins of metal, cooking pots, cooking utensils, non-electric, cruet sets for oil and vinegar, cruets, crushers for kitchen use, non-electric, crystal , cups, cups of paper or plastic, cutting boards for the kitchen, deep fryers, non-electric, demijohns, carboys, dish covers, covers for dishes, dishes, disposable table plates, dripping pans, earthenware, crockery, earthenware saucepans, egg cups, epergnes, flasks, food steamers, non-electric, fruit cups, fruit presses, non-electric, for household purposes, frying pans, funnels, garlic presses , glass bulbs, glass vials , glass flasks , glass jars , glass stoppers, glass caps, glass bowls, glasses , glue-pots, graters for kitchen use, 3 piece multi grater with storage container &#38; lid capacity, grill supports, gridiron supports, grills, griddles , heat-insulated containers for beverages, heat-insulated containers, heaters for feeding bottles, non-electric, hot pots, not electrically heated, ice cube moulds, insulating flasks, vacuum bottles, isothermic bags, kettles, non-electric, kitchen grinders, non-electric, kitchen containers, kitchen utensils, knife rests for the table, lazy-susans, lunch boxes; retail services in relation to menu card holders, mess-tins, mills for domestic purposes, hand-operated, mixing spoons, moulds , mugs, napkin rings, napkin holders, noodle machines, hand-operated, oven mitts, long oven glove mitt easy grip, barbecue mitts, kitchen mitts, painted glassware, paper plates, pastry cutters, pepper mills, hand-operated, pepper pots, fitted picnic baskets, including dishes, pie servers, tart scoops, plates to prevent milk boiling over, porcelain ware, non-electric portable cold boxes, non-electric portable coolers, pot lids, potholders, pots, tea pots, pottery.

Class 38 : Telecommunication services; online communication services; provision of online forums; provision of forums for social networking; ***transfer*** of information and data via online services and the Internet; push ***notifications*** and instant messaging; provision of online chatrooms for the transmission of messages, comments and multimedia; chat room services for social networking. Class 42 : IT services; software programming services; medical research; industrial analysis services; providing online, non-downloadable content; interactive hosting services which allow users to publish their own content and images online. The original document can be viewed at: [*http://www.ipo.gov.uk/cgi-bin/redirect.cgi?type=tmj&#38;link=6&#38;param1=UK00003381756*](http://www.ipo.gov.uk/cgi-bin/redirect.cgi?type=tmj&#38;link=6&#38;param1=UK00003381756) For any query with respect to this article or any other content requirement, please contact Editor at [*contentservices@htlive.com*](mailto:contentservices@htlive.com)

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**End of Document**



[***Modifications to Fuel Regulations: Provide Flexibility for E15; Modifications to RFS RIN Market Regulations***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5THF-77K1-F0YC-N31W-00000-00&context=1516831)

Impact News Service

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**Length:** 50739 words

**Body**

Washington, DC: This Proposed Rule document was issued by the Environmental Protection Agency (EPA)

Action

Proposed rule.Summary

The Environmental Protection Agency (EPA) is proposing regulatory changes to allow gasoline blended with up to 15 percent ethanol to take advantage of the 1-pound per square inch (psi) Reid Vapor Pressure (RVP) waiver that currently applies to E10 during the summer months. EPA is also proposing an interpretive rulemaking which defines gasoline blended with up to 15 percent ethanol as “substantially similar” to the fuel used to certify Tier 3 motor vehicles. Finally, EPA is proposing regulatory changes to modify certain elements of the Renewable Fuel Standard (RFS) compliance system, in order to improve functioning of the renewable identification number (RIN) market and prevent market manipulation.Dates

Comments must be received on or before April 29, 2019. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before April 22, 2019.

Public Hearing. EPA will announce the public hearing date and location for this proposal in a supplemental Federal Register document.Addresses

You may send your comments, identified by Docket ID No. EPA-HQ-OAR-2018-0775, by any of the following methods:

Federal eRulemaking Portal: [*http://www.regulations.gov*](http://www.regulations.gov) (our preferred method) Follow the online instructions for submitting comments. Mail: U.S Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Hand Delivery/Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m -4:30 p.m , Monday-Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to [*https://www.regulations.gov*](https://www.regulations.gov), including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.For Further Information Contact

Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4131; email address: [*macallister.julia@epa.gov*](mailto:macallister.julia@epa.gov) Supplementary Information

Potentially Affected Entities. Entities potentially affected by this proposed rule include those involved with the production, importation, distribution, marketing, and retailing of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol, biodiesel, renewable diesel, and biogas. Potentially affected categories include:Category NAICS 1 codes SIC 2 codes Examples of potentially affected entitiesIndustry 324110 2911 Petroleum refineries.Industry 325193 2869 Ethyl alcohol manufacturing.Industry 325199 2869 Other basic organic chemical manufacturing.Industry 424690 5169 Chemical and allied products merchant wholesalers.Industry 424710 5171 Petroleum bulk stations and terminals.Industry 424720 5172 Petroleum and petroleum products merchant wholesalers.Industry 454319 5989 Gasoline service stations.Industry 447190 5541 Marine service stations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. This table lists the types of entities that EPA is now aware could potentially be affected by this proposed action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this proposed action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the FOR FURTHER INFORMATION CONTACT section.

Public Participation. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2018-0775, at [*https://www.regulations.gov*](https://www.regulations.gov) (our preferred method), or the other methods identified in the ADDRESSES section. Once submitted, comments cannot be edited or removed from the docket. 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   [*https://www.epa.gov/dockets/commenting-epa-dockets.Outline*](https://www.epa.gov/dockets/commenting-epa-dockets.Outline) of This Preamble

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J. National Technology ***Transfer*** and Advancement Act (NTTAA)

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

V. Statutory AuthorityI. Executive SummaryA. Purpose of This Action

The objectives of this action are twofold. First, this rulemaking will take steps intended to create parity in the way the RVP of both E10 and E15 fuels is treated under EPA regulations. Second, this action proposes reforms to RIN regulations intended to increase transparency and deter potential manipulative and other anti-competitive behaviors in the RIN market.B. Summary of the Major Provisions of This Action1. E15 RVP

We are proposing to adjust the volatility requirements for E15 during the summer season or the period of May 1 through September 15. (1 2) The changed volatility requirements for these blends will allow E15 to receive the benefit of the provision at CAA sec. 211(h)(4), commonly referred to as “the 1-psi waiver.” The 1-psi waiver allows gasoline-ethanol blends to have a higher RVP (3) than would be allowed under CAA sec. 211(h)(1) and the corresponding volatility regulations, which prohibit the RVP of gasoline from exceeding 9.0 psi during the summer. (4) Currently, only blends of ethanol and gasoline containing at least 9 percent and no more than 10 percent ethanol by volume (E10) are granted the 1-psi waiver. (5)

EPA is proposing several steps to accomplish this change. First, we are proposing to modify our interpretation of CAA sec. 211(h)(4). Second, we are proposing a regulation that would effect two changes: (1) Remove limitations in our regulations that were put in place in keeping with the prior interpretation of CAA sec. 211(h)(4) on the volatility of E15 promulgated in the E15 Misfueling Mitigation Rule (“MMR”); (6) and (2) modify the associated product ***transfer*** document (PTD) requirements also promulgated in the MMR. Third, we are proposing to clarify our interpretation of CAA sec. 211(f), making it clear that the conditions on the CAA sec. 211(f)(4) waivers granted to E15 in 2010 and 2011 do not restrict the application of the 1-psi waiver to downstream oxygenate blenders in most circumstances.

As a result of this action, parties would be able to make and distribute E15 made with the same conventional blendstock for oxygenate blending (CBOB) (7) that is used to make E10 by oxygenate blenders during the summer. (8) E15 would then be held to the same gasoline volatility standards that currently apply to E10, maintaining substantially the same level of emissions performance as E10 since E15 made from the same CBOB during the summer would have slightly lower RVP than E10 and would be expected to have similar emissions performance as discussed in Sections II.C and II.E

As discussed in Section II.C, we are also proposing a “substantially similar” (sub sim) interpretative rulemaking for gasoline. (9) We are proposing two alternative sub sim interpretations. We are proposing that E15 with an RVP of 10.0 psi is sub sim to fuel used to certify Tier 3 light duty vehicles (i.e , E10 with an RVP of 9.0 psi). We are also proposing and seeking comment on an alternative interpretation that E15 with an RVP of 9.0 psi is sub sim to fuel used to certify Tier 3 light duty vehicles. Either of these sub sim interpretations would enable E15 to be lawfully blended from the same gasoline blendstock (i.e , CBOB) that is used to make E10 during the summer by all fuel manufacturers (in addition to oxygenate blenders who would be able to do so without a new sub sim interpretative rulemaking).2. RIN Market Reform

EPA takes claims of RIN market manipulation seriously and although we have yet to see data-based evidence of such behavior, the potential for manipulation is a concern. Accordingly, we are proposing the four reforms outlined in President Trump's October 11, 2018 statement (10) and are requesting comments on additional steps we can take to identify and prevent RIN market manipulation. Specifically, we are proposing and seeking comment on the following RIN market reforms outlined by the President, as well as some additional items identified by EPA:

Requiring public disclosure when RIN holdings held by an individual actor exceed specified limits. Requiring the retirement of RINs for the purpose of compliance be made in real time. Prohibiting entities other than obligated parties from purchasing separated RINs. Limiting the length of time a non-obligated party can hold RINs.

For the first reform, we are proposing to set two RIN holding thresholds that would work in tandem to prevent potential accumulation of market power. These thresholds would apply to holdings of separated D6 RINs only. (11) The first threshold would be triggered if a party's end-of-day separated D6 RIN holdings exceeded three percent of the total implied conventional biofuel volume requirement. An obligated party that triggered the first threshold would then apply a second threshold by comparing its end-of-day separated D6 RIN holdings with 130 percent of its individual implied conventional renewable volume obligation (RVO). We are proposing that parties make daily calculations and make a yes/no certification statement to EPA in a quarterly report and that we would publish on our website the names of any parties that reported exceeding the thresholds. We seek comment on whether exceeding the thresholds should be considered a prohibited act. We are also proposing that the RIN holdings of corporate affiliates be included in a party's calculations to determine if they trigger a threshold.

For the second reform, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year, calculated by an obligated party as its gasoline and diesel production and import volume through the end of the quarter multiplied by the current year renewable fuel standard. We propose to discount the requirement to 80 percent of the calculated volume to provide necessary flexibility. Obligated parties would submit reports to EPA 60 days after the end of the quarter to demonstrate compliance with these requirements and could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance, including the two-year RIN life, the annual deficit carryover, or the 20 percent carryover provisions. We propose that an obligated party that fell short of its quarterly RIN retirement requirement in the current year would not be able to incur a deficit in its next year annual RVO.

For the third reform, we are proposing that only obligated parties, exporters, and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed restriction if they were a corporate or contractual affiliate to an obligated party. This would include blenders who could demonstrate that they had contracts to deliver separated RINs to an obligated party for the purpose of compliance. Non-obligated parties that need to replace invalid RINs would also be exempt from this proposed provision.

For the fourth reform, we are proposing a limit on the duration that a non-obligated party could hold separated D6 RINs. Specifically, we are proposing that a non-obligated party would be required to sell or retire as many RINs as it obtained in a quarter. We are proposing that parties would make a yes/no certification statement to EPA about its compliance with this limit in a quarterly report and that auditors would confirm this statement in the annual attest engagement.

Lastly, we outline our consideration of taking additional steps beyond those listed in the President's directive to enhance our market monitoring capabilities. We propose that auditors would include in their attest engagements to EPA a full list of a party's affiliates, including affiliates not registered with the RFS program. To improve our abilities to analyze and publish RIN price data, we propose that parties would follow certain conventions when reporting RIN prices to EPA and that they would report whether the RIN transaction was on the spot market or as the result of a term contract. We also explain that we plan to update business rules in EMTS to require that both parties in a RIN transaction enter the same RIN price. Finally, we discuss the possibility of employing a third-party market monitor to conduct analysis of the RIN market, including screening for potential anti-competitive behavior.II. Extension of the 1-psi Waiver to E15

In this action, we are proposing to adjust the volatility requirements for E15 during the summer season based on a revised interpretation of CAA sec. 211(h)(4). The changed volatility requirements for these blends will allow E15 to receive the benefit of the 1-psi waiver. The 1-psi waiver, at CAA sec. 211(h)(4), allows gasoline-ethanol blends to have a higher RVP than would be allowed under CAA sec. 211(h)(1) and the corresponding volatility regulations that prohibit the RVP of gasoline from exceeding 9.0 psi during the summer. Currently, EPA regulations only grant the 1-psi waiver to blends of ethanol and gasoline containing at least 9 percent and no more than 10 percent ethanol by volume. The proposed interpretation in this action is in response to the increased presence of E15 in the gasoline marketplace, and the conditions that led us to provide the original 1-psi waiver for E10 in 1990 are equally applicable to E15 today.

The volatility of E15 is also limited by CAA sec. 211(f). CAA sec. 211(f) prohibits the introduction into commerce of fuels and fuel additives unless they are substantially similar to fuels utilized in the certification of motor vehicles, or receive a waiver from the sub sim requirement in accordance with CAA sec. 211(f)(4). E15 currently has a sub sim waiver, and the waiver conditions put in place for E15 set the maximum RVP level at 9.0 psi. In order to allow E15 to receive the 1-psi waiver under CAA sec. 211(h)(4) and introduce E15 at the higher RVP level into commerce, we must address the statutory provisions under both CAA sec. 211(f) and (h).

EPA is proposing several steps to accomplish this change. First, we are proposing to modify our interpretation of CAA sec. 211(h)(4). Under this new interpretation, ethanol blends containing at least 10 percent ethanol would receive the 1-psi waiver, including E15. To effectuate this change, we are proposing the following changes to EPA's fuels regulations: (1) Remove limitations in our regulations that were put in place in keeping with the prior interpretation of CAA sec. 211(h)(4) on the volatility of E15 promulgated in 40 CFR 80.27 and the MMR (i.e , 40 CFR part 80, subpart N); and (2) modify the associated PTD requirements promulgated in the MMR.

After application of the CAA sec. 211(h)(4) waiver, we must then ensure that E15 with an RVP of 10 psi can be introduced into commerce. Therefore, as a second step, in order to allow the introduction into commerce of E15 at 10.0 RVP in the summer under CAA sec. 211(f), we are co-proposing two potential mechanisms. The first mechanism clarifies our interpretation of CAA sec. 211(f), making it clear that the conditions on the CAA sec. 211(f)(4) waivers granted to E15 in 2010 and 2011 do not restrict the application of the CAA sec. 211(h)(4) 1-psi waiver to downstream oxygenate blenders, as explained in more detail later in this notice. We are co-proposing a second mechanism that would find that E15 is substantially similar to the E10 fuel utilized to certify Tier 3 light-duty vehicles, thus allowing E15 similar treatment to E10 with respect to RVP.

The following subsections provide further details on how we will accomplish this change, as well as impacts on emissions and the economy.A. Background1. Background of E10 and E15 CAA Sec. 211(f)(4) Waivers

CAA sec. 211(f)(1) makes it unlawful for any manufacturer of any fuel or fuel additive (“fuel or fuel additive manufacturer”) to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year (MY) 1974, which is not substantially similar (commonly referred to as “sub sim”) to any fuel or fuel additive used in the certification of any MY1975, or subsequent model year, vehicle or engine under CAA sec. 206. Fuels that are not sub sim to a fuel used in certification cannot be introduced into commerce unless EPA has granted a waiver under CAA sec. 211(f)(4). CAA sec. 211(f)(4) provides that upon application of any fuel or fuel additive manufacturer, the Administrator may waive the prohibitions of CAA sec. 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive, or a specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards to which it has been certified pursuant to CAA sec. 206 and 213(a).

In 1978, a waiver application was submitted for gasoline containing ethanol at 10 percent by volume (E10). EPA did not act to grant or deny the petition for a waiver for E10, and consequently, under the statutory scheme as it existed at that time, the waiver was deemed granted by operation of law. (12) Thus, E10 was granted a waiver under CAA sec. 211(f)(4) without any conditions, in contrast to prior CAA sec. 211(f)(4) waivers, which included, for example, conditions on RVP. (13)

For E15, EPA granted partial waivers under CAA sec. 211(f)(4) in 2010 and 2011. (14) Specifically, on October 13, 2010, EPA approved a partial waiver request to allow the introduction of E15 into commerce for use in MY2007 and newer light-duty motor vehicles subject to certain waiver conditions. (15) Subsequently, on January 21, 2011, EPA extended this partial waiver to include MY2001-2006 light-duty motor vehicles after receiving and analyzing additional U.S Department of Energy (“DOE”) test data and finding that E15 will not cause or contribute to a failure to achieve compliance with the emissions standards to which these vehicles were certified over their useful lives. (16) EPA also denied the waiver request for MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and nonroad engines, vehicles, and equipment. This denial was based on EPA's engineering judgement that E15 could adversely affect the emissions and emissions controls of vehicles, engines, and equipment not covered by the partial waivers and that the applicants had not provided sufficient data or other information to demonstrate that E15 would not cause or contribute to a failure to achieve compliance with the emissions standards to which these vehicles, engines, and equipment were certified over their full useful lives, as required by CAA sec. 211(f)(4).

In the October 2010 waiver, for MY2007 and newer motor vehicles, EPA also concluded that the data and information show that E15 will not lead to violations of evaporative emissions standards, so long as the fuel does not exceed an RVP of 9.0 psi in the summer. (17) Subsequently, in the January 2011 waiver, EPA imposed identical waiver conditions for MY2001-2006 motor vehicles, including the requirement that the fuel not exceed an RVP of 9.0 psi in the summer, based on the same conclusion. (18)

Taken together, these partial waivers permitted E15 to be used in MY2001 and newer light-duty motor vehicles subject to particular waiver conditions, including fuel quality conditions and conditions on the sale and use of E15. These waiver conditions included the prohibition on the use of E15 in pre-MY2001 motor vehicles, in addition to heavy-duty gasoline engines or vehicles, or motorcycles, as well as any nonroad engines or nonroad vehicles. The waiver conditions also placed limitations on the ethanol that can be added (both the concentration and quality), (19) as well as a condition that the RVP of the final fuel not exceed 9.0 psi. (20) The waiver conditions also require fuel and fuel additive manufacturers to submit a misfueling mitigation plan describing all reasonable precautions for ensuring E15 is only used in MY2001 and newer motor vehicles, as described in the waiver conditions. (21) EPA is not proposing to revise the E15 partial waivers under CAA sec. 211(f)(4), and is therefore not soliciting comments on the waiver itself or any of its conditions.

To help facilitate the implementation of the waiver conditions and place requirements on parties other than fuel and fuel additive manufacturers, EPA promulgated the E15 Misfueling Mitigation Rule (MMR) in 2011, under CAA sec. 211(c), subsequent to the E15 partial waiver decisions. (22) The E15 MMR imposed fuel dispenser labeling, PTD, and compliance survey requirements on parties that make and distribute E15. The E15 MMR also promulgated EPA's interpretation of the applicability of the 1-psi waiver in CAA sec. 211(h)(4) to E15 and certain regulations designed to effectuate that interpretation. (23) In this action, EPA is proposing to revise the interpretation of CAA sec. 211(h)(4) articulated in the MMR and the regulations adopted to implement that interpretation.2. Background on CAA Sec. 211(h)

To properly understand this proposed action, it is important to review the history of EPA's volatility controls both leading up to and after the enactment of CAA sec. 211(h). Congress enacted CAA sec. 211(h) as part of the CAA Amendments of 1990 to address the volatility of gasoline. Congress did so in the context of EPA's prior regulatory actions, under CAA sec. 211(c), which aimed to control the RVP of gasoline. EPA has historically viewed Congress's enactment of 211(h), therefore, as a codification of EPA's regulatory actions with regard to RVP up to that point. (24) Accordingly, CAA sec. 211(h)(1) prohibits the sale of gasoline with an RVP in excess of 9.0 psi during the high ozone season while CAA sec. 211(h)(2) allows EPA to promulgate more stringent RVP requirements for nonattainment areas. CAA sec. 211(h)(4) further provides a 1.0 psi RVP allowance for “fuel blends containing gasoline and 10 percent” ethanol and recognizes the existence of the CAA sec. 211(f)(4) waiver for E10—the only ethanol blend which had received such a waiver at that time—in the “deemed to comply” provisions contained in CAA sec. 211(h)(4)(A-C).a. Pre-Enactment Volatility Regulations

In 1987, prior to the 1990 CAA amendments, EPA for the first time proposed limitations on the volatility of gasoline under CAA sec. 211(c), which provides EPA with general authority to regulate fuels and fuel additives. These limitations on gasoline volatility were put into place to address evaporative emissions from gasoline-fueled vehicles due to their contribution to ozone formation. The volatility of gasoline had begun rising significantly in the years preceding EPA's action, due to vehicle design becoming more tolerant of higher RVP through fuel injected engines, as well as strong economic incentive to add butane (25) to fuel due to favorable blending economics. (26) This lead to very high evaporative volatile organic compound (VOC) emissions from the in-use fleet of gasoline vehicles. EPA believed that matching the volatility of certification fuel to the volatility of in-use fuel would reduce evaporative emissions, and would help ensure vehicle were designed to handle in-use conditions. In particular, limiting the volatility of gasoline to 9.0 psi RVP, which is the level in the E0 gasoline on which vehicles were certified under CAA sec. 206 at that time, would reduce emissions from all gasoline-related sources, and enable additional VOC emission reductions. (27)

At the time of the 1987 proposal, some parties had begun the practice of adding ethanol to gasoline after the refinery process has been completed to make what was then known as “gasohol.” (28) This practice was known as “splash blending” ethanol into gasoline and generally took place at downstream terminals. At the time, gasohol also had a tax credit because Congress intended to encourage the use of ethanol as a means of reducing dependence on foreign oil and making use of excess ***agricultural*** production. (29) Adding 10 percent ethanol to gasoline, however, causes roughly a 1.0 psi RVP increase in the blend's volatility. (30) At the time, due to the limited amount of ethanol blended into gasoline, almost no low-RVP gasoline was available into which 10 percent ethanol could be splash-blended without the gasoline-ethanol blended fuel exceeding the proposed RVP limit. Unlike E15, because gasohol was given a CAA sec. 211(f)(4) waiver by operation of law, no volatility controls had previously been placed on it. Thus, even though the CAA sec. 211(f)(4) waiver allowed E10 to be lawfully introduced into commerce, the lowered RVP standards had the potential to shut down the nascent ethanol blending industry.

To address this potential hurdle to continued ethanol blending, EPA proposed interim regulations for gasohol that allowed it to be 1.0 psi RVP higher than otherwise required for gasoline. (31) This is referred to as the 1-psi waiver. (32) As a result, 10 percent ethanol could be blended at downstream terminals into the gasoline that refineries had already produced. The agency, therefore, designed the 1-psi waiver as a means of accommodating the CAA sec. 211(f)(4) waiver that was then applicable to E10 and to address public policy concerns, such as reducing dependence on foreign oil and making use of excess ***agricultural*** production, as referenced above. The Agency proposed that the 1-psi waiver be conditioned on sampling and testing the final blend of gasoline and ethanol for RVP by all regulated parties, including downstream blenders, that elected to use the waiver. (33)

In 1989, EPA finalized regulations that imposed limits on the volatility of gasoline and ethanol blends as “Phase I” of a two-phase regulation under CAA sec. 211(c), which is EPA's general authority to regulate fuels and fuel additives. EPA's regulation established a maximum RVP limit of 10.5 psi for gasoline sold during the high ozone season. (34) In that action, EPA also provided a RVP allowance “for gasoline-ethanol blends commonly known as gasohol” that was 1.0 psi higher than for gasoline. (35) This was finalized as an interim measure with the intent to revisit the issue in “Phase II” of the volatility regulations. (36)

EPA's final regulations in that action provided that in order to receive the 1-psi waiver, “gasoline must contain at least 9% ethanol (by volume),” and that “the ethanol content of gasoline shall be determined by use of one of the testing methodologies specified in Appendix F to this part.” The regulations also provided that “the maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under section 211(f)(4) of the Clean Air Act.” (37)

In that action, EPA did not place limits on the upper bound of the ethanol content, other than by providing, as quoted above, that the ethanol content shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4) (and thereby implicitly incorporating any upper-bound limit imposed as a condition on any future applicable waiver). At the time, the highest permissible ethanol content under a CAA sec. 211(f)(4) waiver was 10 percent ethanol, and thus, this provision could only apply to blends containing 9-10 percent ethanol. In other words, EPA designed the 1-psi waiver to allow for the continued lawful introduction into commerce of E10 and, the Phase I RVP regulatory language would have automatically accommodated future increases in allowable ethanol concentration in gasoline under a CAA sec. 211(f)(4) waiver.

In June 1990, in “Phase II” of the volatility regulations, EPA established a maximum RVP limit of 9.0 psi. The regulations also established an RVP limit of 7.8 psi for gasoline sold during the high ozone season in both ozone attainment and nonattainment areas in the southern states of the country. EPA further maintained the 1 psi RVP allowance for blends of 10 percent ethanol and gasoline and did not modify the regulations at 40 CFR 80.27(d). (38) Thus, both the language stating that the gasoline must contain at least 9 percent ethanol, and the language stating that the maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4), remained in the regulations. (39) In doing so the agency reiterated that this was in recognition of the importance of ethanol to the nation's energy security as well as the ***agricultural*** economy sector. The agency also addressed air quality impacts of allowing the 1-psi waiver given that a higher RVP limit for blends of 10 percent ethanol and gasoline would result in increased evaporative VOC emissions. It “reflects the moderation in EPA's concern about negative air quality impact as well as a reluctance to threaten the motor fuel ethanol production and blending industries with collapse.” (40)b. Enactment of CAA Sec. 211(h)

In November 1990, Congress enacted the CAA Amendments of 1990, including CAA sec. 211(h), which provided the first statutory provisions specifically addressing RVP. CAA sec. 211(h)(1) required EPA “to promulgate regulations making it unlawful . . . during the high ozone season to sell . . . or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch.” Further in CAA sec. 211(h)(4), Congress, following EPA's lead in the 1989 and 1990 volatility regulations, also allowed fuel blends containing gasoline and 10 percent ethanol to have 1 psi higher RVP than the RVP standard otherwise established in CAA sec. 211(h)(1). CAA sec. 211(h)(4) provides the following:

(4) Ethanol waiver. For fuel blends containing gasoline and 10 percent denatured anhydrous ethanol, the Reid vapor pressure limitation under this subsection shall be one pound per square inch (psi) greater than the applicable Reid vapor pressure limitations established under paragraph (1).

According to legislative history, “[t]his provision was included in recognition that gasoline and ethanol are mixed after the refining process has been completed. It was recognized that to require ethanol to meet a nine pound RVP would require the creation of a production and distribution network for sub-nine pound RVP gasoline. The cost of producing and distributing type of fuel would be prohibitive to the petroleum industry and would likely result in the termination of the availability of ethanol in the marketplace.” (41) EPA has interpreted CAA sec. 211(h) as largely a codification of our prior RVP regulations. (42) Relevant legislative history also indicates that Congress based the 1.0 psi waiver on technical data showing that blending gasoline with 9-10 percent ethanol would result in an approximate 1 psi RVP increase for the final gasoline-ethanol blend. Hearing testimony provides that “[t]he certainty of physical chemistry provides the assurance the addition of 10 percent ethanol to the base gasoline will not exceed 1.0 psi RVP. . . . [A]nd the Clean Air Act itself which prohibits addition of more than 10 percent ethanol, alleviates any concern that the addition of ethanol to gasoline will result in different volatility levels than already recognized by EPA as adding less than 1.0 psi RVP to gasoline.” (43)

Further, Congress also enacted a conditional defense against liability for violations of the RVP level allowed under the 1-psi waiver by stating:

[p]rovided; however, that a distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder if it can demonstrate that—(A) The gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection; (B) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section; and (C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of this blend. CAA sec. 211(h)(4).

This is referred to as the “deemed to comply” provision, or the alternative compliance mechanism for the 1-psi waiver. It is considered a statutorily mandated defense that allows regulated parties such as downstream oxygenate blenders to demonstrate compliance with the relaxed RVP standard instead of complying with the testing provisions in 40 CFR 80.27(d)(2) (1987). It also reflects Congressional response to EPA's proposed compliance testing provisions for the 1-psi waiver in the 1987 proposed rulemaking, which they viewed as complicated and burdensome; “the enforcement strategy recently proposed by the Agency . . . would be totally unworkable for those motor vehicle fuels which are a blend of gasoline and ethanol and which are allowed a higher RVP limit under the reported bill.” (44)c. Implementation of CAA Sec. 211(h)(4)

Subsequent to Congress's enactment of CAA sec. 211(h)(4), EPA modified these regulations to more explicitly align with the new statutory provisions, but “did not propos[e] any change to the current requirement that the blend contain between 9 and 10 percent ethanol (by volume) to obtain the one psi allowance.” (45) However, EPA did modify its regulations at 40 CFR 80.27 to clarify that “gasoline must contain denatured, anhydrous ethanol,” and that “[t]he concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline” (where, as quoted above, the previous version of the regulations provided that gasoline “must contain at least 9% ethanol” to qualify for the 1-psi RVP waiver). We read both the statutory 1-psi waiver provision and the “deemed to comply” provision in CAA sec. 211(h)(4) together to limit the volume concentration of ethanol to between 9 and 10 percent, as only blends of gasoline and up to 10 percent ethanol had a waiver under CAA sec. 211(f)(4) at the time EPA promulgated the RVP requirements. (46) We further stated that “this is consistent with Congressional intent [because] the nature of the blending process . . . further complicates a requirement that the ethanol portion of the blend be exactly 10 percent ethanol.” (47) For these reasons, the 1-psi waiver reflected Congressional recognition of the existing CAA sec. 211(f)(4) waiver for E10; Congress intended that the 1-psi waiver from the 9.0 psi RVP requirement in CAA sec. 211(h)(1) would allow for E10's continued lawful introduction into commerce. (48)

In issuing implementing regulations at 40 CFR 80.28(g)(8) related to the “deemed to comply” provision in CAA sec. 211(h)(4), EPA allowed parties to demonstrate a defense against liability by making the showings provided in CAA sec. 211(h)(4), stating that “EPA believes this defense is limited to ethanol blends which meet the minimum 9 percent requirement in the regulations and the maximum 10 percent requirement in the waivers under section 211(f)(4).” (49) In doing so, EPA explicitly specified its applicability to E10. (“The ethanol portion of the blend does not exceed 10 percent (by volume)” as compared to CAA sec. 211(h)(4), which merely references the CAA sec. 211(f)(4) waiver. (“[T]he ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section”)). We also stated that the deemed to comply provision was a “new defense against liability for violation of the ethanol blend RVP requirement [and that] EPA believes that this statutorily mandated defense is in addition to and does not supersede any of the defenses currently contained in the regulations.” (50) We further explained that the provision would allow “a party to demonstrate the elements of the new defense by production of a certification from the facility from which the gasoline is received.” (51) EPA also issued regulations for additional defenses against liability at 40 CFR 80.28(g)(1-7).d. Enactment of CAA sec. 211(h)(5)

As part of the Energy Policy Act of 2005 (“EPAct”), Public Law 109-58 (2005), Congress added CAA sec. 211(h)(5), which provides:

Upon ***notification***, accompanied by supporting documentation, from the Governor of a State that the RVP limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the RVP limitation established by paragraph (4), the RVP limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol [sold] in the area during the high ozone season.

EPA also read this provision as consistent with the statutory scheme of CAA sec. 211(h) to apply to blends of gasoline and 9-10 percent ethanol produced by downstream oxygenate blenders. At the time CAA sec. 211(h)(4) and 211(h)(5) were enacted, the language “the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4)” could only refer to an ethanol portion of up to 10 percent, because only blends of gasoline and up to 10 percent ethanol had received a waiver under CAA sec. 211(f)(4).B. Proposed Interpretation of CAA Sec. 211(h)(4)

In this action, we are proposing to interpret CAA sec. 211(h)(4) recognizing the changed gasoline marketplace since the Agency last issued implementing RVP regulations in 1990, in a manner that is consistent with the text of the provision, its context within CAA sec. 211(h), and Congressional intent. The presence of E15 in the marketplace has increased since EPA interpreted CAA sec. 211(h)(4) in the MMR from zero retail stations to over 1,300 retail stations. (52) In addition to granting partial waivers for E15, we have also promulgated the Tier 3 Motor Vehicle Emissions and Fuel Standards Rule, which changed the ethanol content of the vehicle certification test fuel from “indolene” (gasoline without any added ethanol at 9.0 psi RVP), to E10 at 9.0 psi RVP for the certification of all Tier 3 light-duty and chassis-certified heavy-duty gasoline vehicles. (53) This change reflected the near complete transition of the in-use gasoline supply to E10 in the years following the passage of EPAct and the Energy Independence and Security Act (“EISA”) and the implementation of the Renewable Fuel Standard program at CAA sec. 211(o). (54) E15 has now entered the marketplace, but the current limitation of the applicability of the 1-psi waiver to only E10 is one of several hurdles to the continued entry of E15 into the marketplace. (55) The same market limitation that prompted EPA to provide the 1-psi waiver for E10 in 1989 currently exists for E15. Namely, in much of the U.S , there is very little low-RVP CBOB being produced and made available into which 15 percent ethanol could be blended while still meeting the 9.0 psi RVP standard for gasoline during the high ozone season. (56) As a result, parties that might otherwise consider making and distributing E15 may choose not to, given the difficulty in obtaining CBOB that when blended to produce E15 would meet the 9.0 psi RVP during the summer. If we extend the 1-psi waiver, 15 percent ethanol could be blended using the same CBOBs currently being distributed for use with 10 percent ethanol, year-round. (57) Today's proposal, therefore, is a response to changed circumstances since the Agency's promulgation of RVP regulations in 1990, which pre-dates EPAct in 2005 and EISA in 2007. Further, because blending 15 volume percent ethanol into gasoline would result in an approximate 1.0 psi RVP increase, similar to E10, the resultant RVP for any gasoline-ethanol blended fuel would be no higher than the RVP standard plus the 1-psi waiver, which is currently 10.0 psi for a gasoline-ethanol blended fuel containing 10 percent ethanol. (58) This proposed interpretation is consistent with the plain language of CAA sec. 211(h) and with Congress' intent to promote ethanol blending into gasoline, and is not expected to cause significant increases in emissions as compared to E10 as discussed in Section II.E 1. Proposed Interpretation

In the MMR, we interpreted CAA sec. 211(h)(4) as providing a 1-psi waiver for fuel blends of gasoline and at least 9 volume percent ethanol and not more than 10 volume percent ethanol. As previously explained, this interpretation was premised on a reading of regulations and statutory provisions that reflected the highest available ethanol content in the gasoline marketplace at the time of the 1990 amendments. Due to changes in the gasoline marketplace, including the increased presence of gasoline ethanol blends of up to 15 percent ethanol, we propose to construe CAA sec. 211(h)(4) as specifying the minimum ethanol content that fuel blends containing ethanol and gasoline must contain in order to qualify for the 1-psi waiver. We are proposing a new interpretation of this statutory provision under which the 1-psi waiver would apply to gasoline containing at least 10 percent ethanol. In conjunction with CAA sec. 211(f), this would then allow the 1-psi waiver for any ethanol blend that has received a CAA sec. 211(f)(4) waiver, which at present are blends up to 15 percent ethanol, based on EPA's prior issuance of partial waivers under CAA sec. 211(f)(4) for E15.

It is well settled that EPA has inherent authority to reconsider, revise, or repeal past decisions to the extent permitted by law so long as we provide a reasoned explanation. This authority exists in part because EPA's interpretations of the statutes we administer “are not carved in stone.” (59) An agency “must consider varying interpretations and the wisdom of its policy on a continuing basis.” (60) This is true when, as is the case here, review is undertaken “in response to changed factual circumstances or a change in administration.” (61) EPA must also be cognizant where we are changing a prior position that the revised position is permissible under the statute and must articulate a reasoned basis for the change. (62) This proposal reflects changed circumstances that have arisen since we issued the partial waivers for E15 in 2010 and 2011.

The term “containing” as used in CAA sec. 211(h)(4) in the phrase “fuel blends containing gasoline and 10 percent denatured anhydrous ethanol” is ambiguous. We interpret this language as establishing a lower limit, or floor, on the minimum ethanol content for a 1-psi waiver from the volatility requirements expressed in CAA sec. 211(h)(1), rather than an upper limit on the ethanol content. We can look to the use of the term “containing” in its ordinary sense. “Containing” is defined as “to have within: hold.” (63) Under this interpretation, the statute sets the minimum ethanol content, such that all fuels which contain at least 10 percent ethanol may receive the 1-psi waiver, including blends that contain more than 10 percent ethanol. (64) Therefore, E15, which has within it 10 percent denatured anhydrous ethanol, meets this definition, and should receive the 1-psi waiver specified in CAA sec. 211(h)(4). (65)

We also acknowledge that Congress can legislate and thus could have used terms that connote a minimum ethanol content, such as the language employed in CAA sec. 211(m)(2) (“not less than 2.7 percent”). (66) But Congress also used terms connoting a maximum ethanol content, such as in CAA sec. 211(k)(3) (“shall not exceed 1.0 percent”). (67) Even more specifically, in CAA sec. 211(h)(1) Congress instructed EPA to promulgate regulations prohibiting the introduction into commerce of “gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch.” Therefore, when Congress intended to impose an upper limit on the content of a particular compound or property of gasoline, it did so. In contrast, in CAA sec. 211(h)(4), Congress provided a higher RVP limit for “fuel blends containing gasoline and ten percent ethanol.” This provision lacks terms modifying the term “containing,” in contrast to the other statutory provisions referenced above, supporting our finding that this term is ambiguous. It is therefore permissible, where Congress has used only the ambiguous term “containing” in CAA sec. 211(h)(4), to interpret “containing” to mean “containing at least.”

Implementing regulations under both CAA sec. 211(c) prior to the enactment of CAA sec. 211(h) and under CAA sec. 211(h) have reflected the highest permissible ethanol content at the time EPA's RVP regulations were issued, which was 10 percent ethanol under a CAA sec. 211(f)(4) waiver. We stated that the 1-psi waiver is “for blends of gasoline with about 10 percent ethanol, or gasohol” (68) and in regulations, codified the conditions, providing that “[t]he maximum ethanol content . . . in gasoline shall not exceed any applicable waiver conditions under CAA sec. 211(f)(4) waiver.” (69) Additionally, EPA statements on the imprecise nature of ethanol-gasoline blending also support the view that neither Congress nor EPA intended to limit ethanol content for the 1-psi waiver. “The nature of the blending process . . . complicates a requirement that the ethanol portion of the blend be exactly 10 percent ethanol.” (70)

We further note that in the legislative history, Congress employed the term “at least” 10 percent ethanol when discussing the 1-psi waiver, which suggests this provision is a floor for ethanol content in gasoline. For example, section 216 of the House bill provided in part that “[a] manufacturer or processor of gasoline containing at least 10 percent ethanol shall be deemed in full compliance.” (71)

The Senate Report published along with the enactment of the 1990 CAA Amendments and CAA sec. 211(h)(4) also describes both the purpose of including CAA sec. 211(h)(4), and general language about ethanol use in the fuel supply. The report states that the 1-psi waiver was:

included in recognition that gasoline and ethanol are mixed after the refining process has been completed. It was recognized that to require ethanol to meet a 9 pound RVP would require the creation of a production and distribution network for sub-nine pound RVP gasoline. The cost of producing and distributing this type of fuel would be prohibitive to the petroleum industry and would likely result in the termination of the availability of ethanol in the marketplace. Under this provision, the RVP limitations promulgated pursuant to this subsection for such ethanol/gasoline blends shall be one pound per square inch greater than the applicable Reid vapor pressure which apply to gasoline. Senate Report 101-228, at 3495.

Finally, the Senate report states that the 1-psi waiver would “allow ethanol blending to continue to be a viable alternative fuel, with its beneficial environmental, economic, ***agricultural***, energy security and foreign policy implications.” (72) While this legislative history does not speak to the meaning of the word “containing,” it does articulate congressional intent in enacting the provision, recognizing the role for ethanol in the marketplace. This report and other relevant legislative history do not explicitly address whether CAA sec. 211(h)(4) is intended to apply to blends with greater than 10 percent ethanol, but all the reasons it gives for extending the 1-psi waiver to gasoline ethanol blends up to 10 percent ethanol now would similarly weigh in favor of interpreting the 1-psi waiver to apply to E15, given that Congressional action in CAA sec. 211(h) was largely a ratification of agency regulations for RVP that were initiated beginning in 1987, under CAA sec. 211(c).

Congress designed the 1-psi waiver “deemed to comply” language of CAA sec. 211(h)(4) to adjust to gasoline-ethanol blends with more than 10 volume percent ethanol if allowed under separate provisions of the CAA (i.e , in the case where EPA grants a CAA sec. 211(f)(4) waiver that allows for greater than 10 volume percent ethanol in gasoline). In other words, the blended fuel is “deemed to comply” not because it is E10, but because it is a gasoline-ethanol blended fuel that has received a CAA sec. 211(f)(4) waiver. The Senate Report described the “deemed to comply” provision as an “alternative enforcement arrangement” that had the benefit of simplifying compliance demonstrations due to the inconsistency between the production of gasoline batches, measured in millions of gallons, to ethanol blending at the terminal in batches on the order of thousands of gallons. The “deemed to comply” provision further supports the interpretation that the 1-psi waiver under CAA sec. 211(h)(4) can apply to gasoline with ethanol content greater than 10 percent. The “deemed to comply” provision lays out the compliance mechanisms for regulated parties, but also contemplates ethanol blends beyond E10, the only gasoline-ethanol blended fuel with a CAA sec. 211(f)(4) waiver at the time of enactment, because EPA's waiver authority under that provision is not limited to gasoline containing any particular range of volume percent ethanol. CAA sec. 211(h)(4)(B) provides that the “deemed to comply provision” will apply upon a demonstration that, among other things, “the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4).” We read this phrase to apply to only the waiver condition specifying the ethanol content of the fuel. Pursuant to the E15 waivers issued in 2010 and 2011, a fuel that includes 15 percent ethanol contains an ethanol portion that does not exceed the 211(f)(4) waiver condition. As previously shown, if Congress had wanted to limit the application of the (h)(4) waiver to E10, it could have done so, but it did not. Instead, Congress contemplated that ethanol content may increase in the future, that parties would likely apply for an 211(f)(4) waiver for those higher blends, that the 211(h)(4) waiver would apply to these fuels, and that the 211(h)(4) “deemed to comply” provision would also apply.

Therefore, CAA sec. 211(h)(4) can be read as specifying the minimum ethanol content for ethanol-gasoline blends for purposes of the 1-psi waiver while the deemed to comply provision can be construed as a defense against liability for any ethanol blend that has received a CAA sec. 211(f)(4) waiver, which at present includes E15. As previously explained, the “deemed to comply” provision that was enacted at the inception of the RVP program to address industry practices at the time, reflects the highest permissible ethanol content at that time because of the waiver under CAA sec. 211(f)(4). CAA sec. 211(h)(4)(B) (“the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section.”) It is a statutorily mandated defense that is in addition to other defenses codified at 40 CFR 80.28(g)(1) through (7). It is not and has never been the sole enforcement mechanism for the 1-psi waiver. These other equally effective provisions would be applicable to gasoline-ethanol blended fuels containing 15 percent ethanol and our extending the 1-psi waiver to such blends should have no effect on the enforcement of RVP standards. Regulated parties could also continue to avail themselves of this provision, if necessary. Moreover, considerations that animated this provision, are now largely attenuated considering changes in the refinery process. Today, ethanol blending is done almost completely through in-line blending ethanol into CBOB specially made for blending with ethanol as compared to the nascent days where it was splash blended after completion of the refining process.

Our primary consideration has been to balance the goals of limiting gasoline volatility and ensure that the addition of ethanol does not cause the exceedance of the maximum RVP standard, while also promoting the use of ethanol consistent with the purpose of CAA sec. 211(h)(4). As previously explained, blending gasoline with at least 10 percent ethanol results in an approximate 1.0 psi RVP increase. It does not result in “different volatility levels than already recognized by EPA as adding less than 1.0 psi RVP to gasoline.” (73) Similarly, we also expect that E15 produced from the same BOB as E10 would have a similar (if not slightly lower) RVP than E10 and thus, would not exceed the current 10.0 psi RVP limit. (74) Therefore, we are fairly confident that relative evaporative emissions effects for E15 would largely be similar or slightly less than those for E10, as discussed in Section II.E

In sum, the primary consideration underlying the 1-psi waiver is to limit gasoline volatility while promoting the use of ethanol due to its importance to energy security and the ***agricultural*** sector. Today's proposed interpretation, if finalized, will continue to further these policy concerns given that agency action will now afford similar treatment to all ethanol-gasoline blends.2. Regulatory Amendments

This proposal includes technical amendments that would effectuate our proposed interpretation to allow the 1-psi waiver for E15 during the summer under CAA sec. 211(h)(4). First, we are proposing to modify or remove volatility controls associated with our prior interpretation of CAA sec. 211(h)(4). These controls, found in 40 CFR 80.27, place limitations on the RVP of gasoline-ethanol blends at specific concentrations. Given that the primary effect of our proposed interpretation of CAA sec. 211(h)(4) would expand the “special treatment for gasoline-ethanol blends” to fuel blends containing 9-15 percent ethanol, we are proposing to modify the controls extending the 1-psi waiver from gasoline containing 9-10 percent ethanol to gasoline containing 9-15 percent ethanol at 40 CFR 80.27 and related defense provisions in 40 CFR 80.28

Second, we are proposing to remove or modify provisions in the MMR that were imposed to effectuate the prior 1-psi waiver interpretation under CAA sec. 211(h)(4). Subsequent to the grant of the CAA sec. 211(f)(4) partial waivers for E15, we adopted regulations under CAA sec. 211(c) to ensure that E15 would not be used in certain vehicles and engines for which the waivers did not apply. To do so, in addition to the conditions on the waivers that applied to fuel manufacturers, we promulgated regulations to ensure that those same conditions were enforceable on downstream parties. No changes were made to the RVP regulations at 40 CFR 80.27 as a direct result of our interpretation under CAA sec. 211(h)(4) that the 1-psi waiver did not extend to gasoline-ethanol blends with an ethanol concentration greater than 10 percent. Additional regulations were put in place including regulations currently found in 40 CFR 80.1504(f) and (g) (placing prohibitions on the commingling of E10 and E15), and 40 CFR 80.1503 (placing PTD requirements on E15). These regulations were put in place in order to ensure that the RVP of E15 did not exceed 9.0 psi in accordance with our interpretation of CAA sec. 211(h)(4) at the time. However, since our proposed interpretation of CAA sec. 211(h)(4) increases the RVP allowance to 10.0 psi, these provisions are no longer necessary. Additionally, because the RVP of E15 will be approximately the same as E10 if produced from the same blendstock, we do not anticipate emissions impacts from this equal treatment. Given that we are proposing to interpret CAA sec. 211(h)(4) to extend to gasoline-ethanol blends of up to 15 percent ethanol, the prohibition on the commingling of E15 and E10 is no longer necessary.

Finally, we are proposing to remove the PTD requirements related to the 1-psi waiver at 40 CFR 80.1503 In 40 CFR part 80, subpart N, we included PTD language designed to help ensure that E15 that did not receive the 1-psi waiver would be segregated from E10 that did receive the 1-psi waiver. Since we are proposing to allow the 1-psi waiver for E15, we no longer need these PTD requirements. However, parties that produce and distribute gasoline-ethanol blended fuels would still be required to identify ethanol concentrations on PTDs as specified in 40 CFR 80.27 and 40 CFR 80.1503

All other E15 misfueling mitigation provisions in 40 CFR part 80, subpart N, would remain unchanged. In the MMR, we promulgated regulations under CAA sec. 211(c)(1), which prohibit the use of E15 in MY2000 and older motor vehicles, nonroad vehicles, engines, and equipment (including motorcycles, and heavy-duty motor vehicles). CAA sec. 211(c)(1) gives EPA authority to “control or prohibit the manufacture, introduction into commerce, offering for sale, or sale” of any fuel or fuel additive (A) whose emission products, in the judgment of the Administrator, cause or contribute to air pollution “which may be reasonably anticipated to endanger public health or welfare” or (B) whose emission products “will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use” were the fuel control or prohibition adopted. We promulgated the MMR based on our assessment that E15 would significantly impair the emission control systems used in MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and all nonroad products. This led to our conclusion that under CAA sec. 211(c)(1)(A), E15 use in these particular vehicles, engines, and non-road products would likely result in increased VOC, carbon monoxide (CO), and nitrogen oxide (NO X) emissions. (75) The proposed regulatory changes to 40 CFR part 80, subparts B and N in this proposed rulemaking are solely related to our proposed interpretation to allow the 1-psi waiver for E15 under CAA sec. 211(h)(4). This proposed action would not change the basis of our CAA sec. 211(c)(1)(A) and (B) finding in the MMR that prohibits E15 from use in MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and all nonroad products. This action also does not propose to modify the misfueling mitigation measures promulgated in the MMR, but, as discussed in Section II.D.3, we seek comment on the need for additional E15 misfueling measures.3. Effects on Regulated Parties

This section discusses distinctions between the obligations that apply to certain parties in the fuel production, blending, and retail chain, and how this proposed action would affect (or would not affect) those parties. Specifically, we discuss how the proposed CAA sec. 211(h)(4) interpretation under which the 1-psi waiver would extend to E15 would affect fuel manufacturers (e.g , refiners and importers of gasoline), downstream oxygenate blenders, and retailers that make E15 at a blender pump.a. E15 Made by Refiners, Importers, and Downstream Oxygenate Blenders

In this action, we are maintaining all of the CAA sec. 211(f)(4) waiver conditions for E15 as they currently apply to fuel and fuel additive manufacturers. (76) CAA sec. 211(f)(1) operates as a prohibition against the introduction into commerce of fuels and fuel additives by manufacturers of fuels and fuel additives, and CAA sec. 211(f)(4) provides a mechanism to waive that prohibition if certain criteria are met. Therefore, fuel and fuel additive manufacturers are subject to any conditions that apply to a CAA sec. 211(f)(4) waiver. Under this approach, fuel and fuel additive manufacturers would still need to produce E15 that meets the 9.0 psi RVP requirement of the waiver condition, while downstream parties are not similarly bound. EPA's fuel and fuel additive registrations (FFARs) regulations at 40 CFR 79.2(d) define which parties are fuel manufacturers and makes clear that parties that only blend oxygenates at allowable levels under CAA sec. 211(f) are excluded from the definition of fuel manufacturers. We are, however, neither reopening 40 CFR 79.2(d), nor soliciting comments on this provision. We will therefore treat any comments we receive on this topic as beyond the scope of this rulemaking.

We are not changing our interpretation of the way the CAA controls fuels and the way our regulations regulate fuels in any way other than providing the 1-psi waiver to gasoline containing greater than 10 volume percent ethanol as a consequence of interpreting the 1-psi RVP waiver to apply to E15. The 1-psi waiver applies to all parties that blend and distribute gasoline-ethanol blends containing at least 10 percent ethanol unless specifically restricted under another portion of the CAA, in this case CAA sec. 211(f) through the 9.0 psi RVP limit on E15 from May 1 through September 15 as a condition of its CAA sec. 211(f)(4) partial waivers. The 1-psi RVP waiver under CAA sec. 211(h)(4) is thus available to downstream oxygenate blenders who produce E15 and to downstream parties who distribute and sell E15, but the 1-psi waiver is not available to fuel or fuel additive manufacturers since fuel and fuel additive manufacturers must comply with the high ozone season 9.0 psi RVP E15 waiver condition.

This is in accordance with how the fuel marketplace currently functions with regard to E10. Refiners and importers currently produce or import gasoline (or conventional blendstock for oxygenate blending (CBOB)), which can then be blended with ethanol downstream. It is not until that ethanol is blended into the gasoline or CBOB that parties are able to receive the benefits of the 1-psi waiver (i.e , an RVP volatility limit of 10.0 psi). Therefore, a refiner's or importer's gasoline or CBOB must always meet a 9.0 psi RVP limitation prior to the addition of ethanol. (77) However, because the CAA sec. 211(f)(4) waiver for E10 was granted by operation of law, and thus did not contain a waiver condition limiting the RVP to 10.0 psi, in contrast to E15, refiners and importers can take advantage of the 1-psi waiver for E10. It should be noted, however, that if another part of the CAA or EPA regulation precludes the 1-psi waiver, for example, reformulated gasoline (RFG) required under CAA sec. 211(k) or a low-RVP fuel program established in a state implementation plan, parties cannot take advantage of the 1-psi waiver for E10 or E15. (78) In such circumstances, however, the same CBOBs already supplied for E10 blending can already be used for E15 blending, so the 1-psi waiver is not at issue.

The 1-psi waiver for E15 would function the same way, although if a refiner or importer were to choose to blend E15, including but not limited to blending at a co-located terminal or at a terminal downstream of a refinery operated by the refiner or importer, they would not be able to use the 1-psi waiver because the exclusion from the definition of a “fuel manufacturer” only includes a party “(other than a fuel refiner or importer).” (79) This means that refiners and importers who blend E15 would still need to comply with the waiver conditions under CAA sec. 211(f)(4).

This interpretation of CAA sec. 211(f)(4) is consistent with our past treatment of CAA sec. 211(f)(1) and (f)(4)'s applicability to only fuel and fuel additive manufacturers, and is further supported by our actions in the MMR, which imposed regulatory requirements that are similar to the E15 CAA sec. 211(f)(4) waiver conditions on downstream parties, to whom the waiver conditions do not reach. (80) The MMR was enacted “to mitigate misfueling with E15 that lawfully has been introduced into commerce under the terms of the waiver[s]. The waiver conditions, and implementation of the waiver conditions, address a closely related but different issue—when, how and by whom E15 can be introduced into commerce under the partial waiver decisions. This rule only addresses the issue of mitigating misfueling in the event E15 is lawfully introduced into commerce under the partial waivers, and is issued under EPA's authority under section 211(c).” (81)

As discussed above, CAA sec. 211(f) imposes limitations on fuel and fuel additive manufacturers. All fuel and fuel additive manufacturers must meet the statutory requirements of CAA sec. 211(f)(1) or the waiver conditions imposed under a CAA sec. 211(f)(4) waiver. As previously explained fuel manufacturers are defined in our regulations at 40 CFR 79.2 This definition explicitly excludes parties “(other than a fuel refiner or importer) who add[] an oxygenate compound to fuel in any otherwise allowable amount.” These excluded parties may also be considered “oxygenate blenders” under our regulations in 40 CFR part 80. (82) An “oxygenate blender” is defined as “any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.” (83) An “oxygenate blending facility” is defined as “any facility (including a truck) at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives.” (84)

While our proposed interpretation of CAA sec. 211(h)(4) would allow for gasoline-ethanol blends that contain at least 10 volume percent ethanol to receive the 1-psi waiver, CAA sec. 211(f) and our 40 CFR parts 79 and 80 fuels regulations continue to limit the amount of ethanol allowed to be blended into gasoline, and also the gasoline ethanol blends that can receive the 1-psi waiver. The definition of “fuel manufacturer” also places a limitation on the ethanol content of the fuel. Only parties who “add[] an oxygenate compound to fuel in any otherwise allowable amount” are excluded from the definition of fuel manufacturer. (85) This provision only allows the addition of oxygenate compounds up to the amount of any CAA sec. 211(f)(4) waiver, or any allowable oxygen content under our interpretation of the meaning of “substantially similar.” A party who unlawfully adds an oxygenate compound in a volume that exceeds the oxygen content limit in the interpretative definition of “substantially similar” or the CAA sec. 211(f)(4) waiver condition, or who adds anything other than an oxygenate compound allowed by the substantially similar interpretative rule, is a fuel manufacturer, and does not receive the 1-psi waiver for fuels containing at least 10 percent ethanol.

The result is that any party who is not a refiner or importer that produces E15 from only certified gasoline (including CBOB) and denatured fuel ethanol would be entitled to the 1-psi waiver just as is the case currently when such parties produce E10. This could occur at a downstream terminal where ethanol is added along with gasoline to a tank truck for delivery to a retail station. This could also occur at retail stations that blend E15 onsite using blender pumps that utilize either gasoline and denatured fuel ethanol as blendstocks onsite, or that use gasoline (either E0 or E10) and E85 (86) as blendstocks onsite so long as that E85 had itself been produced solely from denatured fuel ethanol and certified gasoline (or CBOB).b. E15 Made at Blender Pumps

For the reasons described in this section, a retail station that blends E15 using E85 that contains hydrocarbons not certified as gasoline or blendstock for oxygenate blending (BOB) (e.g , the natural gas liquids that are often used at ethanol plants to denature ethanol and make E85) would not be entitled to the 1-psi waiver.

First, parties that produce E15 via a blender pump using E85 made with ethanol and natural gas liquids (i.e , an uncertified gasoline blendstock) are fuel manufacturers under our existing 40 CFR part 79 regulations (covering registration of fuels and additives), and as such are subject to the 9.0 psi RVP condition under the existing E15 CAA sec. 211(f)(4) waivers. Any party that blends an uncertified gasoline blendstock into gasoline is a fuel manufacturer under our 40 CFR part 79 regulations because they are altering the chemical composition of a fuel. Regardless of our proposed interpretation of CAA sec. 211(h)(4), then, any such parties that produce E15 are still subject to the 9.0 psi RVP standard. E15 made at blender pumps may only receive the proposed extension of the 1-psi waiver in instances where an oxygenate blender blends certified gasoline (or CBOB) with E85 made from ethanol and certified gasoline (or CBOB).

Second, such parties are also gasoline refiners under our existing 40 CFR part 80 regulations because they blend uncertified gasoline blendstocks into gasoline. (87) Under our regulations in 40 CFR part 80 (covering implementation of our fuels control programs), any party that blends uncertified blendstocks into gasoline is a gasoline refiner and must meet all requirements applicable to gasoline refiners under 40 CFR part 80. These requirements include, but are not limited to, sampling and testing each batch of gasoline for conformance to EPA's fuel standards, demonstrating compliance with annual average sulfur and benzene standards, registering as a gasoline refiner under 40 CFR part 80, submitting periodic and annual compliance reports, and arranging for an annual audit by an independent auditor. These requirements were put in place to help ensure that parties downstream of gasoline refineries did not adversely affect fuel quality in ways that damaged vehicle and engine emission controls and helped ensure that the air quality benefits of our fuel quality regulations are met.

Third, under our FFARS regulations in 40 CFR part 79, parties that blend uncertified blendstocks into gasoline are fuel manufacturers and must register their fuels and fuel additives as required under the CAA. In the case where a blender pump produces E15 by blending a certified gasoline (typically E10) with E85 that contains uncertified blendstocks (e.g , natural gas liquids), the operator of the blender pump meets the definitions of both a gasoline refiner under 40 CFR part 80 and a fuel manufacturer under 40 CFR part 79 and must comply with associated requirements.

We proposed to address this situation in the Renewables Enhancement and Growth Support (REGS) rule (88) by proposing provisions that would control the sulfur, benzene, and volatility of E85 used to make E15 via a blender pump, which would allow gasoline made via blender pumps to meet applicable EPA fuel quality standards and lawfully be made. (89) The proposed REGS rule also proposed to remove the FFARS requirements under 40 CFR part 79 for blender pump operators that make gasoline via a blender pump. Since those proposed provisions have not been finalized, the only way for a blender pump operator to lawfully make E15 at a blender pump is to make E15 with certified gasoline and E85 made from ethanol and certified gasoline (or CBOB) or to comply with all requirement applicable to refiners and fuel manufacturers.

Finally, and perhaps most importantly, even if we finalize the proposed REGS rule and allow blender pumps to make gasoline at blender pumps and exempt blender pump operators from complying with the requirements for gasoline refiners and fuel manufacturers, based on information received during the comment period of the proposed REGS rule, it is likely that E15 made at blender pumps with E85 produced from natural gas liquids would often violate the applicable RVP standards even with the 1-psi waiver. Natural gas liquids often have RVP levels well above 10.0 psi. Adding such potentially highly volatile components to E15 (via E85) in significant concentrations would result in a finished E15 with a volatility in excess of 10.0 psi RVP. Therefore, in this proposal, only E15 produced using certified gasoline (or CBOB) and denatured fuel ethanol would be eligible for the 1-psi waiver.c. Summary and Conclusion

Table II.B.4.c-1 summarizes how we believe the E15 partial waiver conditions imposed via CAA sec. 211(f)(4) and the 1-psi waiver under CAA sec. 211(h)(4) would apply to fuel manufacturers, downstream oxygenate blenders, and retailers that make E15 via a blender pump as a result of our proposed interpretation to allow E15 to receive the 1.0 psi waiver.Table II.B.4.c-1—Summary of E15 1-psi Waiver Applicability by Party Can takeadvantage of the1-psi waiver? Subject to E15waiverconditions? Could lawfullymake/sell E15 at10 psi in summer?Fuel Manufacturers Yes Yes No.Oxygenate Blenders Yes No Yes.Retailers that make E15 with E85 made with gasoline/BOB Yes No Yes.Retailers that make E15 with E85 made with something other than gasoline/BOB Yes Yes No.

As mentioned above, under our proposed interpretation, all parties can take advantage of the 1-psi waiver unless they are precluded from doing so by some other requirement. We believe that the E15 waiver condition limiting the RVP of E15 to 9.0 psi during the summer would preclude fuel manufacturers (i.e , refiners and importers) from being able to introduce E15 into commerce under CAA sec. 211(f), but would not preclude downstream oxygenate blenders that were not otherwise fuel manufacturers from blending E15. For retailers that blend E15 using E85 made from denatured fuel ethanol (“DFE”) and certified gasoline (or CBOB) via a blender pump, those parties are acting analogous to downstream oxygenate blenders and could lawfully make E15. For all of the reasons described above, for retailers using E85 made with anything other than DFE and certified gasoline (or CBOB), those parties are acting analogous to fuel manufacturers and could not lawfully make E15.

We seek comment on our proposed interpretation of CAA sec. 211(h)(4) as specifying a minimum ethanol content for fuel blends containing gasoline and ethanol as well as these implementing requirements. Under this construct, only certain regulated parties that produce and distribute E15 would be able to avail themselves of the 1-psi waiver.C. Proposed Interpretation of “Substantially Similar” for Gasoline

This action proposes a new interpretation of “substantially similar” which defines which fuels are substantially similar to Tier 3 E10 certification fuel under CAA sec. 211(f)(1), as an alternative to the approach described above which would apply the CAA sec. 211(f)(4) waiver and its associated conditions. (90) Specifically, we are proposing that E15 with an RVP of 10.0 psi is sub sim to fuel used to certify Tier 3 light-duty vehicles (i.e , E10 with an RVP of 9.0 psi). Alternatively, we propse that E15 with an RVP of 9.0 psi is sub sim to fuel used to certify Tier 3 light-duty vehicles. Either of these new interpretations of sub sim would increase the allowable concentration of ethanol blended into gasoline to up to 15-volume-percent because we believe that E15 is sub sim to Tier 3 E10 certification fuel.

E15 would have similar effects on emissions (exhaust and evaporative), materials compatibility, and driveability for light-duty motor vehicles certified using Tier 3 E10 certification fuel. (91) This proposed interpretative rule would, if finalized, make it lawful for refiners and importers (e.g , fuel manufacturers as described in 40 CFR 79.2(d) discussed above) to make and introduce into commerce E15 at 10.0 psi RVP without the use of the E15 partial waivers since we would now interpret E15 as sub sim to Tier 3 E10 certification fuel. We are proposing two alternative interpretations of the sub sim provision for E15. First, we are proposing that E15 at 10 psi RVP is substantially similar to Tier 3 E10 certification fuel at 9 psi RVP. Alternatively, we are proposing that E15 at 9 psi is substantially similar to Tier 3 E10 certification fuel at 9 psi RVP. In conjunction with our interpretation of CAA sec. 211(h)(4) described above, this would allow all fuel manufacturers, not only downstream oxygenate blenders, the ability to lawfully introduce into commerce E15 at 10.0 psi RVP from May 1 through September 15. Prohibitions on the use of E15 in 2000 and older MY light-duty vehicles that currently apply as conditions of the CAA sec. 211(f)(4) waiver and as regulations established under CAA sec. 211(c), as well as the use of E15 in other vehicles, engines, and equipment not covered by the E15 partial waivers, would remain in place, and parties that make and distribute E15 and ethanol for use in producing E15 would still need to satisfy the MMR requirements under 40 CFR part 80, subpart N. This section outlines the background and rationale for our proposed interpretative rulemaking.1. Statutory Framework

The Air Quality Act of 1967 and the CAA of 1970 established the basic framework for EPA fuels regulation. CAA sec. 211(a) allows EPA to designate fuels and fuel additives for registration. CAA sec. 211(b) sets forth registration requirements for fuels and fuel additives and authorizes EPA to require health and environmental effects testing for the registration of fuels and fuel additives. CAA sec. 211(c) authorizes EPA to regulate or prohibit fuels or additives for use in motor (or nonroad) vehicles or engines if: (A) “any fuel or fuel additive or any emission product of such fuel or fuel additive causes, or contributes, to air pollution . . . that may reasonably be anticipated to endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system.”

In the CAA Amendments of 1977, Congress established CAA sec. 211(f)(1), which prohibits manufacturers from first introducing into commerce any fuel or fuel additive for general use in light-duty vehicles that is not “substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle.” If a fuel or fuel additive is not sub sim, a fuel or fuel additive manufacturer may obtain a waiver under CAA sec. 211(f)(4) if the manufacturer can demonstrate that the new fuel or fuel additive “will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine, or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards with respect to which it has been certified.” Together, these CAA sec. 211(f) provisions were designed to prevent fuels and fuel additives from being introduced into commerce that would degrade the emission performance of the existing fleet and protect vehicle manufacturers from their vehicles consequently failing emission standards in use.

As discussed above, in the CAA Amendments of 1990, Congress added CAA sec. 211(h) to address the volatility of gasoline, which largely codified EPA's then-new RVP regulations. Accordingly, entirely separate from CAA sec. 211(f), CAA sec. 211(h)(1) prohibits the sale of gasoline with an RVP in excess of 9.0 psi during the high ozone season (while allowing EPA to promulgate more stringent RVP requirements for nonattainment areas), and CAA sec. 211(h)(4) provides a 1.0 psi RVP allowance for “fuel blends containing gasoline and 10 percent” ethanol.2. Certification Fuels

Historically, two fuels are utilized in EPA's emissions standards certification of gasoline-powered vehicles and engines: standardized gasoline with controlled parameters to ensure consistency across vehicle and engine certification used in emissions testing, and commercially available mileage accumulation fuels used to ensure durability in use of exhaust and evaporative emissions controls. (92) Historically the fuel used in emissions testing (“certification test fuel”) contained no oxygenates (e.g , ethanol) and was often referred to by its brand name, “indolene.”

In the 2014 Tier 3 rulemaking, we updated the certification test fuel for Tier 3 certified motor vehicles and changed the certification test fuel from E0 to E10 to reflect the widespread use of E10 in the marketplace. (93) The requirement to use Tier 3 E10 certification fuel may have applied as early as MY2015 if a manufacturer elected to comply early with the Tier 3 vehicle emissions standards, but the requirement to use E10 in at least some vehicles began with MY2017. Almost all MY2020 and newer vehicles must be certified for emissions testing with Tier 3 E10 certification fuel with some exceptions for small volume vehicle manufacturers, which must use Tier 3 E10 certification fuel by MY2022.

Service accumulation fuel for durability must be representative of commercially-available gasoline (94) and evaporative emissions durability must “employ gasoline fuel for the entire mileage accumulation period that contains ethanol in, at least, the highest concentration permissible in gasoline under federal law and that is commercially available in any state in the United States.” (95) Since MY2004, service accumulation fuel used for evaporative system aging must contain the highest concentration of ethanol available in the market. After EPA partially granted the waivers for E15 in 2010 and 2011, we ***notified*** manufacturers in early 2012 that new evaporative emission families must be aged on E15 under 40 CFR 86.1824-08(f)(1). We believe that auto manufacturers began evaporative system aging on E15 as early as MY2014.3. History of Sub Sim Interpretations

EPA has issued four interpretative rules that defined the meaning of “substantially similar” for gasoline. These interpretive rules describe the types of unleaded gasoline that are considered substantially similar to the unleaded gasoline utilized in our vehicle and engine certification programs by placing limits on a gasoline's chemical composition and physical properties, including the types and amount of alcohols and ethers (oxygenates) that may be added to gasoline. Fuels that are found to be substantially similar to our certification fuels may be introduced into commerce. Each of our past interpretative rules provided an allowance for oxygenates within the gasoline. We last issued an interpretative rule in 2008 on the phrase “substantially similar” for gasoline. (96) The current substantially similar interpretative rule for unleaded gasoline allows oxygen content up to 2.7 percent by weight for certain ethers and alcohols. Despite having changed certification test fuel to include 10 volume percent ethanol, prior to this proposed action, we have not addressed what should be considered substantially similar to Tier 3 E10 certification fuel utilized in Tier 3 light duty vehicle certification.

In defining what qualifies as sub sim to certification fuels, we have listed general physical and chemical characteristics, such as oxygen content, because fuels and fuel additives meeting these general “sub sim” characteristics will “not adversely affect emissions.” If we were to later find that a fuel or fuel additive that satisfies the physical and chemical sub sim characteristics “may reasonably be anticipated to endanger public health or welfare” or “impair to a significant degree the performance of any emission control device or system,” either in general or in particular vehicles or circumstances, we have authority to regulate that fuel or fuel additive under CAA sec. 211(c), which provides that we may by regulation place controls or prohibitions on fuels and fuel additives to protect public health or welfare or protect emission control devices or systems. (97) In our past interpretations defining what physical and chemical characteristics are necessary to make a fuel or fuel additive “sub sim” to certification test fuel, we have taken three primary factors into account: (1) Emissions, (2) materials compatibility, and (3) drivability. (98)

We initially specified that fuel with oxygen content up to 2.0 weight percent is sub sim to certification test fuel. (99) We later revised the definition to allow oxygen content up to 2.7 weight percent for gasoline containing aliphatic ethers and/or alcohols (excluding methanol), finding, based on data and our experience with CAA sec. 211(f)(4) waiver applications, that such levels would not result in emissions, materials compatibility, or drivability problems compared with certification test fuel. (100) Thus, we have a history of establishing maximum oxygen content as a criterion, in addition to other criteria, for determining whether a fuel or fuel additive is substantially similar to a fuel utilized in certification.

With respect to fuel volatility, our sub sim interpretations have specified that in order to qualify as sub sim to certification test fuel, which has historically had an RVP of 9.0 psi, fuels need only “meet ASTM standards in general, that is, not necessarily for every geographic location and time of year.” (101) To qualify as sub sim, gasoline (whether or not containing ethanol) “must possess, at time of manufacture, all the physical and chemical characteristics of an unleaded gasoline as specified in ASTM D 4814-88 for at least one of the Seasonal and Geographical Volatility Classes specified in the standard.” (102)4. Criteria for Determining Whether a Fuel is “Substantially Similar”

In order to be substantially similar, a fuel or fuel additive must be sub sim to a fuel used in the certification of any vehicle or engine under CAA sec. 206. To make this determination, we have generally considered the effects of a fuel or fuel additive on emissions (exhaust and evaporative), materials compatibility, and driveability for motor vehicles and motor vehicle engines certified under CAA sec. 206. (103)

In this proposed CAA sec. 211(f)(1) interpretative rulemaking, we consider whether E15 is substantially similar to Tier 3 E10 certification fuel when used in Tier 3 light-duty vehicles. The scope of that comparison is relatively narrow for two reasons. First, CAA sec. 211(f)(1) only requires a consideration of the potential impacts on light-duty motor vehicles and motor vehicle engines. In this regard, CAA sec. 211(f)(1) is different than what an applicant must demonstrate in a waiver under CAA sec. 211(f)(4) from the restrictions of CAA sec. 211(f)(1). CAA sec. 211(f)(1) is focused on motor vehicles and motor vehicle engines under CAA sec. 206 and applies to a broad class of fuels. A CAA sec. 211(f)(4) waiver, on the other hand, requires that a specific fuel not cause or contribute any vehicle or engine certified under CAA sec. 206 and 213 to exceed emission standards over the useful life of the vehicle or engine. Thus, the scope of vehicles and engines considered to determine whether a fuel is substantially similar under CAA sec. 211(f)(1) is significantly narrower than the scope of vehicles and engines that must be considered by EPA for a waiver to be granted under CAA sec. 211(f)(4).

Second, under CAA sec. 211(f)(1), the sub sim determination need only demonstrate that E15 is sub sim to a fuel used in certification of a 1975 or later MY vehicle or engine, not substantially similar to all certification fuels required and used historically (e.g , E0 for light-duty vehicles and trucks prior to Tier 3) to assess compatibility and emission performance. In this case, the sub sim determination demonstrates that E15 is sub sim to Tier 3 E10 certification fuel.5. Technical Rationale and Discussion

As discussed above, we have considered whether a fuel has similar effects on emissions, materials compatibility, and driveability when determining whether a fuel is substantially similar to certification fuel. Based on existing data and our engineering judgement, we have concluded that E15, with its additional oxygen content relative to Tier 3 E10 certification fuel, would have effects on emissions, materials compatibility, and drivability substantially similar to E10 in Tier 3 vehicles.a. Exhaust Emissions

In the 2010 CAA sec. 211(f)(4) partial waiver for E15, we concluded from available data that neither the immediate combustion effects nor the long-term durability impacts of operating on E15 blends would prevent MY2001 and newer light-duty vehicles from complying with their full useful life emission standards. (104) This decision was supported by a large study conducted by DOE that tested 16 high-sales vehicles spanning model years 1999-2007 using ethanol splash blends made from Tier 2 certification gasoline (E0). (105) Analysis of the resulting data shows that the E15 blend produced approximately 5% higher NO X, 4% higher NMOG, and 4% lower CO compared to E10, though none of these differences was statistically significant. This work did not measure PM emissions, but the expectation at the time was that PM should react to ethanol in a similar way as NMOG emissions.

Since the time of the 2010 waiver decision, additional data have been published on the effects of ethanol blends on Tier 2 vehicles. The EPAct/V2/E-89 study (referred to as “EPAct study”), jointly conducted by EPA, DOE/National Renewable Energy Laboratory (NREL), and the Coordinating Research Council (CRC) in 2009-2010, looked at the effects of five fuel properties, including ethanol concentration, on emissions from 15 high-sales light-duty vehicles from MY2008. Measurements included PM, a pollutant for which its relationship to fuel properties had previously not been examined in much detail for gasoline vehicles. The size and scope of this study allowed for statistical models to be developed that could be used to correlate the impacts of the five fuel properties, including ethanol concentration, on emissions, enabling projections to be made of the emission impacts of a wide range of fuels, not limited to those tested. Results generally confirmed the NO X and CO emission impacts described above, while indicating that ethanol's effects on NMOG and PM are more complex and depend on other fuel parameters, such as the fuel's distillation profile and aromatics content. (106 107) For example, the EPAct study statistical models estimate approximately 2% higher NO X, 4% lower NMOG, 2% lower CO, and 2% higher PM for E15 compared to the E10 fuels used in the DOE study. If we instead assume an E15 splash blend starting from a typical E10 market fuel, the EPAct study models project 2% higher NO X, 2% higher NMOG, 2% lower CO, and 4% higher PM. Since these figures represent the output of models whose coefficients survived a process of statistical testing, they are meaningful despite being small. This type of analysis is different from performing a test for significant differences directly on paired emission measurements, as is presented for the other studies discussed below, where measured differences may be statistically insignificant due to the limited scope of the test program and/or the number of variables left uncontrolled.

Two studies published in 2017 and 2018 by CRC, projects E-94-2 and E-94-3, respectively, examined the effects of ethanol and PM Index on PM and other emissions from MY2012-2015 Tier 2 vehicles, all with gasoline direct injected (GDI) engines and several with turbocharging. (108 109) Results for the overall test fleet of 16 vehicles in E-94-2 showed no statistically significant effect of E10 match blends (110) relative to E0 for total hydrocarbons (THC), NO X, or CO, while PM increased by 19% for the regular-grade (87 AKI) test fuels. The E-94-3 study tested a four-vehicle subset on four E10 splash blends made from the E0 fuels in E-94-2, and found a PM increase of 21% on average, consistent with the effect found in the larger E94-2 study. Assuming this PM effect is linear over small fuel changes, we would expect around 10% higher PM when moving from E10 to E15. Comparing these results to the EPAct study and DOE study above suggests that later-technology vehicles with direct injection have equal or lower sensitivity to ethanol blending for gaseous emissions, but may be more sensitive for PM.

Another study published in 2018 by the University of California, Riverside Center for Environmental Research and Technology (“CE-CERT”) looked at the effects of ethanol and aromatics on emissions from five vehicles spanning model years 2016 to 2017, all with GDI engines and certified to either Tier 3 or LEV III standards. (111) The test fuels included E0, E10, and E15 blends that were closely matched on aromatic content (at two levels, 21% and 29% volume) but the mid-point distillation temperature (T40-T50) was uncontrolled, and varied significantly. (112) Results of this study showed no statistically significant difference in NO X, non-methane hydrocarbons (NMHC), or PM when comparing E15 to E10 blends at either aromatics level.

While there are limited data on Tier 3 vehicles, the results of the Tier 2 and Tier 3 vehicle studies cited above are nevertheless largely consistent with each other given that ethanol blending also affects many other fuel properties, and given that ethanol is blended into gasolines in different ways that affect the collateral property changes differently. This makes it difficult to interpret trends across the body of literature without detailed information on multiple fuel properties. However, since the early 1990s, a number of programs have studied the effects of ethanol on emissions from earlier vintage vehicles, and based on these studies, emissions models have been published, including the Complex Model, (113) Predictive Model, (114) and MOVES simulator, (115) and the results from the more recent studies are also largely consistent with them. Namely, ethanol blending causes slight increases in NO X emissions and slight decreases for CO emissions. Earlier studies did not evaluate PM emissions from ethanol blending.

While some criteria pollutants would have relative and real increases (NO X and PM) and others have similar decreases (VOC and CO) on E15 compared to E10, these changes are relatively small. In the E15 partial waivers, we determined that effects of this magnitude were too small to cause or contribute 2001 and newer light-duty vehicles to exceed the vehicles' certified exhaust emissions standards and we expect that this would also be the case for Tier 3 certified vehicles. While CAA sec. 211(f)(1) does not define specific criteria for how to determine whether an ethanol blend is substantially similar to certification test gasoline, we believe that the small changes in exhaust emissions from E15 relative to Tier 3 E10 certification fuel used in Tier 3 certified vehicles are within the scope of what we have determined to be sub sim in our prior sub sim interpretive rulemakings. Therefore, we believe that E15 is sub sim to Tier 3 E10 certification fuel from the perspective of exhaust emissions. However, we seek comment and request any additional information related to the potential effects on the exhaust emissions of E15 compared to Tier 3 E10 certification fuel, particularly in Tier 3 certified vehicles given the limited data currently available.b. Evaporative Emissions

EPA has set evaporative emission standards for motor vehicles since 1971. During the ensuing years, these evaporative standards have continued to evolve, resulting in additional evaporative emissions reductions. Consideration of whether E15 is substantially similar to Tier 3 E10 certification fuel for evaporative emissions requires consideration of the applicable evaporative emissions standards to which the particular motor vehicles were certified, in this case Tier 3 motor vehicles. There are now six main components to motor vehicle evaporative emissions that are important for our standards: (1) Diurnal (evaporative emissions that come off the fuel system as a motor vehicle heats up during the course of the day); (2) refueling emissions (evaporative emissions that come off the fuel system as the vehicle is refueled); (3) hot soak (evaporative emissions that come off a hot motor vehicle as it cools down after the engine is shut off); (4) running loss (evaporative emissions that come off the fuel system during motor vehicle operation); (5) permeation (evaporative emissions that come through the walls of elastomers in the fuel system and are measured as part of the diurnal test); and (6) unintended leaks due to deterioration/damage that is now largely monitored through onboard diagnostic standards.

For hot soak, permeation, and unintended leak evaporative emissions, we expect that E15 would have a similar effect as Tier 3 E10 certification fuel. In the E15 partial waivers, we stated that we did not expect that E15 would have an effect on hot soak, permeation, and unintended leak evaporative emissions based on a review of the data and on the fact that auto manufacturers have been required to age vehicles on E10 for evaporative emissions durability testing since MY 2004. We are not aware of any information suggesting that Tier 3 vehicles would behave differently since they are aged for evaporative emissions durability on E15 and certified on Tier 3 E10 certification fuel. Furthermore, in our review of the testing of permeation on pre-Tier 3 vehicles (i.e , prior to changes made to address permeation) in the E15 partial waiver decisions, while ethanol was shown to significantly worsen permeation emissions, there was no discernable worsening of the impacts at higher ethanol concentrations. (116) Consequently, we do not anticipate permeation emissions with E15 to be any higher than with E10.

We are proposing two alternative approaches to assessing the evaporative emissions impacts of E15 with regard to the volatility of the fuel. First, we compare E15 at 10.0 psi to Tier 3 E10 certification fuel at 9.0 psi to evaluate differences in evaporative emissions from refueling, diurnal, and running loss emissions sources. Alternatively, we compare E15 at 9.0 psi, the fuel without a 1-psi waiver under CAA sec. 211(h)(4), to Tier 3 E10 certification fuel at 9.0 psi.

Refueling, diurnal, and running loss evaporative emissions increase as fuel volatility increases, with gasoline with an RVP of 10.0 psi producing significantly more vapor for the evaporative emission control system to capture and purge through the engine than gasoline with an RVP of 9.0 psi. (117) However, because we specifically addressed gasoline volatility in our prior 1981, 1991, and 2008 sub sim reinterpretations, (118) we are not proposing to modify our long-standing approach to controlling volatility in this action, and because there are not refueling, diurnal, or running loss evaporative emission impacts of E15 relative to Tier 3 E10 certification fuel apart from RVP, we do not believe these evaporative emission impacts are relevant to our proposed interpretation of sub sim. Furthermore, our existing regulations promulgated under CAA sec. 211(c) and 211(h) are a sufficient mechanism to control the RVP of gasoline. Since this interpretation primarily responds to the fact that we have now changed Tier 3 certification fuel to include 10 percent ethanol, we do not believe modification of our sub sim interpretation to set a specific RVP level would be appropriate.

Historically, the primary purpose of the requirement under the definition of substantially similar that gasoline must meet a volatility class under the ASTM specification for gasoline was to ensure that the fuel was physically and chemically similar to gasoline as to be used in a gasoline-fueled motor vehicle. For example, in the 1980 sub sim interpretative rulemaking, we allowed gasoline-ethanol blends containing up to 2.0 weight percent oxygen (about 5.5 volume percent ethanol); such fuel would experience a similar 1-psi increase to E10 or E15 if produced using the same base gasoline. Even during 1980, certification fuel used for gasoline-fueled motor vehicles was expected to have an RVP of 9.0 psi. (119) Therefore, we have not generally considered the expected increase in RVP resulting from the addition of RVP when determining whether a fuel is sub sim to gasoline certification fuel.

We determined that such a change was unnecessary and declined to impose such a limitation when we reinterpreted sub sim in 1991 and in 2008. In 1991, we maintained the view that sub sim fuels need only meet general ASTM specifications (i.e , any volatility class in ASTM D 4814-88) for volatility. This was after we promulgated the Phase I and Phase II RVP standards for gasoline under CAA sec. 211(c) and Congress enacted CAA sec. 211(h) in 1990, which, as discussed above, we have interpreted as essentially codifying our regulatory approach to fuel volatility as it existed prior to 1990. In 2008, when we provided flexibility for testing gasoline used only in Alaska to meet sub sim volatility requirements, we chose to maintain the existing volatility language for gasoline for the rest of the U.S

We are also proposing that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP during the summer. This would allow us, from a technical standpoint, to consider the impacts of RVP on evaporative emissions, and in particular on refueling, diurnal, and running loss evaporative emissions under CAA sec. 211(f)(1). Refueling, diurnal, and running loss evaporative emissions are mostly a function of volatility of the fuel. Therefore, if two fuels have the same RVP, the expected evaporative emissions from the two fuels would be similar. In this situation, since there is no difference in RVP, E15 at 9.0 psi RVP would have nearly identical evaporative emissions to E10 at 9.0 psi RVP from refueling, diurnal, and running loss emissions sources.

We believe that under CAA sec. 211(f)(1) we only need to determine that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP in order for fuel manufacturers and downstream parties to take advantage of the CAA sec. 211(h)(4) waiver. Congress intended for gasoline-ethanol blends to have a 1-psi waiver in order to promote ethanol blending in gasoline. In other words, given the existence of CAA sec. 211(h)(4), we believe it is appropriate when interpreting sub sim for CAA sec. 211(f)(1) to compare E15 at 9.0 psi RVP to E10 certification test fuel at 9.0 psi RVP. CAA sec. 211(h)(4) then provides the 1-psi waiver to E15. Therefore, under this alternative we would propose to interpret sub sim to apply to gasoline with a maximum of 9.0 psi RVP during the summer.

In summary, we expect that E15 would have similar evaporative emissions effects as Tier 3 E10 certification fuel for Tier 3 light-duty vehicles with regard to evaporative emissions from permeation, hot soak, and other unintended evaporative emissions. For refueling, diurnal and running loss evaporative emissions, we are not proposing to alter the existing interpretation of substantially similar. As explained above in our proposed interpretation of CAA sec. 211(h)(4), we believe it was Congress' intent to allow for gasoline-ethanol blended fuels containing at least 10 percent ethanol to receive the 1-psi waiver and we have interpreted sub sim under 211(f)(1) to be consistent with Congress' intent. Therefore, we are proposing that E15 at 10.0 psi RVP is sub sim to Tier 3 E10 certification test fuel at 9.0 psi RVP when used in Tier 3 vehicles. Alternatively, we propose that E15 at 9.0 psi RVP is sub sim to Tier 3 E10 certification fuel at 9.0 psi RVP when used in Tier 3 vehicles.c. Materials Compatibility

Materials compatibility is a key factor in considering what fuels or fuel additives are sub sim to certification fuel, insofar as poor materials compatibility can lead to serious exhaust and evaporative emission compliance problems not only immediately upon use, but especially over the full useful life of vehicles and engines. In the E15 partial waivers, we determined that the use of E15 in MY2001 and newer light-duty motor vehicles “will not [result in] materials compatibility issues that lead to exhaust or evaporative emissions exceedances.” (120) We argued that “[n]ewer motor vehicles, such as Tier 2 and NLEV vehicles (MY2001 and newer), on the other hand, were designed to encounter more regular ethanol exposure compared to earlier model year motor vehicles” since EPA's in-use verification program would require auto manufacturers to place more “emphasis on real world motor vehicle testing” prompting manufacturers to consider commercially available fuels containing ethanol when developing and testing their emissions systems. (121) Based on this assessment plus confirmatory data from DOE's extensive test program that aged MY2001 and newer vehicles up to 120,000 miles on E15, we concluded that MY2001 and newer vehicles would not have materials compatibility issues with E15. We expect that Tier 3 certified vehicles would have similar, if not better, materials compatibility with E15 compared to MY2001 and newer vehicles since Tier 3 certified vehicles should be designed to encounter E15 in-use and manufacturers are required to use E15 as an aging fuel for evaporative durability testing.

As required under the vehicle and certification regulations, (122) since granting the E15 partial waivers, E15 is now used as an aging fuel for service accumulation for evaporative durability testing. Auto manufacturers have used E15 for service accumulation for evaporative durability testing since at least MY2014. This means that many Tier 2 certified vehicles since MY2014 and all Tier 3 certified vehicles have been aged on E15 and have been designed with materials capable of handling E15 for extended periods of time.

Therefore, we would not expect any materials compatibility issues from E15 in Tier 3 vehicles and we expect that E15 would have substantially similar or identical materials compatibility with Tier 3 E10 certification fuel.d. Driveability

A change in the driveability of a motor vehicle that results in significant deviation from normal operation (e.g , stalling, hesitation, etc.) would result in increased emissions. These increases may not be demonstrated in the emission certification test cycles but instead are present during in-use operation. In addition to consumer dissatisfaction, a motor vehicle stall and subsequent restart can result in a significant increase in emissions because HC and CO emission rates are typically highest during vehicle starts, especially cold starts. Further, concerns exist if the consumer or operator tampers with the motor vehicle in an attempt to correct the driveability issue since consumers may attempt to modify a motor vehicle from its original certified configuration. Thus, we have considered whether fuels or fuel additives have an adverse effect on driveability relative to certification fuel to define what is substantially similar.

We concluded in the E15 partial waivers that we did not believe that E15 would cause driveability concerns for MY2001 and newer light-duty vehicles. We reviewed the data and information from the over 30 different test programs evaluated to grant the E15 partial waivers and we found “no specific reports of driveability, operability or on-board diagnostics (OBD) issues across many different vehicles and duty cycles including lab testing and in-use operation.” (123)

After having granted the partial E15 waivers, we believe that Tier 2 and Tier 3 vehicles also have better capability of operating on E15, since as mentioned above, auto manufacturers have been required to use E15 as an aging fuel for evaporative durability aging since at least MY2014.

We also believe that the producers and distributors of gasoline adhere to ASTM specifications for gasoline (i.e , ASTM D 4814), (124) which helps address the driveability of gasoline that contains up to 15 volume percent ethanol. As E15 has been in the market since at least 2012, industry, through ASTM International, has worked to develop voluntary consensus-based standards to help ensure the quality of E15 made and used in the marketplace. For example, ASTM D4814-18c has language to ensure that gasoline-ethanol blends have certain physical and chemical characteristics, like the gasoline-ethanol blend having distillation parameters falling within specified ranges, to ensure that when the gasoline-ethanol blended fuel is used, driveability issues will not arise. (125)

For these reasons, we believe that E15 would have similar driveability characteristics to Tier 3 E10 certification fuel.e. Conclusion

For reasons described above, we are proposing that E15 is substantially similar to Tier 3 E10 certification fuel. As discussed above, when interpreting which fuels and fuel additives are sub sum to certification fuel under CAA sec. 211(f)(1), we consider those potential effects of relevance under CAA sec. 211(f)(1) of fuels and fuel additives on certified motor vehicles' emissions (exhaust and evaporative), materials compatibility, and driveability. Regarding emissions, while E15 compared with Tier 3 E10 certification test fuel would have small emissions changes in Tier 3 vehicles, we expect that E15 would exhibit similar exhaust and evaporative emissions for Tier 3 vehicles certified on Tier 3 E10 certification fuel. For materials compatibility and driveability, we expect that due to E15 being used as a service accumulation fuel for evaporative emissions aging, as well as our conclusions for MY2001 and newer light-duty motor vehicles regarding materials compatibility and driveability in the E15 partial waivers, E15 would be sub sim to Tier 3 E10 certification fuel.

Our proposed interpretation is limited to gasoline that contains only ethanol content up to 15 percent as this is the only oxygenate that we have sufficient data and information to support at this time. (126) Other oxygenates (notably isobutanol) may have similar emissions effects to Tier 3 E10 certification fuel, but we lack the data and information on emissions, materials compatibility, and driveability as established for ethanol as part of the E15 partial waiver decisions and the Tier 3 rulemaking. Therefore, our proposed interpretation of sub sim for gasoline would interpret gasoline-ethanol blends containing up to 15 percent ethanol as sub sim, while keeping the oxygen content limit of 2.7 weight percent for other oxygenates. We seek comment on whether we should interpret sub sim to encompass other oxygenates and request any supporting data on the potential effects of other oxygenates on emissions, materials compatibility, and driveability of Tier 3 vehicles.6. Other Aspects of the Proposed Interpretative Rulemakinga. Effects of Proposed Interpretation of CAA sec. 211(h)(4)

The proposed new interpretation of “substantially similar” interpreting E15 to be sub sim to Tier 3 E10 certification fuel discussed in this section would make it lawful for refiners and importers to make and introduce into commerce E15 without the use of the E15 partial waivers. This proposed interpretation of “substantially similar” in conjunction with the proposed interpretation of CAA sec. 211(h)(4) would also extend the exemption from the CAA sec. 211(h)(1) upper RVP limit from 9.0 psi to 10.0 psi for fuels containing 9-15 percent ethanol.

As previously explained, the deemed to comply provision was promulgated at the inception of the RVP program when industry had just begun blending ethanol in gasoline and reflects the highest permissible ethanol content under the waiver under CAA sec. 211(f)(4). Specifically, the deemed to comply provision applies where “the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4) of this section.” (127) A plain reading of this provision therefore, would suggest that it could not apply where the agency concludes that a fuel is substantially similar to certification fuels, under CAA sec. 211(f)(1). However, we seek comment on the continued use of the deemed to comply provision to ease the demonstration burdens for fuels that do not have a CAA sec. 211(f)(4) waiver, but nonetheless can be introduced into commerce because they are substantially similar to Tier 3 E10 certification fuel.

If we finalize our interpretation of substantially similar proposed in Section II.C, the 1-psi waiver would be available to fuel manufacturers, refiners, and importers, in contrast to the approach discussed in Section II.B, which would only allow downstream parties to take advantage of the 1-psi waiver. However, retailers that produce E15 via a blender pump would still have issues complying with EPA fuels regulations at 40 CFR parts 79 and 80 unless they made the E15 solely from DFE and certified gasoline (or CBOB).b. Regulatory Amendments

The technical amendments to our regulations discussed in Section II.B.2, in the context of our first approach to allow the 1-psi waiver for E15 during the summer, would also be necessary were EPA to finalize a new interpretation of “substantially similar” that finds that E15 is sub sim to Tier 3 E10 certification fuel. The regulatory changes would be identical to those discussed in Section II.B.2, as those regulatory changes would be promulgated to effectuate our new interpretation of CAA sec. 211(h)(4). In short, we would promulgate regulatory amendments modifying the ethanol content at 40 CFR 80.27 to blends of gasoline containing 9-15 percent ethanol. We would also promulgate regulations removing requirements implemented in the MMR relating to (1) comingling of E10 and E15; and (2) PTD requirements for E15 that would no longer be necessary were E15 to receive the 1-psi waiver. As discussed in Section II.B.2, all other regulations promulgated as part of the MMR would remain in place.c. Potential Conditions As Part of CAA sec. 211(f)(1) Interpretative Rulemaking

CAA sec. 211(f)(1)(A) prohibits fuel or fuel additive manufacturers from first introducing into commerce, or increasing the concentration in use of, any fuel or fuel additive for general use in light-duty motor vehicles which is not substantially similar to that utilized in the certification of motor vehicles or engines under CAA sec. 206. As explained above, we have interpreted the “substantially similar” provision several times to allow the introduction into commerce of certain fuel blends. The language of CAA sec. 211(f)(1) does not address whether and how EPA can restrict its determination that a particular fuel is “substantially similar” to a certification fuel. Given the fact that there have now been multiple certification fuels since 1977, when CAA sec. 211(f)(1) was first enacted, we believe it is reasonable to interpret this provision as allowing EPA to apply restrictions on a sub sim determination, where the restrictions are intended to avoid the kinds of problems that prompted the prohibition against introduction into commerce. We solicit comment on this approach, including comments on the specific conditions we should impose.

One implication of a sub sim interpretation that includes E15 under CAA sec. 211(f)(1) would be that a waiver under CAA sec. 211(f)(4) will no longer be necessary for E15 to be introduced into commerce. This would in effect remove the conditions of the E15 partial waivers imposed on fuel and fuel additive manufacturers, in the absence of any limitations on the sub sim interpretation. This would mean that the conditions in the E15 partial waivers designed to limit the introduction into commerce of E15 to only MY2001 and newer light-duty motor vehicles would not apply. The need for the conditions on the E15 partial waivers may be partially mitigated because we have already put in place parallel restrictions in our regulations in the E15 MMR rulemaking at 40 CFR part 80, subpart N. (128) However, some conditions in the E15 partial waivers are not part of the MMR. One such condition is the requirement that fuel and fuel additive manufacturers have an EPA-approved misfueling mitigation plan (MMP) prior to introducing E15 into commerce. While MMPs generally commit fuel and fuel additive manufacturers to adhere to regulatory requirements of the MMR, MMPs also commit these manufacturers to participate in public outreach on the appropriate use of E15 and allow for specific, additional misfueling mitigation measures that may apply in a manufacturers specific situation. Another condition in the E15 partial waivers is that ethanol producers must manufacture denatured fuel ethanol that meets industry established quality standards if used to make E15. This requirement is not currently part of EPA's fuels regulations.

Furthermore, as discussed, the technical basis to deny the E15 waiver request for MY2000 and older motor vehicles and nonroad products and promulgate the MMR is unchanged and removing the conditions in the E15 partial waivers removes a layer of protection against the misfueling of these vehicles, engines, and equipment. (129) We denied the E15 waiver request for MY2000 and older motor vehicles, nonroad vehicles, engines, and equipment (including motorcycles, and heavy-duty motor vehicles) due to our engineering assessment that these vehicles, engines, and equipment may experience emissions failures over these vehicles, engines, and equipments' full useful lives. Also, as discussed above, in the MMR we concluded that under CAA sec. 211(c)(1)(A), the likely result would be increased VOC, CO, and NO X emissions were these particular engines, vehicles and equipment to use E15. The prohibitions and regulatory requirements were designed to help mitigate the misfueling of E15 in these vehicles.

There are still millions of MY2000 and older motor vehicles on the road (although they will over time make a smaller contribution to vehicle miles travelled) and hundreds of millions of pieces of nonroad equipment not designed for and prohibited from E15 use. The existing conditions on the E15 partial waivers under CAA sec. 211(f)(4) help ensure E15 fuel quality and mitigate the misfueling of vehicles, engines, and equipment and we believe it is appropriate to continue to impose the same conditions on parties that introduce E15 into commerce under a CAA sec. 211(f)(1) sub sim interpretative rulemaking. Therefore, we are proposing and seek comment on certain limitations, including those contained in the current CAA sec. 211(f)(4) waiver, as part of an interpretative rulemaking which defines E15 as substantially similar to Tier 3 E10 certification fuel under CAA sec. 211(f)(1).

Additionally, we seek comment on whether this proposed sub sim interpretation for E15 should be limited to the subset of the national vehicle and engine fleet to which the current E15 waivers apply (MY2001 and newer light-duty motor vehicles) or on which our assessment in Section II.C is based (i.e , only to vehicles and engines certified using Tier 3 E10 certification fuel). While we have not previously imposed conditions in substantially similar interpretative rulemakings designed to limit the applicability to certain classes of vehicles, engines, and equipment, for the reasons explained above, we are seeking comment in this case. The record has not changed with respect to the inability of older vehicles, nonroad equipment, motorcycles, or heavy-duty trucks to use E15, which formed the basis of our denial of the E15 waiver request for such vehicles, engines, and equipment.

Furthermore, our assessment in Section II.C was limited to only Tier 3 E10 certification fuel used to certify MY2020 (some earlier) light-duty vehicles, not all in-use vehicles and engines that run on gasoline. Such a condition would be in recognition of the fact that, in contrast to the date when CAA sec. 211(f)(1) was enacted, not all gasoline vehicles and equipment are certified on the same gasoline. All other vehicles, engines, and equipment prior to Tier 3 used certification fuel without ethanol, and some nonroad vehicles, engines, and equipment are still certified using E0. A condition limiting the applicability of the sub sim interpretative rulemaking to vehicles certified on Tier 3 certification fuel would recognize the fact that most vehicles, engines, and equipment were not certified on E10, and prevent emission exceedances by limiting which vehicles, engines, and equipment could use E15 under the proposed sub sim interpretative rulemaking.

Finally, we seek comment on whether we can impose the existing waiver conditions in the E15 partial waivers, in their entirety, as conditions in the proposed substantially similar interpretative rulemaking. The conditions on the E15 partial waivers provide additional misfueling mitigation and fuel quality protections, which as mentioned above some stakeholders believe may need to be bolstered in the future as E15 becomes more available to consumers.D. E15 Misfueling Mitigation

Some stakeholders have raised concerns since the President's announcement over whether the remaining E15 misfueling mitigation measures would be sufficient in light of this proposed action. (130) These stakeholders suggested that a possible consequence of this proposed action would be an increase in the availability of E15 in the market resulting in an increase in the potential misfueling of E15 in nonroad vehicles, engines, and equipment and MY2000 and older light-duty vehicles. These stakeholders suggested that, in light of their concerns and advancements in technology since our MMR rule, we seek comment on a wide range of additional misfueling mitigation measures to help avoid the misfueling of E15.

While we believe additional misfueling measures are unnecessary at this time and outside the scope of this proposed action, we recognize that as E15 and other higher-level ethanol blends become more prevalent in the marketplace, the use of additional misfueling mitigation measures may be appropriate. We also recognize that additional misfueling mitigation measures would most likely place a significant burden on retailers, many of whom are small businesses, to upgrade fuel dispensers to implement physical barriers to E15 use or employ radio-frequency identification (RFID) technology. Therefore, we seek comment on whether additional misfueling mitigation measures would be appropriate and we specifically seek comment on the costs and benefits of such measures on affected parties.E. E15 Criteria Pollutant and Air Toxics Emission Impacts

As discussed above, we expect the emissions of E15 to be substantially similar to those of E10 Tier 3 certification fuel when used in Tier 3 light-duty vehicles. This section describes expected emissions effects of the proposed action on evaporative and exhaust emissions of E15 relative to E10 typically available in the marketplace.

Evaporative emissions from vehicles comprise approximately 60 percent of the VOC emissions during summertime conditions from the current vehicle fleet based on results produced by MOVES2014b, and such VOC emissions contribute to ambient levels of ozone, PM, and air toxics, all of which endanger public health and welfare. Today's vehicles are equipped with charcoal cannisters to capture vapors generated during refueling as well as daily diurnal temperature fluctuations. This stored vapor is then drawn into the engine and combusted during vehicle operation.

Currently and historically, vehicle manufacturers have been required to certify their vehicles on test gasoline with a volatility of 9.0 psi RVP under severe operating conditions similar to what might be expected on high ozone days. The evaporative emission standards have been progressively made more stringent over time, such that under the Tier 3 standards they require essentially zero vapor loss during normal operation on 9.0-psi fuel. Increasing fuel RVP from 9.0 psi to 10.0 psi increases fuel vapor generation significantly under summertime conditions, which can overwhelm a vehicle's evaporative control system and push it out of compliance. Consequently, controlling the volatility of gasoline during the summer is important in order to control the evaporative VOC emissions produced by vehicles and engines in-use.

This proposal changes the volatility standard that applies to E15 in-use from 9.0 psi to 10.0 psi RVP. Viewing this change in isolation, one might expect a significant increase in evaporative emissions. To accurately assess emission impacts in this case, however, we need to examine current real-world circumstances. Namely, we expect any E15 introduced into the market to displace E10 that is already being sold and that carries the 1-psi waiver in conventional gasoline areas (E10 has nearly 100 percent market share for gasoline sold in the U.S ). E15 has a slightly lower RVP than E10 when made from the same BOB, a situation we believe will be the case unless E15 use becomes widespread. (131) Thus, to the extent that E15 displaces E10 in the short term, E15 is expected to lower the volatility of in-use gasoline by as much as 0.1 psi. (132)

Use of E15 blends will have other criteria pollutant emission impacts beyond those related to volatility described above. Assuming E15 is made from the same BOB as E10, we expect the additional 5 volume percent ethanol to further dilute hydrocarbon fuel components such as aromatics, producing changes in several exhaust emissions such as NO X, NMOG, and benzene. (133 134) Ethanol also causes changes in the volatility profile of the blended fuel, typically lowering the mid-point distillation temperature (T50) significantly, and the 90 percent temperature (T90) slightly. (135) Table II.E-1 shows predicted fuel property and exhaust emission changes for Tier 2 vehicles using both E10 certification gasoline and a typical market E10 as baselines for comparison. Results using the EPAct model developed from the EPAct/V2/E-89 study described in Section II.C.5.a suggest E15 blends are expected to produce slightly lower CO, and slightly higher NO X and PM compared to their E10 blending base. Changes in NMOG (or VOC) vary in direction depending on the T50 of the blending base.Table II.E-1—Example Emission Impacts of E15 Blends Based on EPAct Model Fuel properties used in analysis Eth. vol(%) Arom. vol(%) RVP (psi) T50 (°F) T90 (°F) E15 emissions impact relative to indicated baseline CO(%) NMOG(%) NOX(%) PM(%)Baseline: E10 certification fuel at 9 psi 10.0 23.0 9.0 200 325 E15 at 9 psi (splash) 15.0 21.9 9.0 163 321 −2.5 −5.6 1.8 2.7E15 at 10 psi (splash) 15.0 21.9 10.0 163 321 −1.3 −8.0 1.8 2.7Baseline: E10 market fuel at 10 psi 10.0 23.0 10.0 180 320 E15 at 10 psi (splash) 15.0 21.9 10.0 160 316 −2.0 2.2 2.5 4.0E15 at 10 psi (MOVES Fuel Wizard) \* 15.0 21.7 10.0 167 318 −2.6 1.4 2.7 4.1

If E15 use becomes widespread in the longer term, refiners may adjust the base blendstock to accommodate the additional ethanol. During the rapid expansion of E10 blending between 2007-2012, aromatics levels were observed to decline by a few volume percent while pump octane levels stayed constant, and octane match-blending is understood to have been a contributing factor. (136 137) For other fuel properties, such as sulfur and benzene content, refiner control could be relaxed slightly for E15 blendstocks with the finished market E15 blend still meeting with the regulatory limits. Moving from E15 splash blends to match blends may then undo some small emission reductions occurring when E15 is made from refinery blendstocks designed for E10.F. E15 Economic Impacts1. Benefits for E15 RVP

We anticipate that providing the flexibility to use E15 at 10.0 psi RVP in the summer could help incentivize retailers to introduce E15 into the marketplace. In situations where denatured fuel ethanol is cheaper than gasoline, parties may elect to make E15 more widely available, which may result in a modest decrease in fuel prices at the pump. This could help to further the use of increased volumes of renewable fuels under the RFS program, which in turn could provide energy security benefits.2. Costs for E15 RVP

Our proposal to allow E15 to take advantage of the 1-psi waiver in the summer may help open new market opportunities for E15. However, fuel manufacturers and distributors of E15 would not be compelled to make or offer E15 and could choose to offer E15 as dictated by market demands and individual business decisions.

Overall, we anticipate very little change in costs regarding the proposed regulatory provisions to allow E15 to receive the 1-psi waiver in the summer. This action places no new regulatory burdens on any party in the gasoline or denatured fuel ethanol distribution system and modifies, but does not remove, PTD requirements for E15. Hence, we expect that these proposed provisions would not substantially alter the cost of compliance for parties that produce and distribute E15.III. RIN Market ReformsA. Overview of RFS Compliance

The RFS program began in 2006, pursuant to the requirements in CAA sec. 211(o) that were added through the Energy Policy Act of 2005 (EPAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), leading to the publication of major revisions to the regulatory requirements on March 26, 2010. (138)

Under CAA sec. 211(o), EPA is required to set renewable fuel percentage standards every year. (139) To comply, obligated parties (140) can purchase and blend the requisite volumes of renewable fuels into the petroleum-derived transportation fuels they produce or import. However, to allow the market to function more efficiently and avoid market disruption, in implementing the statutorily-required credit program, and to assist obligated parties in meeting their individual RVOs, Congress directed EPA to establish, through a transparent public rulemaking process, a system for the generation and use of renewable fuel program credits. (141) The credits created under this program are known as RINs. RINs are credits that are generated upon production of qualifying renewable fuel and ultimately used by obligated parties to demonstrate compliance. Renewable fuel producers and importers generate and assign RINs to the renewable fuel they produce or import. These RINs are then ***transferred*** with the renewable fuel to the downstream parties that blend the renewable fuel into transportation fuel. In lieu of blending the renewable fuels themselves to demonstrate compliance, obligated parties have the option to instead purchase RINs from other parties that blend renewable fuels.

The assigned RINs that accompany the renewable fuel can primarily be separated from the fuel if the fuel is purchased by an obligated party or blended into transportation fuel. Once separated, RINs can be traded as a separate commodity from the renewable fuel. Obligated parties accumulate RINs over the course of the year, either by buying renewable fuel with assigned RINs that they separate and retain for compliance (and either blend the fuel themselves or rely on others to do on their behalf), or by purchasing separated RINs on the open market. All RIN transactions, including the generation of RINs, RIN trades, and the retirement of RINs to satisfy an obligated party's RVOs, are reported to EPA using the EPA Moderated Transaction System (EMTS). (142)

The annual RVOs for a given obligated party are calculated by multiplying the obligated party's total annual production and import of gasoline and diesel fuel by four annual percent standards corresponding to the four renewable fuel categories established by Congress. (143) Each obligated party must obtain sufficient RINs of each category to demonstrate compliance with its individual RVOs for the four annual percentage standards. Obligated parties comply on an annual average basis, through their annual compliance report to EPA that identifies their obligation based on gasoline and diesel production/import and identifies the RINs acquired and retired for that year's compliance. Thus, compliance under the RFS program requires obligated parties to understand how to calculate their individual obligations based on the four percentage standards, and then to plan for their annual compliance demonstration through RIN acquisition, either through blending or through trading, over the course of the year. There are also associated registration, reporting, and recordkeeping requirements.B. RIN Market Assessment

Renewable fuel producers and importers generate RINs by entering their renewable fuel production or import information into EMTS. When a renewable fuel producer or importer ***transfers*** ownership of the fuel to another party, the assigned RINs usually ***transfer*** as well. Both parties must report information about the RIN transaction to EMTS within five days of the ***transfer***. Parties must also report in EMTS when they separate RINs from fuel, when they trade separated RINs with another party, and when they retire RINs for compliance or other reasons. EMTS effectively acts as an electronic platform that records RIN transactions, conducts RIN title ***transfers*** between parties, and maintains a RIN account balance for each registered party.

RINs are transacted through contracts or on the spot market, in bilateral trades directly between buyers and sellers, or facilitated by third-party brokers. EPA designed the RIN system to operate as a relatively “open” trading market in order to maximize liquidity and ensure a robust marketplace for RINs. For example, in establishing the original trading program, EPA attempted to provide as much compliance flexibility as possible and did not place limits on the number of allowable RIN trades, nor restrict the types of parties that could acquire and trade RINs. Several stakeholders from across the fuels industries supported the trading system we finalized in 2007. (144) In the RFS1 final rule preamble, we summarized the comments of several parties as saying “that unlimited trading among all interested parties would increase liquidity and transparency in the RIN market,” and “that increasing the number of participants would facilitate the acquisition of RINs by obligated parties and promote economic efficiency.” (145)

Individual transaction prices are generally not made public, but some services, such as OPIS and Argus, offer daily price information on commodities such as RINs from a subset of parties that trade in the RIN market. The public can access this information for a fee paid to these service providers. Recently, EPA began posting aggregated weekly RIN price information reported to EPA through EMTS on our public website, which is updated monthly. (146) RIN prices are a function of multiple factors, including but not limited to changes in petroleum prices, ***agricultural*** feedstock (e.g , corn, soy) prices, and expectations of future market shifts and standards. RIN prices may also fluctuate as the market responds to RFS standards and expectations of future EPA policy decisions.

Image #EP21MR19.000

While there are many different factors that impact RIN prices, a review of the historical RIN price data demonstrates that RIN prices generally follow expected market principles. For example, in the early years of the RFS program (2010-2012) D6 RIN prices (for mostly corn ethanol) were generally only a few cents. During this time, the implied conventional biofuel volume (the difference between the total renewable fuel volume and the advanced biofuel volume and the only volume to which D6 RINs can be applied) could be met by blending ethanol as E10. The blending of ethanol up to E10 was driven by economic factors rather than financial incentives provided by the RFS program. (147) First, ethanol has a relatively high octane value, and thus is attractive as a gasoline blendstock component. Second, ethanol was cheaper on a volumetric (per gallon) basis than gasoline during this time period, and it was therefore economic to blend at levels up to 10 percent. Third, though ethanol contains about one-third less energy than gasoline on a per-gallon basis, that fuel economy difference between E10 and gasoline without ethanol (E0) is relatively small (approximately 3 percent) and is largely unnoticed by consumers. In light of these factors, the blending of ethanol up to E10 was economically viable for blenders in these years. The D6 RIN price was therefore very low, approximately equal to the transaction costs of trading RINs between parties.

In 2013, however, the implied conventional biofuel volume established by the RFS program exceeded the volume of ethanol that could be blended into gasoline at a rate of up to 10 percent (the E10 blendwall). To meet the aggregate RVOs, obligated parties now needed to acquire RINs beyond those that were available from blending ethanol as E10. These additional RINs had to come from either blending ethanol into higher-level ethanol blends (e.g , E85) or blending non-ethanol biofuels (such as biodiesel or renewable diesel beyond what was needed to satisfy the biomass-based diesel (BBD) and advanced biofuel volume standards). Blending ethanol into higher level blends, unlike the blending of ethanol into E10 blends, was not an economically viable practice in 2013 (nor is it currently) absent the incentives provided by the RFS program (i.e , the RIN price). Although ethanol has a higher octane value than gasoline, the existing vehicle fleet in the United States does not realize an additional benefit from the higher octane level of high ethanol blends such as E85. Further, consumers notice the decrease in fuel economy (between 15 and 27 percent) in such blends. This is because ethanol contains about one-third less energy than gasoline on a per-gallon basis. The sale of higher-level ethanol blends is also limited to flexible fuel vehicles, and relatively few retail stations offer these higher-level ethanol blends due to the combination of the high cost of the infrastructure upgrades to enable most existing stations to sell E85 and the low demand for E85, even among FFV owners. (148) The relatively low number of stations selling E85 has also hindered the competitiveness of the pricing of the few retail stations that do sell these blends. As a result, in most cases obligated parties have turned to additional volumes of biodiesel and renewable diesel instead of E85 or other higher level ethanol blends to meet their implied conventional biofuel volume obligation and therefore their total renewable fuel obligation. (149) D4 (BBD) RINs, generated for biodiesel and renewable diesel, have in effect served as a ***ceiling*** for D6 RIN prices since excess D4 RINs can be used to satisfy an obligated party's total renewable fuel obligation. As a result, the D6 RIN price rose to just slightly below the D4 RIN price. With a few exceptions (such as in the first half of 2017) when the total renewable fuel obligation has been at or below the E10 blendwall, the D6 RIN price has generally moved in conjunction with the D4 RIN price since 2013.

D5 RIN prices similarly followed distinct pricing patterns prior to reaching the E10 blendwall in 2013 and in the years since 2013. Prior to reaching the blendwall, a significant volume of the D5 RINs were generated for imported sugarcane ethanol. Since sugarcane ethanol was generally more expensive to produce than corn ethanol (driven by high world sugar prices), the D5 RIN price generally reflected the price difference between corn ethanol and sugarcane ethanol during this time period. When the E10 blendwall was reached in 2013 it became much more expensive to blend additional volumes of ethanol (both for corn ethanol and sugarcane ethanol) since additional ethanol had to be sold in higher-level ethanol blends. As a result, the primary fuels used to satisfy the implied volume of “other advanced” biofuels (the remaining advanced biofuel volume after subtracting the required volumes of BBD and cellulosic biofuel) in 2013 and the following years have been biodiesel and renewable diesel. The D5 RIN price in these years has followed the D4 RIN price, with the few cents difference between the two RIN prices reflecting the fact that, unlike D4 RINs, D5 RINs can only be used towards an obligated party's advanced biofuel and total renewable fuel obligations (and not the BBD obligation).

As with D6 and D5 RIN prices, D4 RIN prices generally follow expected market fundamentals. D4 RIN prices are generally equal to the difference between the market prices of biodiesel and petroleum diesel, after accounting for the biodiesel tax credit. For each year from 2010 through 2017, a $1 per gallon biodiesel blenders tax credit from the Internal Revenue Service has also been available. In some years, such as 2013 and 2016, this tax credit was available prospectively (i.e , the tax credit was in place throughout the year). In other cases, such as in 2012 and 2017, the tax credit was only available retroactively (i.e , the tax credit was not extended until near the end of the year or after the year had ended but applied to all qualifying biodiesel and renewable diesel blended in that year). The biodiesel blenders tax credit has not yet been extended to 2018 or 2019 by Congress. (150) For years in which the biodiesel tax credit was not in place prospectively, the D4 RIN prices generally reflected the market's confidence that the tax credit would ultimately be applicable. A recent paper investigating the price of D4 RINs and economic fundamentals further supports this view of the D4 RIN market stating that “movements in the D4 RIN price at frequencies of a month or longer are well explained by two economic fundamentals: the spread between the biodiesel and Ultra Low Sulfur Diesel prices and whether the biodiesel tax credit is in effect.” (151)

Finally, the D3 RIN price has generally followed the combined prices of the cellulosic waiver credit (CWC) and the D4/D5 RIN price. Each year since 2010, we have reduced the required volume of cellulosic biofuel from the statutory volumes using the cellulosic waiver authority set forth in CAA sec. 211(o)(7)(D). When EPA takes this action, the statute requires that we make CWCs available for purchase to obligated parties at a price determined using a formula given in the statute. CWCs can be used to satisfy an obligated party's cellulosic biofuel obligation, but unlike a D3 (or D7) RIN, a CWC cannot be used towards satisfying an obligated party's advanced biofuel or total renewable fuel obligations. Thus, a D3 RIN has the “compliance equivalency” of a CWC plus a D5 (or D4) RIN. As expected, the D3 RIN price has generally been slightly less than the sum of the CWC price and the D4/D5 RIN price. This price point reflects the compliance certainty that the CWC offers (CWCs cannot later be determined to be invalid) as well as the fact that CWCs can simply be purchased directly from EPA at the compliance deadline rather than purchased in relatively small quantities from biofuel producers or blenders.

Obligated parties that purchased RINs on the market for compliance in 2013 saw their D6 RIN prices substantially increase from the year prior (see Figure III.B.1). Though this increase in D6 RIN prices was the result of structural changes in the market, as described above, increasing D6 RIN prices did raise concerns regarding whether market manipulation played some role in elevated prices. Some RFS stakeholders petitioned EPA to change the definition of obligated party, arguing in part that the current point of obligation facilitates price manipulation. In response to those petitions, EPA conducted an extensive analysis of RIN prices and market dynamics. After studying the data, we concluded that RIN prices generally reflected market fundamentals and that obligated parties (including parties that purchase separated RINs) recover the cost of RINs in the market price of the gasoline and diesel fuel they sell. (152)C. President's Directive

Some RFS stakeholders have voiced concerns regarding whether elevated RIN prices and excessive RIN price volatility are being caused at least in part by some type of market manipulation. In comments to proposed EPA rulemakings, litigation filings and arguments, and via meetings with EPA staff, some stakeholders have described conditions that they believe make the RIN market vulnerable to anti-competitive behavior. For example, commenters have described a thin market volume, opaque price signals, and inelastic demand and supply curves and have provided specific examples of behavior they find manipulative, such as phantom RIN offers that suddenly vanish and reappear at higher prices after a party attempts to buy them at the purported asking price. (153) These stakeholders also speculate that, as a result of market conditions and price volatility, anti-competitive behavior is taking place. For example, commenters have argued that a small number of sophisticated market participants control a large number of “surplus” RINs that they hoard and use to squeeze the market.

We take these claims of market manipulation seriously and have taken formal action previously to investigate claims of manipulation. In March 2016, EPA entered into a Memorandum of Understanding (MOU) with the Commodity Futures Trading Commission (CFTC). (154) Under the MOU, we provided CFTC with certain RIN data for analysis in order to facilitate an EPA investigation.

Although we have yet to see data-based evidence of RIN market manipulation, the potential for such behavior is a concern, and we have already formally solicited comment from stakeholders on potential changes that might address such issues. In the 2018 RVO proposal, we broadly sought input on potential regulatory changes related to RIN trading as well as on ways to increase program transparency. (155) We received comments from stakeholders suggesting a number of regulatory changes related to who may purchase RINs, the duration for which RINs could be held, and other potential requirements related to the buying, selling, or holding of RINs. We also received a number of suggestions for increasing the amount of data related to the RIN market that we make publicly available. We evaluated these ideas, and in the 2019 RVO proposal, we listed those that were under consideration for implementation at that time, including: Prohibiting parties other than obligated parties from purchasing separated RINs; requiring public disclosure if a party holds a certain percentage of the RIN market; requiring obligated parties to retire RINs for compliance purposes on a more frequent basis; and publicly posting information on RIN prices, small refinery exemptions, and RIN holdings by different categories of entities. (156) We requested comment on the expected impact that these specific changes could have on the RIN market, either positively or negatively.

We received many comments in support of publicly posting more RFS program data. In response, in September 2018, we began publishing weekly aggregated RIN prices, as reported in EMTS by sellers and buyers, as well as weekly aggregated transaction volumes. We believe publishing as much data and information on the RIN market as possible, while still protecting confidential business information, improves market transparency and helps obligated parties and other market participants make informed decisions. We also believe that these data can reduce information asymmetry among market participants increasing confidence in the market. In addition, we began publishing information on small refinery exemption requests received and granted by EPA and the volumes of gasoline and diesel fuel exempted. This helped all obligated parties account for the potential volume exempted under these provisions and make adjustments to their compliance strategies accordingly.

We also received a wide variety of comments regarding the other ideas we put forth for comment in the 2019 RVO: prohibiting parties other than obligated parties from purchasing separated RINs, requiring public disclosure if a party holds a certain percentage of the RIN market, and requiring obligated parties to retire RINs for compliance purposes on a more frequent basis. Some commenters expressed support for these ideas and offered others for our consideration while some commenters opposed both the specific reform proposals and the general concept of interfering with the open RIN market in any way. Summaries of, and responses to, those comments are included throughout this action as we explain the rationale behind the proposals we are making today.

On October 11, 2018, President Trump issued a White House statement (157) explaining that EPA was being directed to initiate a rulemaking to address RIN price manipulation claims and increase transparency in the RIN market. Specifically, the memorandum directs EPA to consider potential reforms to the RIN regulations, including but not limited to the following proposals:

Prohibiting entities other than obligated parties from purchasing separated RINs. Requiring public disclosure when RIN holdings held by an individual actor exceed specified limits. Limiting the length of time a non-obligated party can hold RINs. Requiring the retirement of RINs for the purpose of compliance be made in real time.

Pursuant to this directive, we are proposing these reforms.D. Objectives

We are interested in ensuring that the RIN market works efficiently and is free of anti-competitive behavior. We affirm that price manipulation through anti-competitive behavior, similar to what is referred to as cornering or squeezing the market, and false or misleading representations in transactions, is antithetical to effective market operation and should be discouraged. (158) Were such anti-competitive behaviors to occur, it could undermine the confidence of market participants in the RIN market and undermine the RFS program itself. Consequently, in this action, we are proposing regulatory changes based upon the President's Directive that could help prevent anti-competitive behavior. For each reform, we evaluated comments already submitted to EPA describing its advantages and disadvantages. We also evaluated how a reform could be designed and implemented, whether a reform could be gamed or have unintended consequences, and what potential burden and cost it could place on regulated parties and on EPA. In Section III.E, we describe our evaluation in detail for each reform, including sharing comments received from stakeholders on similar market reform ideas solicited in prior rulemakings.

EPA designed the RIN system and regulations to maximize compliance flexibility and market liquidity. We realize that new market restrictions could impact that flexibility and liquidity. For example, we note the numerous comments received on the 2019 RVO rule stating that changes to the RIN market structure could reduce liquidity, increase volatility, and make the RIN market function less efficiently, increasing costs to obligated parties and consumers. (159) In addition, a white paper on the President's Directive recently released by the American Petroleum Institute (API) cautions that “the proposed regulatory changes are likely to create additional significant problems of their own” and that “history suggests that regulatory agencies should be extremely cautious in changing established rules in regulated markets.” (160) Interested stakeholders have also suggested that some reforms could impact the ability of small, less recognized, or new renewable fuel producers and blenders to enter the market. Finally, we understand that some reforms could inadvertently affect otherwise legitimate market behavior. For example, parties that make a profit on the RIN market are not necessarily conducting manipulative or anti-competitive behavior and may very well be increasing market efficiency and liquidity with their actions. Therefore, we have taken into consideration the potential for reforms to harm the RIN market in this proposed action.

We are proposing regulatory changes in this action for all four reforms identified in the President's Directive and request comments on both the positive and negative consequences of each reform. We intend to finalize the reforms that we conclude are beneficial for the RFS program, the RIN market, and the RFS stakeholders, and do not impose unnecessary burden. For all four reforms outlined in this action, we focus on separated RINs only; we believe the physical storage limitations faced by renewable fuel already reduce the opportunity for price manipulation of assigned RINs and that the existing regulations at 40 CFR 80.1428 already include anti-hoarding provisions for RINs attached to renewable fuel. Furthermore, for each of the four reforms, we evaluate whether we should limit the proposed regulatory provision to D6 RINs only. Stakeholder concerns over market manipulation focused mainly on D6 RINs because, as described in Section III.B, in 2013 the overall demand for RINs increased due to the increased RVO set in the statute while the supply of D6 RINs remained nearly flat due to the E10 blendwall. (161) D6 RINs are also the predominant RIN type generated, and therefore impacts on D6 RIN prices have much larger consequences for obligated parties than impacts on the prices of other RIN types. (162) For each reform discussed in Section III.E, we explain whether it is feasible to propose that the reform apply to D6 RINs only and our rationale. We seek comment on narrowing the scope of the proposals in this action to D6 RINs only.E. Proposed Approach to Individual Regulatory Reforms

For each potential reform, we discuss the basic concept, its implications for the program and marketplace, the scope and design of the specific regulatory modification in question, and other relevant details. Broadly speaking, EPA is interested not only in comments on specific individual reforms, but also on how the various reforms might work in combination, and the degree to which the reforms provide, or detract from, symmetry in the marketplace, so that one set of actors is not advantaged at the expense of another set operating in the same market.1. Reform One: Public Disclosure if RIN Holdings Exceed Certain Threshold

The first potential reform from the President's Directive that we address in this action is a requirement for public disclosure when a party's RIN holdings exceed a certain threshold. The fundamental concept underpinning this reform is that increased transparency can help deter market actors from amassing an excess of separated RINs, which due to the concentration in ownership of available supplies could result in undue influence or market power. This reform could also let market participants know the underlying status of the market. A concentration of separated RINs, if sufficiently large in scope, could be used by a party to manipulate the market by artificially affecting prices in any direction. The most extreme examples of market power are monopolies, but concentration can be a concern even for markets with many participants when only a few control the majority of available supply at any given point in time.

In this action, we are proposing to set two thresholds that would work in tandem to identify parties that have amassed RINs in excess of normal business practices, which could indicate an intent to assert an inappropriate influence on the market. These thresholds would apply to holdings of separated D6 RINs only. The first threshold would be triggered if a party's end-of-day separated D6 RIN holdings exceeded three percent of the total implied conventional biofuel volume requirement (e.g , 15 billion gallons for compliance year 2018) set for that year by EPA in the RVO rule, which is the total renewable fuel volume requirement minus the advanced fuel volume requirement. A party without an RVO (a non-obligated party) that triggered the first threshold would ***notify*** EPA of an exceedance at the end of the quarter. An obligated party that triggered the first threshold would apply the second threshold by comparing its end-of-day separated D6 RIN holdings with 130 percent of its individual implied conventional RVO. Only obligated parties that triggered both the first and second thresholds would ***notify*** EPA of an exceedance at the end of the quarter. In this action, we are proposing to publish on our website on a quarterly basis the names of any parties that report exceeding the thresholds. We are also proposing that the RIN holdings of corporate affiliates be included in a party's calculations to determine if they trigger a threshold. The definition of corporate affiliate, calculation of the thresholds and specifics of the reporting requirements are discussed in more detail below.

The purpose of putting into place a disclosure requirement is twofold: first, to provide transparency in the market regarding how often certain RIN position thresholds are reached and exceeded, and second, to disincentivize such behavior by requiring public disclosure. If the threshold were ever exceeded, public disclosure would alert market participants and where appropriate prompt a closer review of the circumstances by EPA. Were the threshold to be exceeded, we could then consider further actions to investigate for anti-competitive behavior and help prevent similar behavior in the future. We seek comment on what those further actions might entail, including actions to address concerns within the broader RIN market generally.

It is important to emphasize that we use the term “threshold” in this proposed regulatory modification to mean a level that may be exceeded, with only a disclosure consequence if exceeded. We use the term “limit” in this action to mean a level that may not be exceeded, with a potential enforcement consequence if exceeded. As an alternative to the RIN holding thresholds we are proposing, we seek comment on establishing a RIN holdings limit, whereby we would prohibit parties from holding more than a certain level of RINs. Other marketplaces have established such limits, and we discuss the distinction, as well as the reasons for pursuing the threshold/disclosure approach, below. We seek comment on this alternative proposal and on the issue generally.

Regulatory bodies supervising markets regularly take measures to prevent excessive market power, and it is useful when considering new regulations in the RIN market to assess the tools used in other comparable areas. Tools used in other markets to accomplish similar market power-limiting objectives include collecting market participant data, conducting market surveillance, publicly disclosing market information, and restricting the activity of certain market participants. Physical commodity markets are not typically regulated with holdings thresholds or limits, however, because the physical restrictions to hoarding, like limited physical storage space, obviate the need for regulatory restriction and oversight. Rather, holding thresholds and limits are usually reserved for futures and derivative markets where such physical constraints do not serve as a check on market concentration. For example, the CFTC currently maintains limits on the number of open positions (163) that parties can take at a given time in nine ***agricultural*** markets. (164) Other entities registered with the CFTC, called Exchanges, impose and enforce position limits on a large number of remaining futures and options.

RINs do not fall neatly into either category; they are neither limited by physical storage space nor a derivative. In looking for analogs in other regulated markets, it is therefore helpful to see how other environmental allowance markets operate for purposes of comparison. For this action, we looked at other environmental credit programs and their markets to better understand options for the RIN market and found that different markets operate with different approaches. For example, the California Air Resources Board (CARB) enforces an allowance holding limit in the California Cap-and-Trade Program for greenhouse gas emissions; (165) the Regional Greenhouse Gas Initiative (RGGI) (166) enforces a credit purchasing limit in the RGGI cap-and-trade program credit auctions; and the Government of Canada enforced a limit in its Federal Renewable Fuels Regulations on the number of compliance credits a primary supplier can own at the end of each month. (167) On the other hand, neither EPA's Acid Rain Program (168) nor California's Low Carbon Fuel Standard (LCFS) (169) has limits or thresholds on allowance or credit holdings, and we are unaware of any state Renewable Portfolio Standard (RPS) program (170) that enforces a renewable energy credit holding threshold or limit.a. Implications and Discussion

We believe that requiring public disclosure by parties that exceed a certain RIN holding threshold could prove beneficial for the market as a whole. It could disincentivize parties from gaining market power, signal potentially harmful behavior to competitors, regulators, and policy makers, and be used to justify stronger preventative actions. However, this reform could also have detrimental effects, especially if not designed properly. Excess market power is very difficult to quantify in any given market, even if regulators have perfect knowledge of all market conditions. A real risk exists of setting a RIN holding threshold in this rulemaking incorrectly. If a threshold is set too low, it could unnecessarily compromise market efficiency and liquidity and interfere with obligated parties' ability to comply with regulations by disincentivizing them from holding the necessary quantity of RINs to meet their RVO. We therefore believe that a threshold with a consequence of public disclosure is appropriate rather than a holding limit with an enforcement consequence. A threshold serves as a deterrent and warning bell without the risk of unnecessarily causing harm. We also believe that, in the face of insufficient evidence of any identified parties currently exhibiting what might be considered excessive market power, public disclosure is an appropriate first action. EPA could follow up with more restrictive measures later if warranted and seeks comment on what follow-up actions might be appropriate.

The following sections outline the various considerations we made in designing this proposed measure.b. Scope

As discussed in Section III.D, for each of the four potential reforms, we evaluated whether we could limit the scope of the measure to D6 RINs. For this provision of publicly disclosing when a party exceeds a RIN holding threshold, we concluded that we could limit its scope to D6 RINs without compromising its intended effect. Also, we believe that we can practically design and propose a maximum D6 RIN holding threshold without setting one for D3, D4, or D5 RINs. Not only have D6 RINs raised the most stakeholder concern, as discussed above, but the nested nature of the RVOs and the unique characteristics of other RIN markets (e.g , D3) would make covering all RIN categories considerably more complicated. As also discussed in Section III.D, we are further limiting our proposal of this measure to separated RINs because we believe the physical storage limitations faced by renewable fuel already reduce the opportunity for price manipulation of assigned RINs and that the existing regulations at 40 CFR 80.1428 already include anti-hoarding provisions for RINs attached to renewable fuel. Finally, we are proposing that this threshold cover any vintage D6 RINs that are available for compliance with the current year RVO. We seek comment on these proposed aspects of this reform.c. Methodology for the RIN Holding Threshold

In this action, we are proposing to set two holding thresholds. As stated above, it is extremely difficult to pinpoint a specific market share that would equate to concerning market power. Therefore, we approach this reform by instead estimating the holding level that we believe would be consistent with legitimate market needs. We recognize that legitimate holdings for obligated parties relate to the number of RINs they need for compliance with their RVO, so we logically conclude that an obligated party threshold should relate to its RVO. We also recognize that non-obligated parties have no RVO and require a different threshold methodology. Non-obligated parties have less need to hold RINs than obligated parties because they have no compliance use for them, so we believe their threshold should generally be set lower. Thus, we believe one lower threshold that covers everybody and a second higher threshold that adjusts to the compliance needs of obligated parties together would adequately constrain a market with a very wide range of participants. Both non-obligated parties and obligated parties would be held to similar incentives.

We are proposing a primary D6 RIN holding threshold for all RIN-holding parties relative to the implied conventional biofuel volume requirement finalized by EPA each year. We determine the implied conventional biofuel volume requirement by subtracting the advanced fuel volume requirement from the total renewable fuel volume requirement because D6 RINs can only be used to meet the implied conventional biofuel portion of the total RVO. For example, if the implied conventional biofuel volume requirement were 15 billion in a given year, a certain percentage of 15 billion would be the primary threshold for that year. A threshold relative to the volume requirement adjusts over time to the size of the annual standard rather than to the number of RINs in the market. The benefit of this approach is that the volume requirement does not change, so parties know exactly what level to avoid at all times. This approach is similar to the calculation of the allowance holding limit used in the linked cap-and-trade programs implemented by California and Quebec. (172)

In this action, we are proposing to set a secondary threshold for obligated parties. We recognize that larger obligated parties with large RVOs have valid reasons to accumulate and hold a volume of RINs that might exceed the primary threshold, not only to meet their next annual compliance obligation but also to bank additional RINs for compliance with the following year's obligation. As explained in Section III.D, many instances of RIN accumulation are legitimate and are not related to price manipulation, making it that much harder for regulators to pinpoint the instances of RIN accumulation that are not based on legitimate commercial or compliance needs. For example, parties that anticipate an increase in the price of RINs and/or the quantity of RINs they will need for compliance purposes in future years may choose to acquire RINs beyond their needs for the current year for use in the following year. Therefore, we recognize that the threshold would have to somehow account for and allow RINs held to meet compliance obligations. For example, exemptions to position limits in futures and options markets are granted by the CFTC or Exchanges on a case-by-case basis to parties that demonstrate valid commercial stakes in the underlying physical market. (173) In addition, parties that are covered by the cap and have an emissions compliance obligation under the California Cap-and-Trade Program are allowed to hold more allowances than parties not covered by the cap. While all parties participating in the California Cap-and-Trade Program are subject to the same fixed annual holding limit, parties with a compliance obligation qualify for a limited exemption from the holding limit. Allowances placed in a covered entity's compliance account (from which the entity can no longer remove or trade allowances) up to the limited exemption do not count against the holding limit. The limited exemption is based on lagged values of the entity's reported emissions and is large enough to cover the entity's cumulative emissions obligations. This ensures that entities with compliance obligations greater than the holding limit can still acquire and hold compliance instruments to comply with their obligations. (174) We seek comment on the general concept of a secondary threshold for obligated parties in the RFS program.d. Setting the Primary Threshold

We are proposing that all RIN-holding parties would be subject to a primary threshold for disclosure. We are proposing one approach to calculating the primary threshold that adjusts depending on how many RVOs are in effect. For anytime between April 1 and December 31, when only one set of annual RVOs is in effect, we are proposing that the primary threshold would equal three percent of the annual implied conventional biofuel volume requirement established by EPA in a rule promulgated each year to set the annual renewable fuel standards. In our hypothetical example, this would amount to three percent of 15 billion D6 RINs, or 450 million D6 RINs. For anytime between January 1 and March 31, when two sets of annual RVOS are in effect, we are proposing that the primary threshold would be three percent of 125 percent of the annual implied conventional biofuel volume requirement. We are proposing that the threshold in the first quarter of the year should be 125 percent of the other months because parties may need to hold RINs for two overlapping RVOs in that quarter rather than just one. In our hypothetical example, this would amount to three percent of 18.75 billion D6 RINs, or 562.5 million D6 RINs. We propose that a party's RIN balance at the end of each day in EMTS would be combined with any RINs in pending trades at the end of the day. We seek comment on this approach.

To determine the primary threshold of three percent, we considered thresholds in other programs as well as an analysis of RFS RIN holdings. We looked at the linked cap-and-trade programs implemented by California and Quebec as examples. They use a formula that calculates a holding limit of about three percent of their combined annual allowance budgets every year. (175) Based on our discussions with CARB concerning the implementation and effectiveness of that threshold, we are proposing a similar level. We therefore conclude that a holding limit or threshold of three percent of an allowance or credit standard can identify parties which have acquired RIN holdings larger than necessary for normal business operations and which may indicate an effort to assert inappropriate market power. To help inform our assessment of a three-percent threshold, we conducted a screening analysis using individual-level data to evaluate historical market shares. Specifically, we looked at daily D6 RIN holdings aggregated by company between April 1, 2017 and April 1, 2018, compared to the overall market. For simplicity, we looked at D6 RINs of all vintages. Using our proposed equations for the primary threshold, we found that in that one-year period, 13 out of 126 obligated parties would have exceeded the three percent primary threshold. None of the 280 non-obligated parties that held separated D6 RINs in that time period exceeded the three percent primary threshold. (176)

We seek comment on the general approach of setting the primary D6 RIN holding threshold relative to the implied conventional biofuel volume requirement and the specific application of a three-percent threshold. We also seek comment on the actual thresholds that this calculation generates, whether it is appropriate, and whether it could harm any market participants and, if so, how. We also considered setting two primary thresholds, one for obligated parties set at three percent and a lower one for non-obligated parties set at one percent (an obligated party would still apply the secondary threshold if it exceeded its primary threshold). In our hypothetical example, a one percent threshold would amount to 150 million RINs from April 1 to December 31 and 188 million RINs from January 1 to March 31. We considered this approach because a one percent primary threshold for non-obligated parties could potentially meet the objectives outlined in Sections III.E.3 and III.E.4 in a simplified and more streamlined way than the various reforms proposed in those sections. In our screening analysis, we found that two non-obligated parties would have exceeded the one percent threshold during the time period analyzed, though we did not consider whether the parties were affiliated with an obligated party, as described below. (177) We seek comment on this considered approach of limiting non-obligated parties using just one reform, a lower primary threshold of one percent.

We considered but are not proposing setting a threshold relative to total separated D6 RINs available in the market. The downside of this approach is that the quantity of total available RINs changes continuously, and it is not possible for market participants to know what it is at every moment. This makes it difficult to calculate the threshold at any given time. Another downside of this approach is that it uses all unretired, separated D6 RINs as a proxy for available D6 RINs because that is the best information that either the market or EPA has. If a party were to keep D6 RINs off the market, as is alleged by some parties, then our proxy would become an overestimate of the actual number of D6 RINs available. Thus, this approach would underestimate a party's market share. In considering this approach, we also could not find a universal standard for the level of market share that constitutes an inappropriate or concerning level of market power. The only example we could find of another environmental credit program that implements a market share limit is the RGGI program, which applies a 25-percent limit to the number of credits a party can purchase at a single credit auction. (178) Though this is not a holding limit or threshold per se, it is a limit that relates to preventing a party from establishing undue market power. Therefore, if we were to choose this approach to setting a threshold in the final rule, we would consider a D6 RIN holding threshold at or around 25 percent of total available D6 RINs. In our screening analysis, we compared maximum individual end-of-day D6 RIN holdings in every quarter between 2013 and 2018 to total available D6 RINs in that quarter. We looked at all, non-expired D6 RINs regardless of the year in which they were generated. (179) We found that the maximum market share over that entire time period, by any individual RIN holder, was 18 percent. In other words, on one day, one party held 18 percent of the 9.9 billion D6 separated RINs available on that day. In that particular case, an obligated party hit the 18-percent level in the first quarter of 2017, at a time when other obligated parties were retiring hundreds of millions of RINs in single EMTS transactions for the upcoming compliance deadline. This activity dropped the total available RINs in the market suddenly and drastically. Setting aside those periods of time where significant and sudden RIN retirements were occurring, the maximum level of D6 RINs that any one party held at a time was between 10 and 14 percent of all D6 RINs. (180) These figures are commensurate with the gasoline and diesel production market share of the largest refiners. We seek comment on our proposal to set the primary threshold relative to the annual implied conventional biofuel volume requirement and on the alternative approach considered but not proposed.e. The Secondary Threshold

If a RIN-holding party exceeded the primary threshold, it would indicate that its D6 RIN holdings were a sizeable share of the market. For parties with no RVO, this would signal a position that could potentially command market power with the potential to artificially influence price. For obligated parties, however, a second test would be needed to evaluate their holdings against their compliance obligation because that could explain their sizeable holdings. For the secondary threshold, we are proposing that an obligated party would compare its implied conventional biofuel RVO to its D6 RIN holdings of all vintages, on a daily basis. If the D6 RIN holdings are more than 130 percent of the implied conventional biofuel RVO on any day, the obligated party would trigger the public disclosure requirement. We are proposing one approach to calculating the secondary threshold that adjusts depending on how many RVOs are in effect. We want to account for the fact that, generally, an obligated party holds more D6 RINs in the first three months of the year when it is preparing to retire for the prior year's obligation while also accumulating RINs for the current year's obligation.

For days between April 1 and December 31, an obligated party would multiply its gasoline and diesel production and import volume from the prior year by the difference between the renewable fuel percentage standard from the prior year and the advanced fuel percentage standard from the prior year. It would also account for any deficit volume it carried over from the prior year. See the proposed equations at 40 CFR 80.1435 for more detail on this proposed approach.

For days between January 1 and March 31, an obligated party would multiply its gasoline and diesel production and import volume from the prior year by 125 percent of the difference between the renewable fuel percentage standard from the prior year and the advanced fuel percentage standard from the prior year. It would also account for any deficit volume it carried over two years ago to the prior year. See the proposed equations at 40 CFR 80.1435 for more detail on this proposed approach. We are proposing that obligated parties who triggered the primary threshold would conduct this secondary threshold calculation at least quarterly using daily RIN holding levels and implied conventional biofuel RVOs.

We also considered requiring the calculations at the end of the compliance year when the actual annual RVO becomes known. For example, on March 31, when a large obligated party reports to EPA its actual gasoline and diesel production and import volume and its RVOs for the prior year, it could also evaluate its daily D6 RIN holdings against the implied conventional biofuel RVO for the year. The downside to this approach is that the red flag for potentially problematic market power could come long after the excessive RIN holding level occurs, in some cases over a year later. This delay between the RIN holding level and public disclosure of the exceedance would decrease the effectiveness of the reform and hamper its intended purpose of deterrence and market ***notification***. Therefore, we are not proposing such an option. We seek comment on the quarterly interval proposed. We chose 130 percent because it allows for holdings of 100 percent of their implied conventional biofuel RVO, 20 percent for banking, and 10 percent for additional flexibility and uncertainty. This flexibility would, for example, cover potentially invalid D6 RINs that may not be sold or retired according to the existing part 80 regulations. With the secondary threshold in place, an obligated party with end-of-day D6 RIN holdings in a given quarter below the primary threshold would not trigger public disclosure, while an obligated party with D6 RIN holdings above the primary threshold would conduct a second test against 130 percent of their implied conventional biofuel RVO to date to determine whether public disclosure would be triggered.

In our screening analysis, we found that in the 2017 compliance year, thirteen obligated parties would have exceeded a three-percent primary threshold and would have applied the secondary threshold. We found that three would have also exceeded the 130-percent threshold at least once. (181) We note that we were unable to fully aggregate holdings and RVOs by corporate affiliates, as described further below, or account for RINs that an obligated party was holding for a small refinery with an exemption approval from EPA. (182) Nonetheless, this analysis suggests that a few obligated parties might have to report triggering the proposed D6 RIN holding threshold in the future. We seek comment on proposing to set the secondary threshold at 130 percent of the implied conventional biofuel RVO to date for obligated parties and the 125 percent factor that would be applied in the first quarter of the year.f. Aggregating RIN Holdings

Market power can be applied in an anti-competitive way when a party controls a sufficiently large share of available supply, in this case separated D6 RINs. As already described, we are proposing in this action to require a RIN holding reporting threshold on at least each individual entity registered to transact RINs in EMTS. However, two individual entities with independent registration profiles in EMTS may be affiliated and may have control over each other's RIN holdings and each other's actions. For example, two entities may be subsidiaries of the same parent company or one entity may be the official financial asset trading arm of the other. In each of these cases, each entity may have control over a larger RIN holding than its individual EMTS account would suggest.

In addition, we note that a RIN holding threshold applied to individual parties, without regard to their affiliations, would create a large gaming opportunity. One party that wanted to gain market power but evade the RIN holding reporting threshold provision could spin-off various subsidiaries that would each hold RINs below the reporting threshold. It is our intent to design this reform to prevent such gaming.

As a result, we are proposing in this action that a party would aggregate its RIN holdings with the holdings of all other parties with overlapping ownership or corporate control for evaluation against the thresholds. This methodology is similarly applied by CARB for the California cap-and-trade credit holding limit and by RGGI for the RGGI program auction purchasing limit. We provide a few examples to illustrate this proposed concept. If an obligated party were owned by a non-obligated party, then the combined D6 RIN holdings would first be applied against the primary threshold. If the primary threshold were triggered, then the combined D6 RIN holdings would be applied against the secondary threshold using the obligated party's implied conventional biofuel RVO. If two non-obligated parties were affiliated by corporate ownership, then their combined D6 RIN holdings would be applied against the primary threshold only. If two obligated parties were affiliated by corporate ownership, then their combined D6 RIN holdings would be applied against the primary threshold first and then, if necessary, against the secondary threshold using the obligated parties' implied combined conventional biofuel RVO. Were we to finalize any other approaches to establishing RIN holding thresholds for reporting, we would intend to require that the RIN holdings of all parties affiliated by corporate ownership would nevertheless still be aggregated together.

In order to propose a definition for the term “corporate affiliate,” we reviewed how other environmental credit programs define and apply this concept. California's Cap-and-Trade Program applies a shared, single allowance holding limit to entities and their direct corporate associations, which they generally define as when one entity has more than 50-percent ownership in another entity or when two entities share a common parent (i.e , when there is a common entity of which the two entities are subsidiaries). In addition, the California Cap-and-Trade Program requires that entities report, when requested, information related to indirect corporate associations, which they define as ownership of more than 20 percent but less than or equal to 50 percent. (183) For the RGGI program auction purchase limit, corporate association occurs when one applicant has more than 20-percent ownership in another applicant or when one party has 20-percent ownership in two applicants (parent company). (184)

In this action, we are proposing that two parties are corporate affiliates if one has more than 20-percent ownership in the other or if both parties are owned more than 20 percent by the same parent company. We are proposing a “more than 20” percent ownership level because it is consistent with the value that the other programs apply. For this proposed provision on a D6 RIN holding threshold, we are proposing that only corporate affiliates registered to own RINs in EMTS would be included in the RIN holding aggregation. Corporate affiliates that are not registered in EMTS to own RINs would not need to be included in the threshold calculations as these affiliates cannot hold RINs. (185)

We considered but are not proposing to require aggregation of RIN holdings for comparison to the threshold among parties with a contractual relationship, for example if there is an implicit or explicit agreement in place for one to purchase RINs for the other. As such, an obligated party that has a contract in place with a trader or a blender for delivery of D6 RINs would not add those D6 RINs to its holdings for comparison to the threshold until delivery occurred. We realize that this proposed approach would omit some RINs from the threshold comparison that could be under a party's control. However, we believe that a methodology for including such contractual relationships in the aggregation would be too complex and could result in double-counting RINs. We seek comment on our proposed approach to defining corporate affiliate and on omitting contractual affiliates from the RIN holding aggregation.g. CBI Determination

We are proposing to require public disclosure of the name of a party that reported exceeding the EPA-set RIN holding threshold. We are not proposing to publicly disclose the actual RIN holding level, the amount by which it exceeded the threshold, when it exceeded the threshold, how many times it did so, or which threshold was applied. As such, we are proposing to determine that a yes/no answer to this threshold question does not qualify as CBI under the CAA. We find that whether a party exceeded a RIN-holding threshold provides very little insight into its actual RIN holding level, its gasoline or diesel production or import volume, or any other information that competitors could use to discern sensitive information.

In responding to a Freedom of Information Act (FOIA) request in 2013, we determined that certain data collected and stored by EMTS at that time were CBI, including a party's RIN holdings at the end of the quarter. (186) We recognize that in our evaluation of disclosing whether an entity exceeded a RIN holding threshold, we therefore need to carefully consider whether the underlying RIN holding level is sufficiently masked. In other words, we need to ensure that we do not disclose underlying CBI data or allow the CBI to be computed, back-calculated, or otherwise discerned using other publicly available data. Since the actual RIN level cannot be discerned or back-calculated by knowing whether the threshold was exceeded, we believe our proposed public disclosure accomplishes this objective.

Under the approach proposed in this action, a large obligated party that triggers the primary threshold would apply the secondary threshold of 130 percent of its implied conventional fuel RVO to date, which in turn is calculated by multiplying a publicly known percentage standard with its annual gasoline and diesel production or import volume. We recognize that fuel production volume and import volume are closely protected by refiners and importers as sensitive information that could potentially harm competitiveness if disclosed. Therefore, in our evaluation of public disclosure, we also need to consider whether fuel volume could be computed, back-calculated, or otherwise discerned by publishing whether a party exceeded an RVO-relative threshold. We find that it could not, since neither the threshold nor any numbers above it relates to or requires a specific fuel volume. The threshold and the figure of comparison are ratios and do not disclose or make discernable information about the actual fuel production or import volume.

We also considered whether any information related to this proposed disclosure could warrant CBI treatment, such as information that has not yet gone through a formal CBI determination process by EPA. We do not believe the information we propose to disclose constitutes CBI because, as previously discussed, the underlying RIN holding level is sufficiently masked. We believe it is in the interest of the market and the program to publicly disclose exceedances of the proposed threshold. We are proposing a threshold in this action that is sufficiently high to only be exceeded by volume of RINs that is likely more than a party would need for compliance or for any other legitimate business need. We believe that our proposed threshold is consistent with the level of RIN holdings that could cause excessive market power, and we want to protect the integrity and functioning of the RIN market by deterring potentially anti-competitive behavior through public disclosure. We also note that the disclosure would come after the sale were completed and would not be associated with a date or dates, so disclosing the threshold-related information could not interfere with a sale negotiated in the past. Finally, we note that a company can control whether it exceeds the threshold and therefore whether its exceedance will be publicly disclosed by ensuring that its RIN holdings never exceed the threshold. In this way, a company has the power to control whether this information is released.

We seek comment on whether publication of whether the parties in a corporate affiliate group exceeded the RIN holding threshold would disclose underlying CBI or otherwise would likely result in substantial competitive harm to a particular company. Please identify the specific data element and explain how the public release of that particular value would or would not be likely to result in disclosure of underlying CBI or otherwise cause substantial competitive harm. If the concern is that the release of being above a threshold would allow competitors to derive a CBI value for an individual facility or company, specifically describe the mechanism by which this could occur. Describe any unique process or aspect of a facility or company that would be revealed if the data were made publicly available. If the value would disclose underlying CBI only when used in combination with other publicly available data, then identify the information that could be revealed, describe how it would be calculated or otherwise discerned, explain why the information is sensitive, describe the competitive harm that its disclosure would be likely to cause, and identify the source of the other data. If the data are physically published, such as in a book, industry trade publication, or federal agency publication, provide the title, volume number (if applicable), author(s), publisher, publication date, frequency of publication, and International Standard Book Number (ISBN), or other identifier. For data published on a website, provide the address of the website, the date the website was last visited, and identify the website publisher and content author. Avoid conclusory and unsubstantiated statements or general assertions regarding potential harm.

In summary, we have found that the information described in this section for public disclosure is clearly not entitled to CBI treatment. We are describing our finding and the rationale behind it in this notice of proposed rulemaking because we expect this finding to be of high interest to stakeholders. We encourage those with CBI concerns to submit comments, which we will take into consideration in the finalization of this rulemaking.h. Reporting and Recordkeeping Requirements

In this action, we are proposing that parties would calculate the threshold for each day, and parties that triggered the threshold for a day would be required to report the event to EPA by the quarterly reporting deadlines specified in Table 1 to 40 CFR 80.1452 We seek comment on the proposed quarterly frequency and whether quarterly notice allows for too much lag between an exceedance and disclosure . For a corporate affiliate group that triggered the threshold together, each registered party would be required to separately ***notify*** EPA of the event. We are proposing to add a yes/no question on triggering the threshold to the RIN Activity Report that all RIN-holding parties are already required to submit to EPA quarterly. The party would select “no” if the threshold was never triggered during the given quarter or “yes” if it was triggered at least once in the quarter. The submitting official would be required to certify the completeness and accuracy of that answer upon report submission. We are also proposing that independent auditors would need to review all daily threshold calculations during the attest engagement process and would need to include in their attest engagement report to EPA confirmation that the party ***notified*** EPA as required of all instances of the threshold being triggered. This would include confirmation that the D6 RIN holdings and RVOs, if applicable, of all corporate affiliates were fully and properly accounted for in the calculations. We therefore are proposing that parties registered to hold RINs be required to keep as records all threshold calculations, including corporate affiliate values, and provide those records to the auditor for review.

The proposed calculation would use gasoline and diesel production and import volumes from the prior compliance year as a proxy for volumes in the current year. We recognize that the calculations could be an inaccurate representation of current year volumes in some cases, such as mergers or big changes in import volumes from year to year. However, in most situations we envision that these year-to-year changes may not impact the necessity to report. We seek comment on ways to fairly account for these limited situations.

In this action, we are proposing that EPA would be responsible for publicly disclosing that a party ***notified*** us of exceeding the threshold. We already maintain and regularly update a centralized website for RFS data (187) that has become the hub for up-to-date program information and transparency. Stakeholders, as well as the public at large, who want to know the identity of those that hold RINs in excess of the amount that flags potential market power concerns would only need to go to one place, EPA's website, to find all publicly available information on the topic. We seek comment on our proposal to publish the names of parties that exceed the RIN holding disclosure threshold on the EPA website.2. Reform Two: Increase RFS Compliance Frequency

The second potential reform we address in this action is establishing a requirement for more frequent retirement of RINs for purposes of program compliance. The fundamental concept underpinning this reform is that, if it were finalized, obligated parties would be required to retire RINs in their accounts gradually over the year rather than all at once at the end of the year. We believe that requiring RINs to be retired for compliance on a more frequent basis could potentially help minimize opportunities for hoarding or other behavior that could negatively impact the RIN market. Further, we believe this regulatory modification would have the added benefit of helping obligated parties reduce the risk of non-compliance at the end of the year since they would be required to obtain RINs to meet a portion of their individual RVO on a quarterly basis.

Under this reform, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year, calculated as the gasoline and diesel production and import volume through the end of the quarter multiplied by 80 percent of the current year renewable fuel standard. We are proposing to include the 80 percent factor for these interim RIN retirements to address the inherent uncertainty of projecting an obligated party's obligation without full information. Obligated parties would submit reports to EPA 60 days after the end of the quarter to demonstrate compliance with these requirements and could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance, including the two-year RIN life, the annual deficit carryover, or the 20 percent carryover provisions. Specifics on the calculations, reporting requirements and schedules are discussed in more detail below.

Some stakeholders have voiced concern about asymmetry in the market if EPA were to establish a more frequent compliance period for obligated parties without requiring RIN holders to make RINs available more frequently, and vice versa. Taking this concern under consideration, we have tried to balance this reform with our proposed reform that would limit the duration that a non-obligated party could hold separated RINs (discussed in Section III.E.4). Namely, this proposal would establish that both program compliance and the requirement for non-obligated parties to sell their separated RINs apply at quarterly intervals. We believe this symmetry will help to facilitate more frequent compliance and reduce the risk of one party having an unfair advantage over the other since both sides would face similar obligations to buy and sell RINs within the required timeframes.

We believe that more frequent RIN retirement could help smooth demand for RINs across the year. However, under this proposed reform, RIN demand could still increase at certain times of the year due to circumstances beyond EPA's control, which could make purchasers particularly vulnerable to manipulative terms from sellers at those times. Even though the magnitude of the obligation would be roughly decreased by a factor of four, sellers with excess RINs beyond their quarterly retirement requirements could still exercise power over the RIN market—now several times throughout the year before each quarterly deadline instead of just once annually. Market power is relative, and we recognize that a smaller stockpile of RINs in a party's account relative to a smaller pool of available RINs can still result in market power. Therefore, the ultimate benefit of this reform on the RIN market and on parties' behavior is unclear.a. Implications on the Annual RVO

In this action, we are not proposing to change the timeframe of the annual RVO or the annual RVO compliance obligation. Rather, we are proposing to maintain the annual RVO and annual RVO compliance obligation and to add requirements for periodic RIN retirement throughout the year. This is similar to personal tax requirements imposed by the IRS and states; money is generally withheld from an individual's paycheck throughout the year based on an estimate of their annual tax burden, but the actual annual tax burden is only calculated and due for full payment once the tax year is over. By proposing a requirement for obligated parties to retire RINs periodically through the year, we are able to leave intact the many elements of the RFS program that are based on an annual program (e.g , the annual deficit provision, the annual 20 percent carryover provision, and the two-year life of a RIN). We believe that these annual program components, as described further below, are functioning effectively and that changing these annual program components could create harmful unintended consequences. We believe we can leave these annual elements of the program unchanged while still accomplishing the objective of this reform.

The current RFS program is designed around an annual RVO. As specified in 40 CFR 80.1407(a), obligated parties wait until the compliance year has passed to calculate their annual RVOs using their actual annual gasoline and diesel production and import volume. The RVO equations also account for deficits on an annual basis, such that a deficit incurred in the prior year is carried over into the current year. 40 CFR 80.1427(a) specifies how obligated parties demonstrate compliance with this annual RVO. These equations were designed so that an obligated party has an entire year to collect enough RINs to address any deficit carried over from the prior year. We believe that this annual approach to satisfying prior year deficits should continue unchanged. Therefore, we are not proposing any edits to 40 CFR 80.1407(a) or 80.1427(a).

The deficit provision comes from direction in the CAA for EPA to include provisions allowing any person to carry forward a renewable fuel deficit from one ***calendar*** year to the next when certain conditions are met. The conditions outlined in the CAA are “that the person, in the ***calendar*** year following the year in which the renewable fuel deficit is created (i) achieve compliance with the renewable fuel requirements under paragraph (2); and (ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.” (188) Since the statute specifies that an obligated party can create a deficit on an annual basis, we are proposing in this action to maintain that annual flexibility. Therefore, an obligated party would be allowed to fall short of its RIN retirement requirements in any or all periods of one compliance year as long as it retired RINs at some point in the following compliance year to offset the following year's obligation, which includes the current year deficit. See Section III.E.2.e for further discussion on such RIN retirement shortfalls.

Finally, 40 CFR 80.1427(a)(5) specifies that no more than 20 percent of an obligated party's current year RVO can be satisfied with prior year RINs. In this action, we are not proposing any amendments to this part of the regulation. We propose that this carryover provision continue to only apply to the annual RVO. We are not proposing to apply this provision to any interval other than annually. Therefore, an obligated party that retired RINs periodically during the year, pursuant to this action, could use any amount of prior year RINs to do so, subject to the requirements that the final annual RVO compliance demonstration is consistent with the 20-percent carryover provision.b. Compliance Frequency

During the development of this proposed rule, we considered establishing compliance frequencies other than quarterly. Ultimately, however, we chose to propose a quarterly compliance frequency for obligated parties; a quarterly requirement appears to balance the objectives of a more frequent compliance requirement without being overly burdensome or introducing excessive complexity. As such, obligated parties would be required to use new equations proposed at 40 CFR 80.1427(d) for the first, second, and third quarters of a year. Obligated parties would not have a separate RIN retirement requirement for the fourth quarter and would instead continue to use the existing RVO equations at 40 CFR 80.1427(a) to demonstrate compliance with the annual RVO. We seek comment on a quarterly frequency and on whether obligated parties that reporting gasoline and diesel production and import volumes to the Energy Information Agency (EIA) weekly and monthly would prefer a frequency greater than quarterly that aligns with the EIA survey frequency.

We considered a provision that would require RIN retirement for every batch of gasoline or diesel immediately or shortly after it is produced or imported, but we do not believe a practical implementation framework for this concept exists. It would be virtually impossible for the market to instantaneously meet such tight demand for RINs by obligated parties. The generation of RINs and the production and import of transportation fuel are not time aligned over the course of the year. We believe that a quarterly RIN retirement requirement is close enough to “real time” compliance to meet the objectives of this reform while still providing enough flexibility for obligated parties to feasibly comply.

As part of our analysis, we reviewed the historic pace of RIN generation throughout a ***calendar*** year. We observed that RIN generation is not consistent throughout the year and varies depending on the month or season. For example, in ***calendar*** year 2017, the monthly generation of biomass-based diesel (D4) RINs is lowest in January because biodiesel blending drops in the winter months when gelling of biodiesel can occur in some regions. The monthly D4 generation rate increased gradually until July when it began to decrease again. Finally, generation spiked higher in December than in any other month as parties worked to meet the RFS requirement that renewable fuel must be generated and blended in the same ***calendar*** year (and in some years rushed to take advantage of expiring tax credits). In fact, generation of all four D-code RINs peaked in December. When we compared these monthly generation rates to a potential monthly RIN retirement requirement based on estimated monthly gasoline and diesel volumes, (189) we saw that in many months, the demand for RINs exceeded the generation of new RINs. In addition, when we compared the monthly generation of all D-code RINs with potential monthly RIN retirement requirement, we found that cumulative RIN generation would not catch up to the cumulative RIN retirement requirement until December. This lack of alignment in time between RIN generation and gasoline/diesel fuel demand renders “real time” RIN retirement infeasible. We concluded from this analysis that it is important to provide some margin of time-flexibility to allow obligated parties to acquire RINs for compliance and that too-frequent retirement requirements would be too restrictive and counterproductive.

We seek comment on the appropriateness of a quarterly frequency requirement and on other potential frequencies, such as monthly or bi-annually. Because of the need for flexibility, we also considered several compliance deadlines, by which obligated parties would need to achieve the quarterly compliance requirements. See Section III.E.2.f for a discussion of deadline options considered and the deadlines we are proposing in this action.c. Scope

As discussed earlier in this preamble, for each reform we considered whether we could limit its scope to reduce the risk of unintended negative consequences while still meeting the objective of the reform. In particular, we considered whether we could limit the reforms to just D6 RINs since D6 RINs are the main source of market manipulation concern.

For the compliance frequency reform outlined here in Section III.E.2, we concluded that, because of the nested nature of the RIN system, we could not require retirement of only D6 RINs. For example, an obligated party could choose to retire only D3, D4, and D5 RINs, which are nested in the renewable fuel obligation, to comply with its renewable fuel RVO. Therefore, we are proposing a quarterly RIN retirement requirement based on only the renewable fuel RVO in this action and allowing obligated parties to retire any D-code of RINs to meet it.d. Incurring a Shortfall

In this action, we are proposing that an obligated party would be allowed to fall short of a quarterly RIN retirement requirement if it met certain conditions. This shortfall provision would mirror the flexibility provided by the annual deficit provision described above. Under one set of conditions, a party would be allowed to incur a shortfall in a quarter of a given year as long as in the following year it satisfied all three quarterly RIN retirement obligations. Under a second set of conditions, a party would be allowed to incur a shortfall in a quarter of a given year and in a quarter of the following year if its annual RVO for the current year were equal to zero (e.g , as the result of an approved small refinery exemption). Under this proposal, a shortfall in one quarter would have the same effect as a shortfall in all three quarters of the year on a party's ability to incur shortfalls in the following year. We are proposing amendments to 40 CFR 80.1427(b) to reflect this provision.

We considered an alternative approach under which a party's shortfall in one or more quarters of a year would not affect a party's ability to incur a shortfall in one or more quarters of the following year. However, we believe this alternative would create a loophole to this reform that could be exploited by obligated parties to circumvent the proposed quarterly RIN retirement requirements. By way of example, consider an obligated party that retired no RINs in the first three quarters of a given year and then fully complied with its annual RVOs at the end of the year by retiring all required RINs. Under the alternative approach, the obligated party would be allowed to incur shortfalls in all three quarters of the following year and could repeat this compliance strategy again and again. This would amount to a circumvention of the proposed quarterly compliance reform altogether. Considering this example under the proposed approach instead, the obligated party that retired no RINs in the first three quarters of a given year would be required to meet the quarterly RIN retirement requirements of the following year. We seek comment on allowing shortfalls under certain conditions and on our approach to preventing shortfalls over multiple years. We seek comment on the alternative we considered as well as other alternative approaches commenters recommend.e. Calculating the RIN Retirement Requirement

We are proposing in this action that the RIN retirement requirements for the first three quarters of a compliance year would be calculated as 80 percent of an obligated party's cumulative gasoline and diesel production and import volume multiplied by the renewable fuel percentage standard for the current year. As explained above, the quarterly RIN retirement equations would not include an input for any prior year deficit carried over or a limitation on the year of the RINs used. We believe that an 80-percent flexibility would address the seasonal variability in RIN generation that could impede a party's ability to acquire 100 percent of its required RINs. We also believe that an 80-percent flexibility would provide some leeway for volume errors identified at the end of the year through the attest engagement process. We seek comment on this approach to providing obligated parties with this flexibility and on the value of 80 percent that we chose to propose and whether a different value would be more appropriate.

We considered, but are not proposing, setting a RIN holding requirement rather than a RIN retirement requirement. Under this approach, obligated parties would need to demonstrate that they owned at least 80 percent of their cumulative volumes multiplied by the renewable fuel percentage standard. One reason for this approach is that it could better align with the RIN holding threshold calculations proposed in Section III.E.1, which would not adjust the threshold as RINs were retired every quarter. As such, an obligated party that had retired 60 percent of its annual renewable fuel obligation after three quarters would only have a legitimate need to hold the 40 percent of its annual obligation remaining plus 30-percent headroom, but it would be allowed under our proposal to hold 130 percent. We proposed these calculations in Section III.E.1 to keep them simple, but we realize that some commenters may find it unbalanced and unfair. We seek comment on adjusting this reform to a holding rather than retirement requirement to address concerns with the threshold calculations.f. Compliance Deadline

Under the existing regulations, the deadline by which obligated parties must demonstrate compliance with their annual RVOs is March 31 of the year following the compliance year. As such, parties have three months after the last day of the compliance period to compile their gasoline and diesel production and import volumes, calculate their RVOs, acquire the necessary number of RINs, and submit their annual compliance reporting forms. This three-month administrative period is necessary for obligated parties to complete all of the required compliance steps properly.

In this action, we are proposing that an administrative period be added to the end of the first, second, and third quarters for demonstration of compliance with the periodic RIN retirement requirements. We are proposing a two-month administrative period such that the compliance demonstration deadlines would be June 1, September 1, and December 1 of the compliance year. This delayed schedule would provide obligated parties with additional time to gather production and import volumes, acquire RINs, and complete the reporting forms and would align with existing quarterly reporting deadlines. RINs generated during the administrative period could be used for compliance in the previous quarter. We are proposing that a three-month administrative period and the March 31 compliance demonstration deadline continue to apply to the annual RVO. We seek comment on these proposed deadlines and on whether a different administrative period or periods would be more appropriate.g. Reporting and Recordkeeping

In this action, we are proposing that compliance with the quarterly RIN retirement requirements would be demonstrated to EPA through reporting. The quarterly deadlines described above would be reporting deadlines and would align with the existing deadlines for RIN generation, transaction, and activity reports. We believe that aligning our proposed quarterly deadlines with deadlines for existing reporting requirements would be an easier adjustment for parties. To implement this reporting requirement, we are proposing that obligated parties would report cumulative gasoline and diesel production and import volumes and demonstration of compliance with requirements in the first three quarters. We are also proposing to update recordkeeping requirements to include all applicable quarterly values and calculations. We are not proposing to amend the attest engagement due date, so it would continue to be required once at the end of each compliance year. The RIN generation, transaction, and activity reports would continue to be required quarterly.

We are proposing that any minor adjustments that an obligated party would need to make to a prior quarter's reported volumes due to an EPA-reported remedial action would be required to be accounted for in the next RIN retirement calculation and demonstration. Since the obligated party would be certifying that their reported values were accurate to the best of their knowledge, we believe that the risk of gaming the regulations by consistently under-calculating a quarterly RIN retirement requirement is low. A continued pattern of under-calculating by one party could potentially result in an enforcement action. We seek comment to this approach to remedial action volume adjustments and on alternatives to account for them in this action.h. Small Refinery Exemptions

Under this reform, we are proposing that all obligated parties would be required to meet RIN retirement requirements on a quarterly basis. This means that small refineries that submit a petition for an extension of the small refinery exemption would typically face reporting and RIN retirement requirements before EPA issues a decision on the petition. Even under the current annual reporting requirements, many small refineries already choose to retire RINs before EPA acts on their petitions, understanding that EPA will later “unretire” those RINs should EPA ultimately decide exemption is warranted for that refinery in that compliance year. However, we recognize that quarterly RIN retirement obligations for small refineries that may receive an exemption would not necessarily be efficient. As described below, small refineries that expect to receive hardship relief can alternatively defer quarterly reporting under the retirement shortfall provisions proposed in this action provided they did not carry a deficit from the previous compliance year (e.g , if they received hardship relief in the previous year).

Under this proposal, all refineries including small refineries would be able to incur a full RIN requirement shortfall in the first three quarters as long as they had not incurred a deficit in the prior year. When EPA grants an RFS exemption, the exempt refinery has no RFS obligation during the compliance year for which an exemption has been granted. For small refineries that received RFS hardship exemptions, their annual RVO would be zeroed out. Since the small refineries wouldn't trigger the annual deficit provision in that year, they could repeat the same steps in the next year if they still faced hardship. We note that an obligated party reporting at an aggregated level for multiple refineries, including at least one small refinery, would not zero out its total annual RVO. Rather, when EPA approved its small refinery exemption(s), it would exclude the small refinery volumes from its annual RVO calculations but still include volumes from the other refineries. As such, we believe that a small refinery that would like to take the compliance path outlined above would have to report on a facility-by-facility basis, rather than on an aggregated basis. An obligated party that wished to report at an aggregated level would have to account for any small refinery volumes when calculating and complying with its quarterly RIN retirement requirement.

If the small refinery chose to comply with the proposed quarterly RIN retirement requirements and then received an RFS exemption from EPA, then we would work with the small refinery to unretire its RINs as we do now under the current annual reporting requirements. We are not seeking comment on whether EPA can unretire RINs after granting a small refinery exemption. If the small refinery chose to incur a RIN retirement shortfall in the first three quarters but did not receive an exemption from EPA, then it would be required to comply with the annual RVO by March 31 as they also do under the current annual reporting requirement by either obtaining the appropriate number of RINs or by taking a deficit. In that case, whether they met the annual obligation or carried a deficit into the following year, they would be prohibited from incurring a shortfall in any quarter of the following year.3. Reform Three: Limiting Who Can Purchase Separated RINs

The third potential reform from the President's Directive that we address in this action is limiting the purchasing of separated RINs to obligated parties only. Canada structured its Federal Renewable Fuels Regulations this way by only permitting primary suppliers, the regulated parties under those regulations, to acquire compliance units from others. (190) This is also how the credit provisions in our gasoline sulfur and benzene programs are structured. In those EPA programs, the obligated parties are both the generators of the credits and the users of the credits and are the only parties that need to take any action. Conversely, in the RFS program, obligated parties are typically dependent on the action of other parties, such as renewable fuel producers and blenders, to actually introduce the renewable fuel and the RINs into the marketplace. Consequently, the RFS program was set up differently.

Supporters of this regulatory change argue that, since obligated parties are the only parties who need to purchase RINs for the purpose of compliance, obligated parties should be the only parties allowed to purchase separated RINs. The goal of this reform is to minimize the number of parties trading RINs so as to reduce the risk of hoarding or other actions by non-obligated parties that could improperly impact the prices of RINs and thus impact the cost of compliance for obligated parties. In developing this proposed reform, EPA is taking into consideration the concerns that limiting the parties that can trade in the RIN market could have negative unintended consequences, as discussed below.

Under this reform, we are proposing that only obligated parties, exporters and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed provision if they were a corporate affiliate or a contractual affiliate of an obligate party.

As explained in Section III.B of this action, RINs are generated with the generation of renewable fuel and move downstream of the producer attached to the renewable fuel. When a blender acquires the renewable fuel and blends it with conventional fuel, the blender is required to separate the RIN from the renewable fuel. The separated RIN becomes its own commodity separate from the renewable fuel that can be traded and used separately. By the very nature of the blender's role in the fuel distribution system and the requirements of the RFS program, blenders must become owners of separated RINs. Therefore, this reform is limited to only the purchase of separated RINs.a. Implications and Discussion

As described above, this reform would limit the purchasing of separated D6 RINs to obligated parties and certain non-obligated parties. Some stakeholders have commented that this reform would be beneficial because it would specifically block market traders and brokers whose only intention is to make a profit in the RIN market and may have an incentive to engage in manipulative or anti-competitive behavior to boost their profits. (191) (We note, however, that simply making a profit on the RIN market is not manipulative or anti-competitive behavior.) Limiting non-obligated parties from purchasing separated D6 RINs could help deter or prevent that potential behavior from occurring in the future. Conversely, some have claimed that limiting the number of parties participating could harm the RIN market and have other unintended consequences. In fact, this specific reform was explicitly raised for consideration in the 2019 RVO proposal, and we received multiple comments in opposition, citing the harm this reform would likely cause. For example, many parties commented that the liquidity of the RIN market would decline if RIN market participation were curtailed. These comments stated that some parties without a compliance obligation alleviate the burden on the seller of finding a counterpart willing to buy the exact amount of RINs for sale at that exact time. They do so by aggregating small RIN bundles for large buyers, disaggregating large RIN parcels for sale to multiple buyers, and holding RINs until the parties are ready to buy. Some commenters also stated that, especially in a market as sensitive to policy announcements as the RIN market, higher participation can reduce volatility and help the market adjust to a policy or other shock more quickly than curtailed participation. As such, these comments warned that restricting participation in the RIN market would reduce liquidity, increase volatility, and ultimately increase RIN prices. (192)

Some commenters explained that a RIN price reflecting higher transaction costs would not be representative of the fundamentals of the market and thus would weaken the market signal function of RIN prices. For example, the RIN price is used by obligated parties to estimate the compliance cost they need to recover through their fuel pricing, by biofuel producers to gauge supply and demand of the biofuel market, and by downstream parties to decide whether to build out more blending infrastructure. Curtailed market liquidity could weaken everyone's ability to react to the market effectively.

Some stakeholders have also provided comment to EPA outside of the 2019 RVO rulemaking about how this reform would harm them and their business operations directly. Specifically, we heard from some non-obligated parties who play a large role in the existing fuel market by blending biofuel with petroleum-based fuel and moving the blended fuel downstream to retailers. These blenders enter into term contracts with obligated parties for delivery of a specific quantity of RINs at the end of the contract period. Blenders base their commitment on expected fuel blending volumes, which relate to expected fuel production and fuel demand. However, if fuel production or demand fell shorter than expected, RIN separation by the blender would also fall short. In order to meet its contractual obligation in this situation, the blender would have to buy separated RINs on the RIN market. A reform that prohibited blenders from buying separated RINs would require blenders and their obligated party counter-parties to restructure the RIN delivery guarantees in the current contracts. Therefore, some of these blenders have expressed concern with the harm to them and the operation of the RFS program that this reform could cause. They've also highlighted the asymmetry this would create in the fuels system between refineries and blenders; blenders who fall short of their RIN supply contracts with refineries would not be able to fill the gap while refineries who fall short of their petroleum-based fuel contracts with blenders would be able to fill the gap by purchasing gasoline, diesel, or blendstock on the market as needed. Therefore, they characterize a reform that prohibits them from purchasing separated RINs as creating an uneven playing field in the fuels industry.

For all of the reasons listed above, we are not proposing to prohibit all but obligated parties from purchasing separated D6 RINs because we recognize that doing so could cause harm to parties, the D6 RIN market, and to the RFS program. Thus, our proposal to limit this reform reflects a weighing of the beneficial aspects of deterring potential market manipulation against the potential negative consequences on the RFS program. We seek comment on these potential consequences as well as comments on alternative approaches to implement this reform.b. Scope

We are proposing to limit the scope of this reform to D6 RINs only. D6 RINs are the D-code about which we have heard concerns related to hoarding and market manipulation. In order to limit any unintended consequences of this action, we believe it is sensible to limit this action to D6 RINs. For example, we believe that it would be very challenging to restrict the purchasing of separated D3 RINs because D3 RINs generated from biogas to fuel natural gas vehicles are generated at the same time as they are separated; it would not be possible to distinguish parties who own a D3 RIN from parties who separated it. We seek comment on our narrow application of this reform to D6 RINs only and on concerns of anti-competitive behavior related to the purchasing of other D-code RINs.

In this action, we are proposing that obligated parties as well as a limited set of non-obligated parties would be allowed to purchase separated D6 RINs freely. We considered a firm prohibition on all transactions of all parties other than obligated parties from purchasing D6 RINs, but we believe that certain limited situations involving non-obligated parties should continue to be allowed for the RFS to function properly. We outline those situations and allowances below.

First, we are proposing that a party that is a corporate affiliate or a contractual affiliate, as proposed at 40 CFR 80.1401, to an obligated party would be allowed to execute a separated D6 RIN purchase transaction. This would include a party that is owned more than 20 percent by an obligated party or that owns more than 20 percent of an obligated party. This would also include a party that has an agreement to deliver RINs to an obligated party. Based on discussions with some obligated parties, we believe that they routinely contract with third-parties, such as traders, to deliver separated D6 RINs. We have also learned, as described in Section III.E.3.a, that some non-obligated parties routinely commit under contract to deliver D6 RINs to obligated parties based on their anticipated future blending volumes and must purchase separated D6 RINs on the market to satisfy the contract if their blending volumes fall short. We believe all of these contractual transactions are helpful to obligated parties and that obligated parties, the very parties this reform is attempting to protect, would be harmed if these types of contractual transactions were prohibited.

Second, we are proposing that non-obligated parties needing to replace invalid RINs would also be allowed to purchase separated RINs for that purpose. Parties that generate renewable fuel with RINs attached sometimes make errors in their renewable fuel and RIN calculations, and blenders that purchase RINs attached to renewable fuel sometimes learn too late that the RINs they've acquired are fraudulent or erroneous. We believe that the most straightforward and practical way to allow these parties to stay compliant with the RFS program is to continue to allow them to replace invalid RINs by purchasing new separated RINs from the market.

Third, we are proposing that exporters of renewable fuel that needed D6 RINs to satisfy their exporter RVOs according to 40 CFR 80.1430 would be allowed to purchase separated D6 RINs in these limited situations. Parties that export conventional fuel blended with renewable fuel must acquire and retire RINs to account for the portion of their exported product that is renewable fuel. These exporters do not necessarily receive, generate or separate RINs, so they need another way to acquire RINs in order to comply with the program.

Ultimately, we believe that our proposal would successfully exclude from the RIN market those parties that serve no function in the fuels market and that may enter the RIN market for speculative or manipulative reasons only. We seek comment on providing allowances in this reform, including whether doing so would create any gaming opportunities and, if so, how that could be avoided. For example, a non-obligated party could create a contract with an obligated party at a minimum level as a way to game this reform. We seek comment on how we could tighten this reform but still allow enough compliance flexibility for obligated parties with contractual relationships with non-obligated parties. We also seek comment on the appropriateness of these allowances and on any other limited situations, in which non-obligated parties should be allowed to purchase separated D6 RINs.

We recognize that a reform prohibiting non-obligated parties from certain activities could create strong incentives for non-obligated parties to become obligated parties. This can be done relatively easily by importing a small volume of fuel or blending small volumes of blendstock to produce fuel. This type of gaming could circumvent the entire purpose of this reform and create a sizable implementation burden on EPA to no avail. We seek comment on ways this gaming could be prevented should we finalize this reform, including limiting the number of separated D6 RINs that importers, blender refiners, and non-obligated parties exempted from this prohibition can purchase. This is similar to the limitation we placed on the ability of certain obligated parties to separate RINs under 40 CFR 80.1429(b)(9).c. Reporting and Recordkeeping

As described in Section III.E.1.h, we are proposing to add a yes/no field on the D6 RIN holding threshold to the RIN Activity Report that all RIN holding parties already submit to EPA quarterly. Since all RIN holding parties already submit these reports quarterly, we believe the incremental reporting burden of filling out a new threshold field would be minimal. In order to maintain compliance oversight of this RIN purchasing restriction on non-obligated parties, we are proposing to also add a field to the quarterly RIN Activity Report on whether a non-obligated party purchased D6 RINs in the quarter. If the non-obligated party reported purchasing any amount of separated D6 RINs, it would then have to report whether a valid reason (e.g , invalid RINs, exports, contract with obligated party) applied. As with the threshold field, we believe it would be important for parties to certify that they were in compliance with this proposed provision. We are also proposing that non-obligated parties would be required to keep all applicable records related to this restriction, such as actual contracts with obligated parties or evidence of invalid RINs and make those records available to their attest engagement auditor. The auditor would review the records and confirm that the party made the proper calculations and reported accurately to EPA on compliance with the proposed provision. We seek comment on this proposed approach to compliance oversight.d. Alternative Approaches Considered

In addition to the specific reform we are proposing to restrict to certain parties the ability to purchase separated D6 RINs, we seek comment on alternatives that also meet the objective of this reform in the President's Directive but in a more simple and direct way. We recognize that prohibiting a class of parties from taking an action but then carving out a list of exceptions to that prohibition has the potential to be confusing and unwieldy. Instead of the reform that we are proposing, an alternative approach to accomplishing the intended goals of this reform objective could be to rely only on the first reform discussed in Section III.E.1 Rather than restricting who could purchase and who could sell to whom, we could address the concern that non-obligated parties might hoard RINs only by imposing a limit on their D6 RIN holding. The holding limit specifically on non-obligated parties could be lower than the three percent of the annual conventional biofuel volume requirement proposed. We seek comment on these alternatives and on any other alternatives commenters recommend.4. Reform Four: Limiting Duration of RIN Holdings by Non-Obligated Parties

The fourth potential reform from the President's Directive that we address in this action is limiting the duration a non-obligated party can hold RINs. In Section III.E.3, we describe our proposal to restrict certain non-obligated parties from purchasing separated RINs but still allowing them to own separated RINs that they acquire by blending renewable fuel into petroleum-based fuel. This fourth reform would restrict non-obligated parties further by limiting how long they could hold the separated RINs acquired at blending. The concept behind this reform is to require non-obligated parties to inject their RINs into the market soon after acquiring them to maximize liquidity for obligated parties who need the RINs for compliance.

Under this reform, we are proposing a limit on the duration that a non-obligated party can hold separated D6 RINs. Specifically, we are proposing that a non-obligated party must sell or retire as many RINs as it obtained in a quarter by the quarter's end. For example, both a RIN separated on January 1 and a RIN separated on March 31 would each need to be offset by a RIN sale in the first quarter. The proposed provision would not apply to potentially invalid D6 RINs that are required to be held and prohibited from being sold. This proposed provision would not apply to obligated parties. Additional information on calculations and reporting are discussed in more detail in Section III.E.4.e

The potential anti-competitive behavior related to non-obligated parties holding RINs that would be avoided with this action is the potential to accumulate enough RINs to gain market power and then use that market power to manipulate the price of RINs. We note that such market power is also addressed by the public disclosure reform outlined in Section III.E.1 However, we are additionally proposing to limit the duration that non-obligated parties can hold separated RINs in this action as an alternative or additional method to address this concern. We seek comment on the value of limiting the duration that a non-obligated party can hold separated RINs, and specifically on whether it adds any safeguards against manipulative behavior beyond the public disclosure reform.

Some obligated parties have complained that blenders routinely withhold separated RINs from the market until the price is high enough to secure a large profit. We note that such actions are not necessarily price manipulation or evidence of anti-competitive behavior.a. Implications and Discussion

As described above, this reform would limit the duration that a non-obligated party could hold a D6 RIN and would therefore interfere with attempts at increasing its market power. This reform could also increase the availability of D6 RINs on the market for obligated parties who want or need to acquire RINs for quarterly retirement. A final benefit of this reform is that it provides symmetry to the quarterly RIN retirement requirement for obligated parties as discussed in Section III.E.2; that reform would increase the frequency of D6 RIN demand and this reform would increase the frequency of D6 RIN supply.

This reform could also have harmful consequences for some parties in the market. At an even more basic level, a fuel blender with separated RINs to sell may not be able to find a party willing to buy those RINs at the time of blending. Therefore, a duration limit that is set too short could take too much flexibility away from non-obligated parties and make it difficult for them to participate in the RIN system. As such, we have proposed a duration limit of a quarter that we believe minimizes the risk of causing harm to parties in the RIN system.

Finally, we note that non-obligated parties who want to evade the duration limit for holding separated RINs could easily take the minimal action necessary to become an obligated party. For example, a blender could easily blend a small volume of blending stocks to produce gasoline or diesel or import a small volume of petroleum-based fuel in order to become an obligated party. As an obligated party, the blender would no longer be subject to a restriction on how long it could hold its RINs. While such gaming would not directly harm any party or the RIN market, it could harm the integrity of the program if done widely and could increase the implementation and oversight burden on EPA. We seek comment on the implications of such gaming and on any ideas to prevent it, including imposing the duration limit on RINs held by importers and blender refiners that are in excess of their RVO requirements. This is similar to the limitations we placed on the ability of these obligated parties to separate RINs under 40 CFR 80.1429(b)(9).b. Scope

We are proposing to limit the scope of this reform to D6 RINs only. D6 RINs are the only D-code about which we have heard concerns related to hoarding and market manipulation. In order to limit any unintended consequences of this action, we believe it is sensible to limit the type of RIN it applies to while still meeting the objective of the reform. For example, since most D3 RINs are generated only once a month, we believe parties might need more flexibility on the time between RIN generation and RIN sale than other D-codes. Furthermore, D4 RINs attached to biodiesel produced by a small or unknown company may not be well received on the market, so a non-obligated party that blends such biodiesel into petroleum-based diesel and separates such D4 RINs might need time to find a willing buyer. A restriction on how long they can hold such D4 RINs before selling could upset the balance in purchase negotiations and force non-obligated parties to sell these D4 RINs at significantly discounted prices to stay in compliance with this proposed regulation. We seek comment on our narrow application of this reform to D6 RINs only and on concerns of anti-competitive behavior related to the purchasing of other D-code RINs.

We are also proposing that separated D6 RINs that are potentially invalid would not be accounted for by a non-obligated party in its count of D6 RINs separated in a quarter. A party would leave those D6 RINs out of the count of D6 RINs it would have to sell or retire. The non-obligated party would continue to be subject to the requirements at 40 CFR 80.1431 c. Duration

Although we did not identify this reform concept in the list of reforms under EPA consideration in the 2019 RVO proposal, several parties proactively commented on this concept. Some commenters suggested a 30-day duration, others suggested 60 days, and still others suggested 90 days. We considered each of these potential durations and decided to propose in this action a 90-day cycle, whereby the number of separated D6 RINs that a non-obligated party would be required to sell or retire in a quarter would be number of separated D6 RINs that the party separated or purchased in that same quarter. Requiring non-obligated parties to sell RINs by the end of the quarter would have the significant benefit of matching the quarterly RIN retirement cycle that would be required of obligated parties under this Section III.E.2 of this action. Coordinating these two frequencies may help maintain equilibrium in the RIN market and create equity among all RIN system participants. We seek comment on the appropriateness of this duration and of any other potential durations. We note that the reform proposed under Section III.E.2 would require RIN retirement of only 80 percent of the renewable fuel standard, so we seek comment on whether the RIN holding duration should only apply to 80 percent of RINs separated or purchased in order to better align the two reforms.d. Implementation

In this action, we are proposing that a non-obligated party would be required to count the total number of RINs it separated or purchased each quarter and sell or retire that many total RINs by the end of the same quarter. For example, a non-obligated party would count the total number of RINs it separated or purchased between January 1 and March 31 of a given year and then would sell or retire that many RINs between January 1 and March 31 of that year. This approach would meet the intention of this reform to prevent RIN hoarding and increase liquidity without getting stuck needlessly in the details of which specific RIN is being sold. It would also allow non-obligated parties the flexibility to hold onto some D6 RINs that may be more difficult to sell for a longer period of time, provided they are selling an equal number of D6 RINs by the established deadline. We are also proposing that, for a non-obligated party, any D6 RINs acquired in one quarter through a remedial action with an EPA-generated separation date in the previous quarter would add the D6 separated RINs to its separated total for the current quarter.

We also considered a slightly longer period between RIN separation and sale in which a non-obligated party would be required to count the number of RINs it separated each quarter and sell at least that many RINs in that quarter and the following quarter. For example, a non-obligated party that sold 100 RINs between January 1 and March 31 would have to sell at least 100 RINs between January 1 and June 30. RINs separated on January 1 would need to be sold within 180 days and RINs separated on March 31 would need to be sold within 90 days. Such a scheme would create overlapping periods, however, in which the same RIN sale could be counted towards two different quarterly requirements. We ultimately decided to propose a quarterly requirement, but we seek comment on this alternative approach.

We also considered an approach that would initiate a 90-day expiration timer for each separated RIN batch on the day it is separated by a non-obligated party. Under this design, a blender would need to sell each RIN or batch of RINs within 90 days of separating it from the underlying renewable fuel. However, such an implementation scheme would place a large burden on non-obligated parties to keep track of multiple expiration timers, possibly dozens or hundreds at a time. It would also be very costly, if not infeasible, for EPA to update EMTS to track so many individual expiration deadlines, which across the entire system could total in the thousands or millions at any given time. A slightly more manageable version that we considered but are not proposing would be to require that an individual RIN separated in one quarter by a blender be sold by that blender by that quarter's compliance deadline for obligated parties. This approach would still tag each RIN or RIN batch with an expiration date, but the same expiration date would be applied to all RINs generated in the quarter. This approach would result in a total of four expiration dates a year across the whole RIN system for EPA to keep track of rather than thousands or millions. However, we believe that any approach that requires EMTS to tag individual RINs or RIN batches with a specific date would be technically infeasible. We seek comment on the proposed approach and on any other alternative approaches that commenters recommend.

The approach we are proposing, if finalized, as well as all of the other approaches considered, would allow a non-obligated party to maintain the RIN holdings it would have on the day before the effective date of this reform. This aspect of the reform could incentivize non-obligated parties to build up their RIN holdings in advance of the final rule effective date, which would be counter to the goal of this reform. We seek comment on an approach to addressing this concern.

We are proposing that all non-obligated parties would be subject to this D6 RIN holding duration limit, with no exception. For the third reform discussed in Section E.III.3, we are proposing situations that should be excluded from its restriction, namely situations in which exporters would need to satisfy export RVOs, non-obligated parties would need to replace invalid RINs, and non-obligated parties would need to satisfy contract terms with obligated parties. We believe those exceptions are warranted because they either allow parties to meet the RFS requirements or because they help the RFS program run smoothly for obligated parties. For the reform discussed in this section, however, we do not believe that any exceptions are necessary. For example, a non-obligated party that needs D6 RINs to satisfy a contract with an obligated party could still do so while meeting the holding duration limit. We seek comment on whether any exceptions to this reform would be warranted, and if so which exceptions and why.e. Reporting and Recordkeeping

In order to maintain compliance oversight of this RIN holding duration reform on non-obligated parties, we propose in this action to add a field to the quarterly RIN Activity Report on whether the proposed D6 RIN holding duration limit was exceeded in the quarter. We are also proposing that the attest engagement auditor would review the D6 RIN separation and sales numbers and confirm that the parties made the proper calculations and reported accurately to EPA on compliance with the proposed provision. This proposed approach to reporting, recordkeeping, and compliance oversight is similar to our proposals for the first and third reforms discussed in this action. We seek comment on this proposed approach to compliance oversight.5. Enhancing EPA's Market Monitoring Capabilities

In addition to the four reforms proposed in this action, we are considering taking additional steps to enhance our market monitoring capabilities in order to better detect potential market manipulation. The items listed below represent options we are currently considering, and we welcome public input on any aspects related to enhancing our data collections, enhancing our data systems, and/or seeking third-party RIN market surveillance assistance. We are also seeking comment on how these options could work in conjunction with the four reforms outlined in Sections III.E.1-4.a. Enhance Data Collection

Monitoring a commodities market as large and complex as the RIN market requires a substantial amount of market data. We currently require parties to submit some data under the RFS related to RIN trades. These data include trade prices, RIN volumes traded, and the parties involved in the transaction. These current data collections can be used to assess the RIN market for manipulative activities, but we recognize that we have an opportunity in this action to diversify the data we collect to enhance our ability to monitor the market. We also recognize the importance of balancing the benefits of additional data with the burden imposed both on the regulated industry and EPA of reporting and handling the data. Considering these factors, we are requesting comment on additional data collections that would enhance our ability to monitor the RIN market for instances of manipulation.

As described in Section III.E.1, we are proposing that parties would be required to report to EPA when their aggregate RIN holdings, including holdings of corporate affiliates, exceed a specified threshold. In order to provide meaning to this proposed reform and to enhance our market monitoring capabilities, we are proposing in this section that auditors would include in their annual attest engagements submitted to EPA by June 1 following the compliance year the names of the party's corporate and contractual affiliates in the compliance year. Parties that meet both definitions would need to be identified in both categories. (193) Given the complexity of contracts and RIN transactions, it is very challenging for EPA to confirm whether parties have common ownership and whether any group of corporate affiliates reached a level of aggregated D6 RIN holdings in a compliance year that would trigger the thresholds established in Section III.E.1 of this action. Therefore, we believe we need to collect information on corporate affiliates to allow us to properly conduct oversight of the RIN market. We are also proposing that this list would contain the names of contractual affiliates so that we could maintain some insight into any additional market share parties could have control over. We note that this list would include parties that are not registered with EMTS to hold RINs. While only registered affiliates are included in the threshold equations in Section III.E.1 for simplicity, we believe we need a wider picture of affiliations to, for example, monitor for a non-registered party that has established contracts with multiple parties to purchase and own a large number of aggregated RINs on its behalf. We would treat these lists as CBI and would not make them publicly available. We recognize that there may be challenges that we may not be aware of for parties to disclose this information to auditors and for auditors to pass it along to EPA, and therefore we are seeking comment on any potential concerns and how these concerns may outweigh the benefits of adding this data to market oversight.

We are also proposing amendments to 40 CFR 80.1452(c)(12) to specify how parties report prices of RIN transactions to EPA. Currently, some RIN prices reported are illogical numbers, so we are providing further instruction on how to report the true price correctly. Specifically, we are proposing that a per gallon RIN price would be required for a separated RIN transaction and that a price of $0.00 would only be allowed for intracompany and tolling agreement transactions. We are also seeking comment on any other legitimate reasons for reporting a $0.00 RIN price besides the reasons identified above.

We are also planning to update business rules in EMTS to require that both parties in a RIN transaction enter the same RIN price. EMTS already has a business rule that requires both parties in a RIN transaction to enter the same RIN volume, and this business rule has been very helpful in maintaining high quality volume data that we can reliably publish and use for compliance oversight. These and other business rules prevent data entry errors and prompt parties that haven't properly followed the instructions in the regulations to correct their numbers. By adding a similar business rule to EMTS on prices, we believe we can prevent reporting errors and improve the quality and reliability of our price data.

Finally, we are proposing to update the transaction type options at 40 CFR 80.1452(c)(6) to capture whether a RIN transaction is the result of a spot trade or of delivery from a term contract. We believe that collecting this additional information will improve our understanding of the RIN price reported because we will know whether the price was established on the transaction date or sometime prior. With this information in hand, we could filter term contract prices out of the RIN price dataset that we publish and analyze internally for compliance oversight. Thus, the published price would be a better reflection of market prices on a given day. We seek comment on this updated reporting requirement.b. Third-Party Market Monitoring

We are considering whether we should employ third-party monitoring of the RIN market. We are aware of other environmental commodity markets that employ third-party market monitoring services to conduct analysis of the market, including screening for potential anti-competitive behavior or market manipulation. For example, the Western Climate Initiative, Inc. provides administrative services to the linked cap and trade programs in Quebec and California, including managing a contract with a company that provides independent marketing monitoring for the jurisdictions. (194) Quebec and California each maintain market monitoring capabilities to oversee the joint market. In addition, RGGI contracts with a third-party to monitor its CO 2 allowance trading market and produce and publish quarterly and annual reports summarizing their findings. (195) We believe additional RIN market oversight and monitoring from an independent third-party could serve as a deterrent to manipulative behavior and increase market transparency, enabling the market to more easily function as designed. However, we also recognize this added feature would come at a cost that may or may not outweigh the benefits. For example, there would be additional financial and staff time costs to manage the contracts and system with the third party, including ensuring proper data security, ***transfer***, and training that would divert EPA's already limited resources away from the many high priority areas under the RFS program. Therefore, we are seeking comment on whether we should consider employing third-party monitoring of the RIN market, including production of market analysis reports and how to share findings in these reports and still protect confidential business information.F. RIN Market Reform Economic Impacts1. Benefits of RIN Market Reform

The goal of the proposed reforms is to discourage or help prevent anti-competitive market practices that may introduce uncertainty or volatility into the RIN market. If these anti-competitive behaviors were to occur in the RIN market, then it comes at a cost to both obligated parties and biofuel producers if the prices are artificially inflated or deflated. Therefore, if the proposed reforms deliver on their intended goal, we believe the net benefit of this should help reduce undue costs and lower the risks for both obligated parties and renewable fuel producers. These proposed reforms also provide the added benefit of increasing transparency into the RIN market. In general, true commodities markets function optimally when all participants have access to as much information possible, without infringing on confidential business information, and this information is disseminated or shared with all parties at the same time. This helps create a level playing field and minimize any potential advantage one party may have over the another. The net benefit of greater transparency helps market participants, such as obligated parties, plan short- and long-term strategies to manage their compliance costs.2. Costs of RIN Market Reform

As detailed in Sections III.E.1-4, we are proposing to require additional reporting and recordkeeping for obligated parties under the RFS program and non-obligated parties that participate in the RIN market. As a result, we expect modest costs associated with these new requirements. (196) Specifically, we anticipate new costs associated with reporting and recordkeeping requirements related to RIN holdings, affiliated parties, increased compliance frequency, and any other data elements EPA collects as informed by Section III.E.5.a We also anticipate some costs associated with prohibiting certain non-obligated parties from purchasing separated D6 RINs. Many of these parties have developed business models and enter into contracts that may require them to leverage the ability to purchase separated D6 RINs on spot markets. Prohibiting this practice would require that these parties adjust their business models.G. Conclusion

On October 11, 2018, President Trump issued a White House statement explaining that EPA was being directed to initiate a rulemaking. Consequently, in this action, we are proposing regulatory changes in line with the President's Directive that could serve to prevent anti-competitive behavior from potentially taking root in the future.

In Section III.E.1, we are proposing to set two thresholds that would work in tandem to identify parties with separated D6 RIN holdings significantly larger than needed for normal business functions and which may indicate an attempt to assert inappropriate market power. Although we are not proposing that exceeding the threshold would be a prohibited act, we are proposing that we would publish on our website the names of any parties that reported exceeding the thresholds. We are also proposing that the RIN holdings of corporate affiliates be included in a party's threshold calculations. In Section III.E.2, we are proposing to establish RIN retirement requirements for the first three quarters of the compliance year. Obligated parties could use any D-code RINs to do so. This reform would not impact the current annual RVO calculations or compliance. In Section III.E.3, we are proposing that only obligated parties, exporter, and certain non-obligated parties be allowed to purchase separated D6 RINs. Non-obligated parties would be exempt from this proposed restriction if they were a corporate or contractual affiliate to an obligated party. In Section III.E.4, we are proposing a limit on the duration that a non-obligated party could hold separated D6 RINs. Specifically, we are proposing that a non-obligated party would be required to sell or retire as many RINs as it obtained in a quarter by the end of that quarter. In Section III.E.5, we outline our consideration of taking additional steps to enhance our market monitoring capabilities. We discuss the possibility of employing a third-party market monitor to conduct analysis of the RIN market, including screening for potential anti-competitive behavior.

Overall, we are proposing to amend existing reports to collect quarterly RIN retirement information and information on whether the proposed D6 RIN holding thresholds were exceeded and whether the proposed requirements on purchasing and holding separated D6 RINs were met. We are proposing that parties would keep all records related to these reporting requirements and would submit them to auditors for the attest engagement process. In particular, we are proposing that each party would submit a complete list of its corporate and contractual affiliates to the auditor for review and that the auditor would submit that list to EPA with its attest engagement report. Finally, we are proposing enhancements to existing reporting fields in EMTS to improve our RIN price data for analysis.

We are seeking comment on all of the reform details proposed in this action, including the proposed reporting and recordkeeping requirements. We also seek comment on means to reduce the burden of implementation of these reforms, including on small entities. We are not seeking comment on the many elements of the RFS program that are not proposed for amendment in this action, and those program elements and regulatory provisions are outside the scope of this action.IV. Statutory and Executive Order ReviewsA. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.C. Paperwork Reduction Act (PRA)

With respect to the E15 1-psi waiver portion of this action, no new information collection burden is imposed under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0675. The proposed changes to the regulations would remove a small segment of language on PTDs required to be generated and kept as records by parties that make and distribute gasoline under the regulations at 40 CFR part 80, subpart N. These proposed changes would not require any additional information from regulated parties nor do we believe that these proposed changes would substantively alter practices used by regulated parties to satisfy the PTD regulatory requirements.

The information collection activities related to the RIN market reform portion of this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 2592.01 You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

This ICR includes all additional RFS related information collection activities resulting from the Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations proposed rulemaking. These information collection activities include new recordkeeping and reporting requirements proposed under 40 CFR part 80, subpart M.

Respondents/affected entities: The respondents to this information collection fall into the following general industry categories: Petroleum refineries, ethyl alcohol manufacturers, other basic organic chemical manufacturing, chemical and allied products merchant wholesalers, petroleum bulk stations and terminals, petroleum and petroleum products merchant wholesalers, gasoline service stations, and marine service stations.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 22,119.

Frequency of response: Quarterly, annually.

Total estimated burden: 216,891 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $20,445,451 (per year).

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 OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to [*OIRA\_submission@omb.eop.gov*](mailto:OIRA_submission@omb.eop.gov), Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than April 22, 2019. EPA will respond to any ICR-related comments in the final rule.D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule.

With respect to the E15 1-psi waiver portion of this action, the proposed regulatory changes do not substantively alter the regulatory requirements on parties that make and distribute gasoline. Additionally, the proposed interpretation to allow E15 to receive the 1-psi waiver would allow parties that make and distribute E15, including small entities, more flexibility in the summer to satisfy market demands.

With respect to the proposed RIN market reform provisions of this action, we have conducted a screening analysis to assess whether we should make a finding that this action will not have a significant economic impact on a substantial number of small entities. (197) As detailed in that analysis, we believe that the existing flexibilities for small entities provide sufficient compliance flexibility and no additional flexibilities are necessary.

We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C 1531-1538, and does not significantly or uniquely affect small governments. This action implements mandates specifically and explicitly set forth in CAA sec. 211 and we believe that this action represents the least costly, most cost-effective approach to achieve the statutory requirements.F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175.H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The flexibility provided to E15 blends by this action will enable additional supply of energy but are not expected to have an immediate significant effect on supply, distribution, or use of energy. The modifications to the RFS compliance system are not expected to have a significant effect on supply, distribution, or use of energy.J. National Technology ***Transfer*** and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This proposed rule does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not substantially relax the control measures on sources regulated by EPA fuels programs and therefore will not cause emissions increases from these sources.V. Statutory Authority

Statutory authority for this action comes from section 211 of the Clean Air Act, 42 U.S.C 7545. Additional support for the procedural and compliance related aspects of this proposed rule comes from sections 114, 208, and 301(a) of the Clean Air Act, 42 U.S.C 7414, 7542, and 7601(a).List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.Dated: March 12, 2019.Andrew Wheeler,Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 80 as follows:Part 80 Regulation of Fuel and Fuel Additives

1. The authority citation for part 80 continues to read as follows:Authority

42 U.S.C 7414, 7521, 7542, 7545, and 7601(a).Subpart B Controls and Prohibitions

2. Section 80.27 is amended by revising paragraph (d)(2) to read as follows:§ 80.27Controls and prohibitions on gasoline volatility.

\* \* \* \* \*

(d) \* \* \*

(2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 15% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in § 80.47 The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.

\* \* \* \* \*

3. Section 80.28 is amended by revising paragraphs (g)(6)(iii), (g)(8) introductory text, and (g)(8)(ii) as follows:§ 80.28Liability for violations of gasoline volatility controls and prohibitions.

\* \* \* \* \*

(g) \* \* \*

(6) \* \* \*

(iii) That the gasoline determined to be in violation contained no more than 15% ethanol (by volume) when it was delivered to the next party in the distribution system.

\* \* \* \* \*

(8) In addition to the defenses provided in paragraphs (g)(1) through (g)(6) of this section, in any case in which an ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer would be in violation under paragraphs (b), (c), (d), (e) or (f), of this section, as a result of gasoline which contains between 9 and 15 percent ethanol (by volume) but exceeds the applicable standard by more than one pound per square inch (1.0 psi), the ethanol blender, distributor, reseller, carrier, retailer or wholesale purchaser-consumer shall not be deemed in violation if such person can demonstrate, by showing receipt of a certification from the facility from which the gasoline was received or other evidence acceptable to the Administrator, that:

\* \* \* \* \*

(ii) The ethanol portion of the blend does not exceed 15 percent (by volume); and

\* \* \* \* \*Subpart M Renewable Fuel Standard

4. Section 80.1401 is amended by adding in alphabetical order definitions for “Contractual affiliate,” “Corporate affiliate,” “Corporate affiliate group,” “DX RIN,” and “End of Day” to read as follows:§ 80.1401Definitions.

\* \* \* \* \*

Contractual affiliate means one of the following:

(1) Two parties are contractual affiliates if they have an explicit or implicit agreement in place for one to purchase or hold RINs on behalf of the other or to deliver RINs to the other. This other party may or may not be registered under the RFS program.

(2) Two parties are contractual affiliates if one RIN-owning party purchases or holds RINs on behalf of the other. This other party may or may not be registered under the RFS program.

\* \* \* \* \*

Corporate affiliate means one of the following:

(1) Two parties are corporate affiliates if one owns or controls ownership of more than 20 percent of the other.

(2) Two parties are corporate affiliates if one parent company owns or controls ownership of more than 20 percent of both.

Corporate affiliate group means a group of parties in which each party is a corporate affiliate to at least one other party in the group.

\* \* \* \* \*

DX RIN means a RIN with a D code of X, where X is the D code of the renewable fuel as identified under § 80.1425, generated under § 80.1426, and submitted to EMTS under § 80.1452 For example, a D6 RIN is a RIN with a D code of 6.

\* \* \* \* \*

End of day means 7:00 a.m Coordinated Universal Time (UTC).

\* \* \* \* \*

5. Section 80.1427 is amended by:

a. Revising paragraph (b)(1) introductory text;

b. Redesignating paragraphs (b)(1)(ii) through (iv) as paragraphs (b)(1)(iii) through (v);

c. Adding new paragraph (b)(1)(ii);

d. Revising newly redesignated paragraph b(1)(iii); and

e. Adding paragraph (d).

The revisions and additions read as follows:§ 80.1427How are RINs used to demonstrate compliance?

\* \* \* \* \*

(b) \* \* \*

(1) An obligated party that fails to meet the requirements of paragraph (a)(1) or (a)(7) of this section for ***calendar*** year i or fails to meet the requirements of paragraph (d)(1) of this section for any quarter in ***calendar*** year i is permitted to carry a deficit into year i + 1 under the following conditions:

\* \* \* \* \*

(ii) The party met the requirements of paragraph (d)(1) of this section in each quarter in ***calendar*** year i−1 for the same RVO.

(iii) The party subsequently meets the requirements of paragraphs (a)(1) and (d)(1) of this section for ***calendar*** year i + 1 and carries no deficit into year i + 2 for the same RVO.

\* \* \* \* \*

(d) Installment requirement. (1) In addition to the annual demonstration pursuant to § 80.1451(a)(1) that an obligated party has met its Renewable Volume Obligations under §§ 80.1407 and 80.1430, each obligated party must meet an installment requirement by retiring a sufficient number of RINs for the first three quarters of the compliance year by the reporting deadlines specified in Table 1 to § 80.1451, except as specified in paragraph (d)(3) of this section.

(2) Obligated parties must determine their installment requirements as follows:

IR i,q = [RFStd RF,i \* (GV i,q + DV i,q) \* 0.80] + SHORT i,q−OVER i,q

Where:

IR i,q = The installment requirement is the number of RINs an obligated party needs to retire for quarter q in compliance period i, in RINs.

RFStd RF,i = The Renewable Volume Obligation for renewable fuel for compliance period i, determined by EPA pursuant to § 80.1405, in percent.

GV i,q = The cumulative non-renewable gasoline volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party in compliance period i through quarter q, in gallons.

DV i,q = The cumulative non-renewable diesel volume, determined in accordance with § 80.1407(d), (e), and (f), produced in or imported into the 48 contiguous states or Hawaii by an obligated party in compliance period i through quarter q, in gallons.

i = The compliance period, typically expressed as a ***calendar*** year.

q = The quarter, as defined in Table 1 to § 80.1451, in compliance period i.

SHORT i.q = Cumulative shortfall from prior quarters in compliance period i through quarter q, which includes the amount of additional RINs an obligated party needed to retire to meet the installment requirement in the prior quarter(s), in RINs. For quarter one, this term is zero.

OVER i,q = Cumulative overage from the prior quarter(s) in compliance period i through quarter q, which includes the amount of excess RINs retired more than the installment requirement in the prior quarter(s), in RINs. For quarter one, this term is zero.

(3) An obligated party must satisfy the installment in compliance period i as required by paragraph (d)(2) of this section unless the obligated party satisfies all installments in compliance period i + 1 or has no RVO in compliance period i.

6. Section 80.1428 is amended by revising paragraph (b)(2) to read as follows:§ 80.1428General Requirements for RIN distribution.

\* \* \* \* \*

(b) \* \* \*

(2) Separated RIN ownership. (i) Any person that has registered pursuant to § 80.1450 can own a separated RIN, except as specified in paragraph (b)(2)(ii) of this section.

(ii) Only a person that has registered as an obligated party or exporter of renewable fuel pursuant to § 80.1450, and who must satisfy an RVO, may purchase a separated D6 RIN, unless the person meets one of the following conditions:

(A) The person meets the definition of contractual affiliate or corporate affiliate in § 80.1401

(B) The person is replacing an invalid D6 RIN under this subpart.

(iii) Any person who owns a separated D6 RIN under paragraph (b)(2)(i) of this section and is not an obligated party must either sell or retire at least the total number of D6 RINs separated or purchased in a quarter by the quarterly report deadline specified in Table 1 in § 80.1451

(iv) Any person who owns a separated D6 RIN to replace an invalid D6 RIN, as allowed under paragraph (b)(2)(ii)(B) of this section, may not sell the separated or purchased D6 RIN and must retire the separated or purchased D6 RIN within 60 days of the date of separating or purchasing the RIN pursuant to the applicable provisions of §§ 80.1431 and 80.1474

\* \* \* \* \*

7. Section 80.1435 is added to read as follows:§ 80.1435How are RIN holdings and RIN holding thresholds calculated?

(a) RIN holdings calculation. (1) Each party must calculate daily end-of-day separated D6 RIN holdings by aggregating its end-of-day separated D6 RIN holdings with the end-of-day separated D6 RIN holdings of all corporate affiliates in a corporate affiliate group and use the end-of-day separated D6 RIN holdings as specified in paragraph (b) of this section.

(2) Each party must calculate, as applicable, the holdings-to-market percentage under paragraph (b)(1) of the section and the holdings-to-obligation percentage under paragraph (b)(2) of this section quarterly in accordance with the schedule specified in Table 1 to § 80.1451

(3) Each obligated party that is part of a corporate affiliate group that has a holdings-to-market percentage, as calculated under paragraph (b)(1) of this section, greater than 3.00 percent for any ***calendar*** day in a compliance period must calculate their holdings-to-obligation percentage as specified in paragraph (b)(2) of this section.

(4) Each party must individually keep copies of all calculations and supporting information for separated D6 RIN holding threshold calculations required under this section as specified in § 80.1454(u).

(b) RIN holding thresholds calculations.—(1) Primary test calculations. For each day in a compliance period, each party that owns RINs must calculate the holdings-to-market percentage for their corporate affiliate group using the method specified in paragraph (b)(1)(i) or (b)(1)(ii) of this section, as applicable.

(i) For each day beginning January 1 through March 31, calculate the holdings-to-market percentage for a corporate affiliate group as follows:

HTMP d = [(∑D6RIN d) a/(CNV\_VOL TOT,i \* 1.25)] \* 100

Where:

HTMP d = The holdings-to-market percentage is the percentage of separated D6 RINs a corporate affiliate group holds on ***calendar*** day d relative to the total expected number of separated D6 RINs in the market in compliance period i, in percent.

d = A given ***calendar*** day.

i = The compliance period, typically expressed as a ***calendar*** year.

a = Individual corporate affiliate in a corporate affiliate group.

(∑D6RIN d) a = Sum of the number of separated D6 RINs each individual corporate affiliate a holds at the end of ***calendar*** day d, in RIN-gallons.

CNV\_VOL TOT,i = The total expected annual volume of conventional renewable fuels for the compliance period i, in gallons. Unless otherwise specified, this number is 15 billion gallons.

(ii) For each day beginning April 1 through December 31, calculate the holdings-to-market percentage for a corporate affiliate group as follows:

HTMP d = [(∑D6RIN d) a/(CNV\_VOL TOT,i)] \* 100

Where:

HTMP d = The holdings-to-market percentage is the percentage of separated D6 RINs a corporate affiliate group holds on ***calendar*** day d relative to the total expected number of separated D6 RINs in the market in compliance period i, in percent.

d = A given ***calendar*** day.

i = The compliance period, typically expressed as a ***calendar*** year.

a = Individual corporate affiliate in a corporate affiliate group.

(∑D6RIN d) a = Sum of the number of separated D6 RINs each individual corporate affiliate a holds at the end of ***calendar*** day d, in RIN-gallons.

CNV\_VOL TOT,i = The total expected annual volume of conventional renewable fuels for compliance period i, in gallons. Unless otherwise specified, this number is 15 billion gallons.

(2) Secondary threshold calculations. For each day in a compliance period where a corporate affiliate group is required to calculate with the secondary threshold requirement under § 80.1435(a)(4), each obligated party must calculate the holdings-to-obligation percentage for their corporate affiliate group using the methods at paragraph (b)(2)(i) or (b)(2)(ii) of this section, as applicable.

(i) For each day beginning January 1 through March 31, calculate the holdings-to-obligation percentage as follows:

HTOP d = [(∑D6RIN d) a/{[(∑CNV\_RVO i-1) a + (∑CNV\_DEF i-1) a + (∑CNV\_DEF i-2) a] \* 1.25}] \* 100

Where:

HTOP d = The holdings-to-obligation percentage is the percentage of separated D6 RINs a corporate affiliate group holds on ***calendar*** day d relative to their expected separated D6 RIN holdings based on the corporate affiliate group's conventional RVO for compliance period i-1, in percent.

d = A given ***calendar*** day.

i = The compliance period, typically expressed as a ***calendar*** year.

a = Individual corporate affiliate in a corporate affiliate group.

(∑D6RIN d) a = Sum of the number of separated D6 RINs each individual corporate affiliate a holds on ***calendar*** day d, in RIN-gallons.

(∑CNV\_RVO i-1) a = Sum of the conventional RVOs for each individual corporate affiliate a for compliance period i-1 as calculated in paragraph (b)(2)(iii) of this section, in RIN-gallons.

(∑CNV\_DEF i-1) a = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-1, in RIN-gallons.

(∑CNV\_DEF i-2) a = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-2, in RIN-gallons.

(ii) For each day beginning April 1 through December 31, calculate the holdings-to-obligation percentage as follows:

HTOP d = {(∑D6RIN d) a/[(∑CNV\_RVO i-1) a + (∑CNV\_DEF i-1) a]} \* 100

Where:

HTOP d = The holdings-to-obligation percentage is the percentage of separated D6 RINs a corporate affiliate group holds on ***calendar*** day d relative to their expected separated D6 RIN holdings based on the corporate affiliate group's conventional RVO for compliance period i-1, in percent.

d = A given ***calendar*** day.

i = The compliance period, typically expressed as a ***calendar*** year.

a = Individual corporate affiliate in a corporate affiliate group.

(∑D6RIN d) a = Sum of the number of separated D6 RINs each individual corporate affiliate a holds on ***calendar*** day d, in RIN gallons.

(∑CNV\_RVO i-1) a = Sum of the conventional RVOs for each individual corporate affiliate a for compliance period i-1 as calculated in paragraph (b)(2)(iii) of this section, in RIN-gallons.

(∑CNV\_DEF i-1) a = Sum of the conventional deficits for each individual corporate affiliate a as calculated in paragraph (b)(2)(iv) of this section for compliance period i-1, in RIN-gallons.

(iii) As needed to calculate the holdings-to-obligation percentage in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, calculate the conventional RVO for an individual corporate affiliate as follows:

CNV\_RVO i = {[RFStd RF,i \* (GV i + DV i)]−[RFStd AB,i \* (GV i + DV i)]} + ERVO RF,i

Where:

CNV\_RVO i = The conventional RVO for an individual corporate affiliate for compliance period i without deficits, in RIN-gallons.

i = The compliance period, typically expressed as a ***calendar*** year.

RFStd RF,i = The standard for renewable fuel for compliance period i determined by EPA pursuant to § 80.1405, in percent.

RFStd AB,i = The standard for advanced biofuel for compliance period i determined by EPA pursuant to § 80.1405, in percent.

GV i = The non-renewable gasoline volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party for compliance period i, in gallons.

DV i = The non-renewable diesel volume, determined in accordance with § 80.1407(b), (c), and (f), which is produced in or imported into the 48 contiguous states or Hawaii by an obligated party for compliance period i, in gallons.

ERVO RF,i = The sum of all renewable volume obligations from exporting renewable fuels, as calculated under § 80.1430, by an obligated party for compliance period i, in RIN-gallons.

(iv) As needed to calculate the holdings-to-obligation percentage in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, calculate the conventional deficit for an individual corporate affiliate as follows:

CNV\_DEF i = D RF,i−D AB,i

Where:

CNV\_DEF i = The conventional deficit for an individual corporate affiliate for compliance period i, in RIN-gallons. If a conventional deficit is less than zero, use zero for conventional deficits in paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

i = The compliance period, typically expressed as a ***calendar*** year.

D RF,i = Deficit carryover from compliance period i for renewable fuel, in RIN-gallons.

D AB,i = Deficit carryover from compliance period i for advanced biofuel, in RIN-gallons.

(c) Exceeding the D6 RIN holding thresholds. (1) Primary threshold test. If a party or corporate affiliate group has a holdings-to-market percentage greater than three percent for any ***calendar*** day in a compliance period, as determined under paragraph (b)(1) of this section, and the corporate affiliate group does not contain an obligated party, each party in the corporate affiliate group must separately submit a report to EPA as specified in § 80.1451(c).

(2) Secondary threshold test. If an obligated party or a corporate affiliate group required to calculate a holdings-to-obligation percentage under paragraph (a)(3) of this section has a holdings-to-obligation percentage greater than 130.00 percent for any ***calendar*** day in a compliance period, as determined under paragraph (b)(2) of this section, each party in the corporate affiliate group must separately report to EPA as specified in § 80.1451(c).

(3) Reporting deadline. Parties required to report to EPA under this section as specified under § 80.1451(c), must report to EPA by the deadlines specified in Table 1 to § 80.1451

8. Section 80.1451 is amended by revising paragraphs (a)(3) and (c)(2) to read as follows:§ 80.1451What are the reporting requirements under the RFS program?

(a) \* \* \*

(3) The quarterly RIN activity reports required under paragraph (c)(2) of this section to also include:

(i) For obligated parties, all of the following information:

(A) The installment requirement calculated using the procedures in § 80.1427(d) for the applicable quarterly reporting period.

(B) The cumulative shortfall from prior quarters as calculated in § 80.1427(d).

(C) The cumulative overage from the prior quarters as calculated in § 80.1427(d).

(D) The resulting balance after applying total RINs retired for compliance as calculated in § 80.1427(d).

(ii) Any additional information that the Administrator may require.

\* \* \* \* \*

(c) \* \* \*

(2) Reports related to a person's RIN activity must be submitted to EPA according to the schedule specified in paragraph (f)(2) of this section. Each report must summarize RIN activities for the reporting period and must include all of the following information:

(i) The submitting party's name.

(ii) The submitting party's EPA-issued company identification number.

(iii) Primary registration designation or compliance level for compliance year (e.g , “Aggregated Refiner,” “Exporter,” “Renewable Fuel Producer,” “RIN Owner Only,” etc.).

(iv) Number of prior-year and current-year separated D3, D4, D5, D6, and D7 RINs owned at the end of the quarter.

(v) Indicate if the submitting party exceeded the separated D6 RIN holding threshold in the quarter, as determined by the applicable calculation specified in § 80.1435 If the answer is yes, then EPA may publish the name and EPA-issued company identification number of the party.

(vi) For non-obligated parties who purchased separated D6 RINs during the reporting period, the reason(s) for the purchase consistent with § 80.1428(b)(2)(ii).

(vii) Total number of assigned D6 RINs separated during the reporting period.

(viii) Total number of separated D6 RINs purchased during the reporting period.

(ix) Total number of separated D6 RINs sold during the reporting period.

(x) Total number of separated D6 RINs retired during the reporting period.

(xi) For non-obligated parties, total number of separated D6 RINs subject to the requirement in § 80.1428(b)(2)(iii) held past the stated RIN distribution deadline.

(xii) The volume of renewable fuel (in gallons) owned at the end of the quarter.

(xiii) The total number of assigned RINs owned at the end of the quarter.

(xiv) Any additional information that the Administrator may require.

\* \* \* \* \*

9. Section 80.1452 is amended by:

a. Revising paragraph (c)(12); and

b. Adding paragraph (c)(15).

The revision and addition read as follows:§ 80.1452What are the requirements related to the EPA Moderated Transaction System (EMTS)?

\* \* \* \* \*

(c) \* \* \*

(12)(i) For RIN buy or sell transaction types including assigned RINs, the per-gallon RIN price or the per-gallon price of renewable fuel with RINs included.

(ii) For RIN buy or sell transaction types including separated RINs, the per-gallon RIN price.

\* \* \* \* \*

(15) For buy or sell transactions of separated RINs, the mechanism used to purchase the RINs (e.g , spot market or fulfilling a term contract).

\* \* \* \* \*

10. Section 80.1454 is amended by adding paragraphs (i)(1) and (2) and paragraphs (u) through (y) to read as follows:§ 80.1454What are the recordkeeping requirements under the RFS program?

\* \* \* \* \*

(i) \* \* \*

(1) For buy or sell transactions of separated RINs, parties must retain records substantiating the price reported to EPA under § 80.1452

(2) For buy or sell transactions of separated RINs, parties must retain records demonstrating the transaction mechanism (e.g , spot market or fulfilling a term contract).

\* \* \* \* \*

(u) Requirements for recordkeeping of RIN holdings for all parties transacting or owning RINs. (1) Parties must retain records related to end-of-day separated D6 RIN holdings, conventional RVO calculations, and any associated calculations recorded in order to meet the RIN holdings requirements described in § 80.1435 Such records must include information related to any corporate affiliates and their RIN holdings and calculations.

(2) Parties must retain records related to their reports to EPA regarding threshold compliance under §§ 80.1435 and 80.1451

(v) Requirements for recordkeeping for installment requirement. (1) Obligated parties must retain records related to gasoline and diesel production levels used for RVO calculation in §§ 80.1427 and 80.1451

(2) Obligated parties must retain records related to the RVO calculation inputs as listed in §§ 80.1427 and 80.1451

(3) Obligated parties must retain records related to any remedial actions submitted after the quarterly compliance deadline.

(w) Recordkeeping requirements for parties prohibited from purchasing separated D6 RINs. (1) Non-obligated parties must retain all records pertaining to why they purchased separated D6 RINs. This may include, but is not limited to, legal contracts with obligated parties or documents indicating the need to replace invalid D6 RINs.

(2) [Reserved]

(x) Requirements for recordkeeping of D6 RIN holdings by non-obligated parties. (1) Non-obligated parties must retain all records related to the number of D6 RINs separated in a given quarter, purchased in a given quarter, and sold in a given quarter to demonstrate compliance with the requirements in § 80.1428

(2) [Reserved]

(y) Requirements for recordkeeping of contractual and corporate affiliates. (1) Parties must retain records including, but not limited to, the name, address, business location, contact information, and description of relationship, for each corporate affiliate. For the corporate affiliate group, a relational diagram.

(2) Parties must retain records including, but not limited to, the name, address, business location, contact information, and contract or other agreement for each contractual affiliate.

11. Section 80.1460 is amended by revising paragraphs (c)(1) and (d) to read as follows:§ 80.1460What acts are prohibited under the RFS program?

\* \* \* \* \*

(c) \* \* \*

(1) Fail to acquire sufficient RINs, fail to retire sufficient RINs, or use invalid RINs to meet the person's RVOs or quarterly compliance requirements under § 80.1427

\* \* \* \* \*

(d) RIN retention violation. No person may do any of the following:

(1) Retain RINs in violation of the requirements in § 80.1428(a)(5).

(2) Purchase separated RINs in violation of the requirements in § 80.1428(b)(2).

\* \* \* \* \*

12. Section 80.1464 is amended by:

a. Revising paragraph (a)(3)(ii);

b. Adding paragraphs (a)(4) through (5);

c. Revising paragraph (b)(3)(ii);

d. Adding paragraph (b)(5);

e. Revising paragraph (c)(2)(ii); and

f. Adding paragraph (c)(3).

The revisions and additions read as follows:§ 80.1464What are the attest engagement requirements under the RFS program?

(a) \* \* \*

(3) \* \* \*

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (a)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume and type of renewable fuel (as defined in § 80.1401) owned at the end of each quarter; as represented in these documents; obtain a list of all corporate affiliates and a list of all contractual affiliates and review the information regarding their documented relationship to the submitter (e.g , contracts, or other legal documents); and identify any contractual affiliates that had a contract with the party that did not result in ***transfer*** of RINs to the party during the ***calendar*** year; report a separate list for all corporate affiliates and all contractual affiliates including identification information for each corporate or contractual affiliate (e.g , company ID, company name, corporate address, etc) and any findings to EPA.

(4) Quarterly installment requirement for obligated parties. (i) Compare the volumes of products listed in § 80.1407(c) and (e) reported to EPA in the report required under § 80.1451(a)(3) with the volumes, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under § 80.133 and the volume of non-renewable diesel produced or imported. Verify that the volumes reported to EPA agree with the volumes in the inventory reconciliation analysis and the volumes of non-renewable diesel produced or imported, and report as a finding any exception.

(ii) Compare the calculated installment requirement for each quarter using the required steps found in 80.1427(d) with any RINs retired for compliance. Verify that any cumulative shortfall or cumulative overage is carried through as applicable into any subsequent quarter.

(5) RIN holdings. (i) Obtain and read copies of the RIN holdings calculations kept under § 80.1454(u) for the obligated party and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435 State whether this information agrees with the party's reports (***notification*** of threshold exceedance) to EPA.

(b) \* \* \*

(3) \* \* \*

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (b)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; report the total number of each RIN generated during each quarter and compute and report the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; review the information regarding contractual affiliates and corporate affiliates (as defined in § 80.1401) and their documented relationship to the submitter; identify any contractual affiliates that had a contract with the party that did not result in ***transfer*** of RINs to the party during the ***calendar*** year; report a separate list for all corporate affiliates and all contractual affiliates including identification information for each corporate or contractual affiliate (e.g , company ID, company name, corporate address, etc) and any findings to EPA.

\* \* \* \* \*

(5) RIN holdings. (i) Obtain and read copies of the RIN holdings calculations for the renewable fuel producers and RIN-generating importers and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435

(c) \* \* \*

(2) \* \* \*

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (c)(1) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, sold, retired, separated, and reinstated and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; review the information regarding corporate affiliates and contractual affiliates (as defined in § 80.1401) and their documented relationship to the submitter (e.g , contract); identify any contractual affiliates that had a contract with the party that did not result in ***transfer*** of RINs to the party during the ***calendar*** year; report a separate list for all corporate affiliates and all contractual affiliates including identification information for each corporate or contractual affiliate (e.g , company ID, company name, corporate address, etc) and any findings to EPA.

(3) RIN holdings. (i) Obtain and read copies of the RIN holdings calculations for the renewable fuel producers and RIN-generating importers and any corporate affiliates.

(ii) Report as a finding any date where the aggregated calculation exceeded the RIN holding threshold specified in § 80.1435 State whether this information agrees with the party's reports (***notification*** of threshold exceedance) to EPA.

\* \* \* \* \*Subpart N Additional Requirements for Gasoline Ethanol Blends

13. Section 80.1503 is amended by:

a. Revising paragraph (a)(1)(vi)(B);

b. Removing and reserving paragraph (a)(1)(vi)(C);

c. Revising paragraph (b)(1)(vi)(B); and

d. Removing and reserving paragraphs (b)(1)(vi)(C) through (E).

The revisions read as follows:§ 80.1503What are the product ***transfer*** document requirements for gasoline-ethanol blends, gasolines, and conventional blendstocks for oxygenate blending subject to this subpart?

(a) \* \* \*

(1) \* \* \*

(vi) \* \* \*

(B) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3).

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vi) \* \* \*

(B)(1) For gasoline containing less than 9 volume percent ethanol, the following statement: “EX—Contains up to X% ethanol. The RVP does not exceed [fill in appropriate value] psi.” The term X refers to the maximum volume percent ethanol present in the gasoline.

(2) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3) may be used in lieu of the statement required under paragraph (b)(1)(vi)(B)(1) of this section.

\* \* \* \* \*

14. Section 80.1504 is amended by removing and reserving paragraphs (f) and (g).[FR Doc. 2019-05030 Filed 3-20-19; 8:45 am]BILLING CODE 6560-50-P

**Load-Date:** March 25, 2019

**End of Document**



[***Federal Register: Regulatory Reform Agenda Pages 65926 - 65954 [FR DOC #2018-27473]***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5S11-14M1-JDG9-Y2TW-00000-00&context=1516831)

Impact News Service

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**Body**

Washington: Office of the Federal Register has issued the following notice:

National Credit Union Administration ----------------------------------------------------------------------- 12 CFR Chapter VII Regulatory Reform Agenda; Proposed Rule Federal Register / Vol. 83 , No. 245 / Friday, December 21, 2018 / Proposed Rules [[Page 65926]] ----------------------------------------------------------------------- NATIONAL CREDIT UNION ADMINISTRATION 12 CFR Chapter VII Regulatory Reform Agenda AGENCY: National Credit Union Administration (NCUA). ACTION: Notice of regulatory review. ----------------------------------------------------------------------- SUMMARY: The NCUA has established a Regulatory Reform Task Force (Task Force) to oversee the implementation of the agency's regulatory reform agenda. This is consistent with the spirit of the president's regulatory reform agenda and Executive Order 13777. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, the agency chose to comply with its spirit and reviewed all of the NCUA's regulations to that end.

The Task Force published and sought comment on its first report in August 2017. Having reviewed all of the comments received, the Task Force is publishing its second and final report. DATES: December 21, 2018. ADDRESSES: Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314. FOR FURTHER INFORMATION CONTACT: Thomas I. Zells, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314 or telephone: (703) 548-2478. SUPPLEMENTARY INFORMATION: Table of Contents I. Background a. The NCUA's Regulatory Mission b. The Regulatory Reform Agenda c. This Document II. The Second Report a. General Recommendations b. The Consolidated Refined Blueprint c. The Detailed Refined Blueprint and Summary of Comments I. Background a. The NCUA's Regulatory Mission The NCUA, as a prudential regulator, is charged with protecting the safety and soundness of the credit union system and, in turn, the National Credit Union Share Insurance Fund (NCUSIF) and the taxpayer through regulation and supervision. The NCUA's mission is to ``provide, through regulation and supervision, a safe and sound credit union system, which promotes confidence in the national system of cooperative credit.'' \1\ Consistent with that mission, the NCUA has statutory responsibility for a wide variety of regulations that protect the credit union system, members, and the NCUSIF. --------------------------------------------------------------------------- \1\ [*https://www.ncua.gov/About/Pages/Mission-and-Vision.aspx*](https://www.ncua.gov/About/Pages/Mission-and-Vision.aspx) --------------------------------------------------------------------------- b. The Regulatory Reform Agenda The president has established a regulatory reform agenda and issued multiple executive orders designed to alleviate unnecessary regulatory burdens. The NCUA is not subject to these executive orders but has nonetheless chosen to comply with them in spirit. Executive Order 13777, entitled ``Enforcing the Regulatory Reform Agenda,'' directs subject agencies to establish Regulatory Task Forces and to evaluate existing regulations to identify those that should be repealed, replaced, or modified. The Executive Order requires subject agencies to, at a minimum, attempt to identify regulations that: 1. Eliminate jobs, or inhibit job creation; 2. Are outdated, unnecessary, or ineffective; 3. Impose costs that exceed benefits; 4. Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; 5. Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or 6. Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified. c. This Document The NCUA established a Regulatory Reform Task Force (Task Force) in March 2017 to oversee the implementation of the agency's regulatory reform agenda. This is consistent with the spirit of the president's regulatory reform agenda and Executive Order 13777. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, the agency chose to comply with its spirit and reviewed all of the NCUA's regulations to that end. The Task Force undertook an exhaustive review of the NCUA's regulations and issued its first draft report to Chairman McWatters in May 2017 and submitted it without change to the NCUA Board in June 2017. The first report outlined the Task Force's proposed review and reporting procedures and made numerous recommendations for the amendment or repeal of regulatory requirements that the Task Force believed to be outdated, ineffective, or excessively burdensome. On August 22, 2017 the NCUA published the substance of the Task Force's first report in the Federal Register and sought public comment.\2\ --------------------------------------------------------------------------- \2\ 82 FR 39702 (Aug. 22, 2017). --------------------------------------------------------------------------- This document contains the Task Force's second and final report. As described more fully below, this report contains both general recommendations for the NCUA's regulatory reform agenda moving forward and a refined blueprint of the timeline for recommended regulatory changes. The NCUA began implementing Tier 1 of the regulatory reform agenda in May 2017. The agency aims to have commenced action on all Tier 1 recommendations by May 2019. The agency plans to initiate the implementation of Tier 2 and Tier 3 recommendations in May or June 2019 and 2020, respectively. II. The Second Report a. General Recommendations i. Report Structure The structure of this report closely tracks the structure of the first report. The Task Force has retained the effort/impact prioritization matrix used in the first report \3\ and has tried to structure the notice as similarly as possible. Along with a consolidated refined blueprint of the timeline for future regulatory actions, this report includes a detailed refined blueprint that provides the first report's recommendations, a general summary of comments received on the recommendations, and this report's recommendations. The Task Force does not intend to respond to the specific substance of commenters' recommendations in this report. Instead, this report is largely focused on setting the procedures governing the regulatory reform agenda as it moves forward and providing the refined timeline for completing the Task Force's recommendations. Commenters' substantive recommendations, while considered in the development of this report and its refined timeline, will be most helpful in shaping recommended actions as they are more fully developed. Commenter recommendations related to completed actions have been reviewed by the Task Force and will be considered in future rulemakings unless otherwise indicated. --------------------------------------------------------------------------- \3\ Id. at 39704. --------------------------------------------------------------------------- The NCUA will also separately publish a consolidated version of this report on the NCUA website. The [[Page 65927]] consolidated report will provide the Task Force's recommendations from the first report, the Task Force's updated recommendations, and the updated prioritizations. ii. Measuring Future Progress As contemplated by both Executive Order 13777 and the first report, the Task Force recommends that the NCUA measure the agency's progress as it advances through the regulatory reform agenda. To best do this, the Task Force recommends that the NCUA publish on its website the outline of this report's refined blueprint, subject to needed future modifications, to be updated every six months to monitor progress. This outline should document whether the agency has published any documents related to the individual recommendations and whether any changes to the recommendation or refined blueprint timeline have been made. iii. The NCUA's Annual Regulatory Review In the first report, the Task Force recommended suspending the NCUA Office of General Counsel's annual regulatory review until 2020. Approximately five commenters supported the temporary suspension. Several commenters opposed the suspension, noting that changes will likely occur between now and 2020, including to the NCUA Board composition. One of these commenters felt that the NCUA should maintain a formal mechanism for stakeholder insight into the effect of existing regulations on a contemporary basis and asked that the review be reinstated in January 2019 as Tier 1 is completed. Based on commenter feedback, the Task Force has amended its recommendation. The Task Force recommends that the annual regulatory review resume in January 2019, via a notice published on the NCUA's website. The 2019 regulatory review will cover parts 700-710 of the NCUA's regulations. The Task Force believes the annual regulatory review plays an important role in giving stakeholders a continuing means of providing feedback as changes are made and take effect. b. The Consolidated Refined Blueprint Report 1 and Report 2 Prioritization Comparison ---------------------------------------------------------------------------------------------------------------- Regulation Report 2 priority Report 1 priority Justification for change ---------------------------------------------------------------------------------------------------------------- Report 2 Tier 1 ---------------------------------------------------------------------------------------------------------------- 1. Corporate Credit Unions......... Completed............. Tier 1................ N/A. 2. Emergency Mergers............... Completed............. Tier 1................ N/A. 3. Securitization.................. Completed............. Tier 1................ N/A. 4. Supervisory Review Committee.... Completed............. Tier 1................ N/A. 5. Appeals......................... Completed............. Tier 1................ N/A. 6. Equity Distribution............. Completed............. Tier 1................ N/A. 7. Capital Planning and Stress Completed............. Tier 1................ N/A. Testing. 8. Advertising..................... Completed............. Tier 1................ N/A. 9. Field of Membership............. Completed............. Tier 1................ N/A. 10. Risk-Based Capital Delay....... Completed............. Tier 1................ The risk-based capital rule and............................... ...................... ...................... finalized in October 2018 Risk-Based Capital Substantive.... ...................... Tier 2................ addressed both the delay and substantive recommendations made in the first report. 11. FCU Bylaws..................... Proposed.............. Tier 1................ N/A. 12. Payday Alternative Loans....... Proposed.............. Not in Report......... The Task Force believes the proposed change will provide additional regulatory relief. 13. Loans to Members: a. Loan Proposed.............. Tier 1................ N/A. Maturity Limits, b. Single borrower and Group of Associated Borrowers Limit. 14. Appraisals..................... Proposed.............. Tier 1................ N/A. 15. Fidelity Bonds................. Proposed.............. Tier 1................ N/A. 16. Supervisory Committee Audits Tier 1................ Tier 1................ N/A. and Verification (Engagement Letter, Target Date of Delivery). 17. Supervisory Committee Audits Tier 1................ Tier 1................ N/A. and Verification (Audit per Supervisory Committee Guide). 18. Subordinated Debt (formerly Tier 1................ Tier 2................ Subordinated debt (formerly Alternative Capital). alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. 19. Designation of Low Income Tier 1................ Tier 2................ Subordinated debt (formerly Status; Acceptance of Secondary alternative capital) is a Capital Accounts by Low-Income priority for the Chairman, Designated Credit Unions. the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. 20. Borrowed Funds from Natural Tier 1................ Tier 2................ Subordinated debt (formerly Persons. alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. 21. Payment on Shares by Public Tier 1................ Tier 2................ Upon further consideration Units and Nonmembers. and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1. 22. Compensation in Connection with Tier 1................ Tier 1................ N/A. Loans. [[Page 65928]] 23. CUSOs.......................... Tier 1................ Tier 3................ The Task Force believes that this recommendation is appropriately placed in Tier 1. The change should be low effort and high impact. 24. Loan Interest Rate, Temporary Tier 1................ Tier 3................ The loan interest rate is a Rate. priority for the Board, the agency, and commenters. ---------------------------------------------------------------------------------------------------------------- Report 2 Tier 2 ---------------------------------------------------------------------------------------------------------------- 1. Investment and Deposit Tier 2 (First Item)... Tier 2................ Upon further consideration Activities. and in response to stakeholder feedback the Task Force has decided to move this item to the top of Tier 2. 2. Loan Participations............. Tier 2................ Tier 2................ N/A. 3. Purchase, Sale, and Pledge of Tier 2................ Tier 2................ N/A. Eligible Obligations. 4. Purchase of Assets and Tier 2................ Tier 2................ N/A. Assumption of Liabilities. 5. Third-Party Due Diligence Tier 2................ Tier 3................ These recommendations were Requirements and. combined and put into Tier 2. Third-Party Servicing of Tier 2................ Tier 1 Indirect Vehicle Loans. 6. Payout priorities in Involuntary Tier 2................ Tier 3................ This recommendation will Liquidation. help protect the NCUSIF and higher prioritization is appropriate. ---------------------------------------------------------------------------------------------------------------- Report 2 Tier 3 ---------------------------------------------------------------------------------------------------------------- 1. Preemption of State Laws (Loans Tier 3................ Tier 3................ N/A. to Members and Lines of Credit to Members). 2. Treasury Tax and Loan Tier 3................ Tier 3................ N/A. Depositaries and Financial Agents of the Government. 3. Leasing......................... Tier 3................ Tier 3................ N/A. 4. Central Liquidity Facility...... Tier 3................ Tier 3................ N/A. 5. Maximum Borrowing Authority..... Tier 3................ Tier 3................ N/A. 6. Special Reserve for Tier 3................ Tier 3................ N/A. Nonconforming Investments. 7. Security Program, Report of Tier 3................ Tier 3................ N/A. Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance. 8. Records Preservation Program and Tier 3................ Tier 3................ N/A. Appendices--Record Retention Guidelines; Catastrophic Act Preparedness Guidelines. ---------------------------------------------------------------------------------------------------------------- c. The Detailed Refined Blueprint and Summary of Comments As discussed, this report contains both a refined blueprint for the timeline for implementing the Task Force's recommendations and a summary of the comments the NCUA received on the first report. The NCUA received nearly 50 comments on the first report. Commenters overwhelmingly supported the NCUA's regulatory reform agenda. It should be noted that comment tallies are only reflective of the number of commenters who directly addressed a specific recommendation or issue. Many commenters expressed general support for the first report or for wide-ranging review of a number of regulations. The NCUA has completed ten of the first report's initial regulatory relief recommendations: 1. Corporate Credit Unions; 2. Emergency Mergers; 3. Securitization; 4. Supervisory Review Committee; 5. Appeals Procedures; 6. The Equity Distribution; 7. Capital Planning and Stress Testing; 8. Accuracy of Advertising and Notice of Insured Status; 9. Field of Membership; and 10. Risk-Based Capital. Additionally, the NCUA has issued proposed rules or commenced action for five other recommendations: 1. Bylaws; 2. Loan Maturities; 3. The Single Borrower or Group of Associated Borrower Limit; 4. Appraisals; 5. Fidelity Bonds. Nearly all commenters explicitly commended the NCUA's efforts to identify outdated, ineffective, or excessively burdensome requirements and ease regulatory burden while modernizing the NCUA's regulations. i. Tier 1 (First 24 Months) 1. Completed Actions 1. Part 704--Corporate Credit Unions Addresses: Corporate Credit Unions. Sections: 704. Category: Improve. Degree of Effort: Moderate. Degree of Impact: Low. Report 1: Amend capital standards for corporate credit unions to include expanding what constitutes Tier 1 Capital. For mergers, permit Tier 1 Capital to include generally accepted accounting principles (GAAP) equity acquired. Also, establish a retained earnings requirement of 2.50%, which, when achieved, will allow for all perpetual contributed capital to be included in Tier 1 Capital. The current rule for perpetual contributed capital would remain in effect until the retained earnings requirement is met. Comments: The NCUA issued this final rule in November 2017. However, [[Page 65929]] a number of commenters either addressed the rulemaking or provided other substantive comments on part 704. Several commenters that submitted their comments prior to the November final rule's publication explicitly asked the NCUA to finalize the proposed rule. One of these commenters stated that the proposal provides corporate credit unions with greater flexibility in the calculation and treatment of capital and promotes increased certainty and stability in the credit union system. Several commenters agreed that expressly including merger- acquired GAAP equity as retained earnings would clarify that capital is available to cover losses, resulting in greater accounting transparency and reduced ambiguity. These commenters also supported counting perpetual contributed capital as Tier 1 Capital, especially given the confusion for credit union auditors evaluating potential perpetual contributed capital impairment. The commenters argued that the limitation of perpetual contributed capital for regulatory capital purposes undermines the full value of perpetual contributed capital to absorb losses during an economic event. Approximately 15 commenters asked the NCUA to review part 704 in its entirety to explore modernization opportunities for the benefit of corporate credit unions and natural person members. The commenters argued that this would provide more relief by decreasing regulatory burden, increasing operational efficiency, and improving member services. One of these commenters stated that the NCUA revised part 704 as a result of the financial crisis and consequently the corporate system has significantly contracted and consolidated. Another commenter argued for more regulatory relief and refinement of the rules governing corporate credit unions, and recommended that the NCUA: (1) Form a task force with state regulators to review future adjustments to the corporate credit union rules; (2) reintroduce meaningful dual chartering by eliminating unnecessary preemption of state rules, particularly with respect to corporate credit union governance; and (3) enhance the joint supervision of corporates and their risk to natural person credit unions by formalizing increased information sharing between the NCUA and the state regulators supervising the corporate credit unions' natural person credit union members. As discussed below, commenters also recommended a number of more specific substantive changes to part 704. One commenter noted that, relative to credit risk management, the NCUA limits investments in any single obligor to the greater of 25% of total capital or $5 million. Section 704.6(c)(2) provides several exceptions to the single-obligor limit, including an exception for credit card master trust asset-backed securities that allows for a higher limit of 50% of total capital in any single obligor. The commenter stated that other asset-backed securities utilize the master trust structures such as vehicle, equipment, and student loan master trusts. The commenter opined that, like credit card master trusts, these other master trusts offer larger asset pools and greater borrower and geographic diversity. The commenter further noted that many offer structural features that enhance the safety of the investments. The commenter asked that, given the described advantages of master trust asset-backed securities, the NCUA consider including these additional master trust asset-backed securities in the exception allowing for investments up to 50% of capital. One commenter asked the NCUA to examine the concept of Weighted Average Life (WAL) as a tool for risk mitigation of government-issued or guaranteed securities. The commenter noted that, per the current rule, a corporate credit union must manage its financial assets to maintain a WAL of 2 years or less to be measured at month-end in the base case, and 2.25 years or less to be measured at month-end in a 50% prepayment speed slowdown scenario. The commenter observed that under Sec. 704.8(h) U.S Government-issued or guaranteed securities are allowed a modest one-half WAL treatment. The commenter stated that government-guaranteed securities exhibit no credit risk, are highly liquid in the marketplace, serve as a buffer in economic stress scenarios, and are valuable collateral for liquidity in the capital markets and at the Federal Reserve Bank. The commenter argued that the one-half WAL treatment is not enough of a benefit or incentive for buying these securities. The commenter stated that they were not recommending that the NCUA Board revise the WAL measurement for credit- related securities, Sec. 704.8(f) and (g), but did recommend the factor in Sec. 704.8(h) be changed to make the WAL of government- issued and government-backed securities equal to a cash equivalent. The commenter asserted it is technically incorrect to assign WAL limits on government-guaranteed instruments. One commenter noted that Sec. 704.8 limits the WAL of corporate credit unions' financial assets and asserted that the NCUA's WAL thresholds for corporates were intentionally designed to limit a corporate's services to natural person credit unions to short-term liquidity lending and payments system services. The commenter recalled that the NCUA noted at the time that the WAL provision was essential in the absence of cash-flow mismatch test requirements. The commenter said that neither natural person credit unions nor other financial institutions have explicit limitations on the WAL of the asset side of their balance sheets.\4\ The commenter conceded that, as the corporate system restructured in the aftermath of the corporate crisis, such regulatory shaping of the marketplace, and restrictions on corporate credit union growth and operations, were arguably necessary to contain risk. However, the commenter also argued that these same limitations restrict corporate credit union service to natural person credit unions, which in turn may be hindering the ability of some natural person credit unions to remain competitive in the marketplace. In addition to the WAL restrictions, the commenter noted that corporate credit unions are also limited to 180 days maturity on secured borrowings. The commenter contended that, taken together, the WAL and secured borrowing provisions limit corporates' ability to provide term lending and other liquidity management services to natural person credit unions. The commenter further observed that natural person credit unions have limited choices to find those essential services elsewhere, noting that the Federal Reserve discount window is generally a lender of last resort, and credit union membership in the Federal Home Loan Bank (FHLB) system may be more limited than commonly understood. The commenter concluded that, while the commenter and state regulators remain keenly aware of the severity of the corporate crisis and understand the importance of the lessons learned, the future of the corporate system cannot be solely controlled by a crisis mindset. The commenter also suggested the formation of a joint working group to help identify the proper regulatory balance. --------------------------------------------------------------------------- \4\ The commenter stated that ``[n]atural person credit union WAL of assets is factored into Prompt Corrective Action (PCA) net worth calculations, but are not limited by the PCA. See 12 CFR 702.105-107.'' --------------------------------------------------------------------------- Another commenter argued that a corporate credit union that has been granted Part 1 expanded authority should have more flexibility in the WAL requirement than base or base plus corporate credit unions. The commenter argued that since a Part 1 corporate has [[Page 65930]] a stronger developed infrastructure and higher capital requirements, such as a minimum leverage ratio of 6%, permission to increase the WAL in the base case and stressed scenario should be allowed. The commenter recommended the calculation be tiered to reflect a correlation to the required higher leverage ratios. The commenter said that, for example, a Part 1 corporate with: a 6% leverage ratio should be permitted to have a 2.5 year WAL in the base and 2.75 year WAL in the 50% slower prepayment scenario; a 7% leverage ratio should be permitted to have a 3.5 year WAL in the base and 4.0 year WAL in the 50% slower prepayment scenario; and an 8% leverage ratio should be permitted to have a 4.5 year WAL in the base and 5.0 year WAL in the 50% slower prepayment scenario. The commenter noted that Part 1 corporates are required to have more developed risk mitigation tools as part of their infrastructure in addition to stronger capital ratios. The commenter felt higher capital ratios are a good assessment of the safety and soundness of any financial institution and should correlate with the amount of risk a corporate should take. The commenter concluded that the additional regulatory flexibility within the WAL calculation is commensurate with the additional required capital and stronger infrastructure. One commenter, a Part 1 corporate credit union, said that they would welcome the opportunity to expand their investment authority related to credit risk to correlate with the stronger capital position. The commenter would like to be able to buy investment grade subordinated secured asset-backed securities and would like parity with investment grade unsecured corporate debt, which is currently permitted under Part 1. The commenter argued parity would allow Part 1 corporates an investment opportunity that has the same credit rating and the same credit risk regardless of subordination. The commenter suggested subordinated investments within the secured asset-backed sector should be limited to only those sectors that are highly mature, such as credit cards, auto loans and FFELP-backed student loans. The commenter also asserted that a lower credit rating investment in these sectors is arguably less risky than the highest rating investment in a less mature, esoteric sector that does not have a proven track record through a business cycle. The same commenter observed that part 704 has different definitions for credit risk for Part 1 versus base plus authorities. Specifically, the commenter noted that under Part 1 a purchase must be of ``investment grade'' whereas for base plus a purchase must only have a ``minimal amount of credit risk.'' The commenter pointed out that a distinction has been made for credit risk as it applies to Part 1 versus base plus, but the standard for investment action plans remains the same for both expanded authorities. The commenter stated that investment action plans are defined as required when the investment presents more than a minimal amount of credit risk. The commenter suggested this infers that an investment purchased under Part 1 as ``investment grade'' would be considered subject to an investment action plan immediately after purchase. The commenter did not believe this was the NCUA's intent and asked that this be clarified to remove any ambiguity. Another commenter suggested that there should be a way for a corporate credit union to make a minimal investment in a company without the company being classified a corporate credit union service organization (CUSO). The commenter stated that many companies shun corporate credit union investment dollars due to the regulatory constraints of becoming a corporate CUSO, having to primarily serve credit unions and to follow the various regulatory restrictions of part 704. The commenter said that without the opportunity to invest in companies, a corporate credit union cannot direct or participate in the direction of new products or services. The commenter argued that the intent of an investment in such a company is not measured by a return as it is with traditional investments (securities) but instead is an opportunity to help bring new technologies, products, and services to credit union members. One commenter requested that the NCUA make a technical correction. The commenter noted that changes to the member business lending rule caused references in Sec. 704.7(e)(3) to Sec. 723.1(b) and former Sec. 723.16 to no longer be valid, leaving the rules for a loan to a member that is not a credit union or a corporate CUSO unclear. Report 2: The NCUA issued a final rule related to the first report's recommendations in November 2017.\5\ Part 704 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review. --------------------------------------------------------------------------- \5\ 82 FR 55497 (Nov. 22, 2017). --------------------------------------------------------------------------- 2. Appendix B to Part 701--Chartering and Field of Membership Manual Addresses: Emergency Mergers. Sections: Appendix 1 to Appendix B to Part 701. Category: Improve. Degree of Effort: Moderate. Degree of Impact: Moderate.\6\ --------------------------------------------------------------------------- \6\ Includes potential efficiencies and/or cost savings for NCUA. --------------------------------------------------------------------------- Report 1: Revise the definition of the term ``in danger of insolvency'' for emergency merger purposes to provide a standard that better protects the NCUSIF. First, for two of the three current net worth-based categories, extend the time period in which a credit union's net worth is projected to either render it insolvent or drop below two percent from 24 to 30 months and from 12 to 18 months, respectively. Additionally, add a fourth category to the three existing net worth-based categories of the definition, to include credit unions that have been granted or received assistance under section 208 of the Federal Credit Union Act (FCU Act) within the last 15 months. Comments: Approximately ten commenters offered support for the recommendations. Several commenters indicated the recommendation would make it easier for emergency mergers to occur and further protect the NCUSIF. One commenter said the recommended changes would allow the NCUA to better identify credit unions in danger of insolvency and give acquiring credit unions more time to step in and resolve troubled credit unions. Several commenters noted that, while they supported the increased flexibility, they objected to any regulatory regime that would result in rigid guidelines forcing credit union mergers. The commenters asked the NCUA to avoid any inflexible, one-size-fits-all rubric to resolve financially challenged institutions. One commenter felt the 208 assistance program had a poor track record in preventing credit union insolvency and urged the NCUA to explore ways to either improve the program's success rate or to seek more effective remedies to help struggling credit unions. Report 2: The NCUA issued a final rule related to the first report's recommendations in December 2017.\7\ No further action is being considered by the NCUA Board at this time. Part 701 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review. --------------------------------------------------------------------------- \7\ 82 FR 60283 (Dec. 20, 2017). --------------------------------------------------------------------------- 3. Securitization Addresses: Securitization. Sections: 721. Category: Expand Authority. Degree of Effort: High. Degree of Impact: Low. [[Page 65931]] Report 1: Issue a legal opinion letter authorizing federal credit unions (FCUs) to issue and sell securities under their incidental powers authority. Also, finalize the safe harbor rule proposed in 2014 regarding the treatment by the NCUA Board, as liquidating agent or conservator of a federally insured credit union (FICU), of financial assets ***transferred*** by the credit union in connection with a securitization or a participation. Comments: Approximately ten commenters offered general support for the recommendations. One commenter asked the NCUA to issue guidance to permit CUSOs to serve as aggregators of the mortgages underlying the securities. The commenter specifically reiterated the following points that it raised in a previously submitted letter: ``(1) Expand the eligibility of loans beyond those originated by the securitizing credit union, in particular, by permitting the use of purchased loans needed to complete a pool as well as allowing the aggregation of loans by CUSOs; (2) provide flexibility in the levels of residual and retained interests in securitized assets that a credit union may hold; (3) authorize credit unions to have special purpose vehicles with the authority to enter into derivative transactions; and (4) provide additional clarifications on the types of securitization transactions in which credit unions may engage.'' Several commenters requested new guidance as soon as possible. Another commenter urged the NCUA to work with the industry to develop guidance on an accelerated timeline. The commenter reasoned that building an effective securitization program takes time and investment in people and systems; thus, it is vital to have a clear understanding of any limitations on the type of activities a credit union can undertake. As part of this guidance, the commenter also suggested the NCUA set guidelines to allow well qualified credit unions, or their CUSOs, to serve as loan aggregators. The commenter felt that loan aggregation is a natural and necessary role within the financial services industry that should be extended to credit unions. Another commenter asked to work with the NCUA to develop the guidance through a working or advisory group established to allow credit unions and securitization experts to help identify key issues and concerns. Report 2: The NCUA implemented the first report's recommendations through its June 2017 safe harbor final rule,\8\ and its June 21, 2017 legal opinion letter regarding the authority to issue and sell securities.\9\ Additionally, the Office of Examination and Insurance is currently developing guidance on asset securitization for credit unions. The NCUA is also evaluating whether any additional regulation, guidance, or supervision will be necessary. --------------------------------------------------------------------------- \8\ 82 FR 29699 (June 30, 2017). \9\ Asset Securitization Authority, NCUA OGC Op. Ltr. 17-0670 (June 21, 2017), available at   [*https://www.ncua.gov/regulation-supervision/Pages/rules/legal-opinions/2017/asset-securitization-authority.pdf*](https://www.ncua.gov/regulation-supervision/Pages/rules/legal-opinions/2017/asset-securitization-authority.pdf) --------------------------------------------------------------------------- 4. Supervisory Review Committee Addresses: Supervisory Review Committee. Sections: 746, Subpart A. Category: Improve. Degree of Effort: High. Degree of Impact: Low. Report 1: Expand and formalize procedures by which FICUs may secure review of material supervisory determinations by the NCUA's Supervisory Review Committee (SRC). Broaden the jurisdiction of the SRC to more closely conform to the practices of the other federal financial institution regulatory agencies. Expand the pool of agency personnel who will serve on the SRC and implement an optional, intermediate level of review by the Director of the NCUA's Office of Examination and Insurance before a matter is considered by the SRC. Comments: Approximately five commenters offered specific support for the recommendations. One commenter commended the SRC reforms and the NCUA's commitment to consider including appeals information in the agency's Annual Report. Another commenter supported the final rule, but still desired additional improvements that were not finalized, such as consistent review panels and review of CAMEL 1 and 2 component scores. Several other commenters expressed appreciation for the NCUA's willingness to provide several opportunities for review of material supervisory determinations from a program office. These commenters welcomed the additions of the intermediate SRC and the opportunity for oral argument before the NCUA Board directly. However, these commenters did contend that, given the nature of the regulator/regulated relationship, an independent review option should also be available. Further, the commenters felt the rule should allow for a request for oral hearing up until the final disposition, reasoning that as a credit union works through a complaint it may determine an oral hearing is appropriate and it should be able to request one up until an appeal decision is made. Report 2: The NCUA issued a final rule related to the first report's recommendations in October 2017.\10\ No further action is being considered by the NCUA Board at this time. Part 746 is scheduled to be reviewed again as part of the Office of General Counsel's 2020 annual regulatory review. --------------------------------------------------------------------------- \10\ 82 FR 50270 (Oct. 30, 2017). --------------------------------------------------------------------------- 5. Appeals Addresses: Appeals. Sections: 746, Subpart B. Category: Improve. Degree of Effort: High. Degree of Impact: Low. Report 1: Consolidate procedures currently imbedded in various substantive regulations by which parties affected by an adverse determination at the regional or program office level may appeal that determination to the NCUA Board. Exclude formal enforcement actions and certain other subject areas. Establish uniform procedural guidelines to govern appeals and provide an avenue by which appellants may request the opportunity to appear in person before the NCUA Board. Matters that are excluded from the proposed new rule either require a formal hearing on the record in accordance with the Administrative Procedure Act (e.g , formal enforcement actions and certain creditor claims in liquidation) or are already governed by separate, discrete procedures (e.g , enforcement measures under prompt corrective action or material supervisory determinations reviewable by the SRC). Appeals of matters that are delegated by rule to an officer or position below the NCUA Board for final, binding agency action are also excluded. Comments: Approximately ten commenters offered general support for the recommendations. One of these commenters commended the reforms and the NCUA's commitment to considering the inclusion of appeals information in the agency's Annual Report. Another commenter strongly supported the consolidation and improvement of procedures regarding appeals of adverse determinations. The NCUA does not have direct supervisory authority over CUSOs; however, one commenter said that the NCUA's exercise of de facto supervision over CUSOs means CUSOs should also have the ability to appeal adverse determinations made by NCUA examiners through the CUSO review process. A handful of the supportive commenters noted that they appreciate the improved process, but felt the agency should provide a mechanism for [[Page 65932]] collection of exam feedback on the performance of individual examiners. These commenters argued that independent, ongoing, and confidential surveys should be processed and compiled by an external third party, free from public repercussion. The commenters felt that such a process would be advantageous for the NCUA by demonstrating education, training, and consistency metrics, as well as assisting in the merit pay process. The commenters said that most industries have successfully implemented client satisfaction methodologies to support data-driven decision making. Finally, one commenter supported this measure, but asked for reconsideration of additional changes, including expedited appeals when time is of the essence. Report 2: The NCUA issued a final rule related to the first report's recommendations in October 2017.\11\ No further action is being considered by the NCUA Board at this time. Part 746 is scheduled to be reviewed again as part of the Office of General Counsel's 2020 annual regulatory review. --------------------------------------------------------------------------- \11\ 82 FR 50288 (Oct. 30, 2017). --------------------------------------------------------------------------- 6. Part 741--Requirements for Insurance Addresses: National Credit Union Share Insurance Fund Equity Distributions. Sections: 741.4; 741.13 Category: Improve. Degree of Effort: Low. Degree of Impact: High. Report 1: Revise this section of the regulation to preclude a credit union that has already converted to another form of insurance from receiving a subsequently declared NCUSIF dividend. Currently, if a credit union terminates insurance before a premium is declared it does not pay, but if it terminates insurance before a dividend is declared but within the same ***calendar*** year it receives the dividend. This is unfair to credit unions that remain insured. Comments: A handful of commenters specifically supported the recommendation. Two of these commenters expected the same principles to be applied to 2018 Temporary Corporate Credit Union Stabilization Fund rebates. A third commenter strongly supported the recommendation, noting that the bright line proposed seems fairer to FICUs than the practice in existence at the time of the comment. The commenter emphasized that it is inherently inequitable to let credit unions terminate insurance coverage mid-year, and thereby avoid the risks of a premium assessment or capitalization deposit increase for the remaining months of that year, and still reward them with equity distributions at year-end. That practice, the commenter argued, disadvantages FICUs that remain insured throughout the ***calendar*** year and bear the risks others may avoid. The commenter also felt that FICUs considering terminating federal share insurance coverage should factor the risk of missing out on a year-end equity distribution into their decision. Conversely, a handful of commenters opposed the recommendation. One commenter asked the NCUA to apportion any potential distributions based on the total amount of assessments paid by the FICU and suggested a FICU's proportionate share of a future equity distribution be determined by measuring the average of its four quarter-end insured share balances reported during the year applicable to the distribution. Several of the commenters reiterated concerns they had previously raised during the equity distribution method comment period. One of these commenters strongly urged the NCUA to forego any efforts related to this provision. The commenter felt that it is unclear how this provision would impact future equity distributions as they relate to the Corporate Resolution Program. The commenter noted that, at the time of the comment, if a FICU terminates federal share insurance coverage during the ***calendar*** year the credit union is entitled to receive an equity distribution, which is based on the insured shares as of the last day of the most recently ended reporting period and then reduced by the number of months remaining in the ***calendar*** year. The commenter applauded the simple and fair logic of that approach. Finally, another commenter reiterated objections to changes to Sec. 741.4 that would deprive a credit union of a pro rata NCUSIF dividend share for a year in which that credit union was NCUSIF insured for at least part of the year. Separately, several commenters argued that the NCUSIF's normal operating level can and should return to its historical 1.30% over the next several years. The commenters felt that, as the regulatory reform agenda moves forward in eliminating duplicative and outdated compliance burdens, continued stability will further ameliorate additional concerns regarding the NCUSIF's normal operating level. Another commenter expressed continued concern over the 1.39% normal operating level, arguing the increase is significant deviation from the NCUA's proven, successful policy. The commenter urged the NCUA to re-evaluate the normal operating level and to set it at 1.34% for a temporary period, followed by a return to the traditional 1.30% level. The commenter said that this historical policy dictated that the NCUSIF's equity ratio would be countercyclical, rising in good times so that premiums would not be necessary at the troughs of a recession. Report 2: The NCUA issued a final rule related to the first report's recommendations in February 2018.\12\ Under the final rule, a financial institution must file at least one quarterly Call Report within the current ***calendar*** year to be eligible to receive an NCUSIF equity distribution. This requirement applies to all potential beneficiaries of an NCUSIF equity distribution including FICUs that terminate federal share insurance coverage through conversion, merger, or liquidation. No further action is being considered by the NCUA Board at this time. Part 741 is scheduled to be reviewed again as part of the Office of General Counsel's 2020 annual regulatory review. --------------------------------------------------------------------------- \12\ 83 FR 7954 (Feb. 23, 2018). --------------------------------------------------------------------------- 7. Part 702--Capital Adequacy Addresses: Capital Planning and Stress Testing. Sections: 702.501-702.506 Category: Expand Relief. Degree of Effort: Moderate. Degree of Impact: Moderate.\13\ --------------------------------------------------------------------------- \13\ Includes potential efficiencies and/or cost savings for NCUA. --------------------------------------------------------------------------- Report 1: Explore raising the threshold for required stress testing to an amount greater than $10 billion, and assigning responsibility for conducting stress testing to the credit unions. Comments: Several commenters offered general support for the recommendations. Commenters' substantive recommendations focused on narrowing the rule's applicability. Several commenters suggested raising the threshold to a significantly higher value, reasoning that since most credit unions are well under the $10 billion threshold currently, but have room to grow, a higher threshold would better reflect macroeconomic realities than an inflexible dollar amount. These commenters also argued that large credit unions are best equipped to internally self-conduct these exercises, with reports to examiners, given that, unlike the banking agencies, NCUA staff are not consistently involved in large institution contingency exercises. One commenter asked the NCUA to consider Congressional efforts to raise the bank stress testing threshold to $250 billion. Several other commenters argued that, [[Page 65933]] given research indicating that the asset size of an institution is insufficient to determine riskiness, the proposal should be expanded to provide relief for more credit unions.\14\ One commenter argued that stress testing has become overly burdensome and has added unnecessary cost to the NCUA and affected credit unions, particularly considering the overall financial strength of the credit unions impacted by the rule. --------------------------------------------------------------------------- \14\ The commenters cited recent proposals by federal banking regulators and the Office of Financial Research's report, ``Size Alone is not Sufficient to Identify Systemically Important Banks,'' to support their position. --------------------------------------------------------------------------- Report 2: On April 25, 2018, the NCUA issued a final rule \15\ amending its stress testing regulations, which, among other things, raised the threshold for required stress testing to a minimum of $15 billion, and assigned responsibility for conducting stress testing to covered credit unions. No further action is being considered by the NCUA Board at this time. Part 702 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review. --------------------------------------------------------------------------- \15\ 83 FR 17901 (Apr. 25, 2018). --------------------------------------------------------------------------- 8. Part 740--Accuracy of Advertising and Notice of Insured Status Addresses: Accuracy of Advertising and Notice of Insured Status. Sections: 740. Category: Expand Relief. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Revise certain provisions of the NCUA's advertising rule to provide regulatory relief to FICUs. The current draft NPRM proposes to allow FICUs to use a fourth version of the official advertising statement, ``Insured by NCUA.'' The draft also expands a current exemption from the advertising statement requirement regarding radio and television advertisements and eliminates the requirement to include the official advertising statement on statements of condition required to be published by law. Finally, it requests comment about whether the regulation should be modified to accommodate advertising via new types of social media, mobile banking, text messaging and other digital communication platforms, including Twitter and Instagram. Changes made based on this final request would need to be part of a separate rulemaking. Comments: Approximately ten commenters generally supported the recommendations and an increased parity with banks. Approximately five commenters specifically supported expanding the radio/television exemption to 30 seconds. Several commenters supported eliminating the requirement for the advertising statement on statements of conditions. Approximately five commenters specifically supported updates to the rule to accommodate social media and urged that any new or modified rules should ensure credit unions retain maximum flexibility and the ability to take advantage of new technologies. Several commenters specifically supported the fourth version of the advertising statement. One commenter asked the NCUA to take steps to emphasize that part 740 preempts state advertising restrictions for FCUs and federally insured, state-chartered credit unions (FISCUs). The commenter said that, for example, at a minimum, any modifications to these rules should retain the first sentence of part 740: ``[T]his part applies to all federally insured credit unions.'' The commenter further added that additional revisions to bolster the preemptive force of part 740 could provide additional clarity for both FCUs and FISCUs and ensure that all credit unions operate under fair and consistent advertising rules. One commenter suggested that the final rule should be much more expansive. Several commenters emphasized that this rule is a priority to them. One of these commenters asked the NCUA to make the fourth advertising statement and the 30 second exemption effective immediately following the proposed rule's comment closing date. One commenter found the changes unneeded, reasoning that saving a few characters on social media is a non-issue and not worthy of Tier 1 status, especially since Twitter doubled its character limits. Report 2: The NCUA issued a final rule related to the first report's recommendations in April 2018.\16\ No further action is being considered by the NCUA Board at this time. Part 740 is scheduled to be reviewed again as part of the Office of General Counsel's 2020 annual regulatory review. --------------------------------------------------------------------------- \16\ 83 FR 17910 (Apr. 25, 2018). --------------------------------------------------------------------------- 9. Appendix B to Part 701--Chartering and Field of Membership Manual Addresses: Field of Membership. Sections: Appendix B to Part 701. Category: Expand Authority. Degree of Effort: Moderate. Degree of Impact: Moderate. Report 1: Revise the chartering and field of membership rules to give applicants for community-charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. Add public hearings for determining well-defined local communities with populations over 2.5 million. Remove the population limit on a community consisting of a statistical area or a portion thereof. Finally, when such an area is subdivided into metropolitan divisions, permit a credit union to designate a portion of the area as its community without regard to division boundaries. Comments: Approximately ten commenters offered general support for the proposal. Several commenters opposed the public hearing requirement for determining well-defined local communities with populations over 2.5 million. One of these commenters felt that while such hearings may be warranted in the case of a narrative application, the requirement seemed capricious in the case of a well-defined presumptive community application based on a Combined Statistical Area or Metropolitan Statistical Area. Another of these commenters felt this is a technical legal issue for which public input is neither necessary nor appropriate. A handful of commenters supported removing the population limit on a community consisting of a statistical area or a portion thereof. One of these commenters said that the NCUA should approve field of membership requests based on the FCU's demonstrated ability to serve members within a community, regardless of population, rather than on an arbitrary cap. At least one commenter supported allowing designation of a portion of a statistical area as a community without regard to metropolitan division boundaries. Another commenter asked the NCUA to consider additional improvements, including: Deadlines for FOM amendment requests, increased transparency in the decision making process, and streamlined charter conversions and ***notification*** requirements. Report 2: The NCUA issued a final rule related to the first report's recommendations in June 2018.\17\ Specifically, the final rule allows the option for an applicant to submit a narrative to establish the existence of a well-defined local community instead of limiting the applicant to a presumptive statistical community. Also, the NCUA Board will hold a public hearing for narrative applications where the [[Page 65934]] proposed community exceeds a population of 2.5 million people. Further, for communities that are subdivided into metropolitan divisions, the NCUA Board will permit an applicant to designate a portion of the area as its community without regard to division boundaries. The NCUA Board expressly declined to increase the population limit for presumptive statistical communities. The final rule became effective September 1, 2018.\18\ Part 701 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review. --------------------------------------------------------------------------- \17\ 83 FR 30289 (June 28, 2018). \18\ The NCUA has appealed the U.S District Court for the District of Columbia's ruling on the October 2016 field of membership rule. --------------------------------------------------------------------------- 10. Part 702--Capital Adequacy Addresses: Risk-Based Capital. Sections: 702. Category: Improve. Degree of Effort: Low. Degree of Impact: High.\19\ --------------------------------------------------------------------------- \19\ Includes potential efficiencies and/or cost savings for NCUA. --------------------------------------------------------------------------- Report 1 (Delay): Consider extending the January 1, 2019, implementation date to avoid needing to develop call report and system changes while this rule is under review. This will also allow time for the agency to more closely coincide changes with the implementation of the new current expected credit loss (CECL) accounting standard and consider any changes in risk-based capital standards for community banks currently being considered by the federal banking agencies.\20\ Considerations include changing the definition of complex to narrow the applicability of the rule, allowing for credit unions with high net worth ratios to be exempt, and simplifying the overall risk category and weighting scheme. --------------------------------------------------------------------------- \20\ CECL (current expected credit loss) is a new accounting standard adopted by the Financial Accounting Standards Board (FASB) affecting how credit unions account for losses and related reserves for financial instruments. The FASB effective date of CECL applicable to credit unions is 2021. --------------------------------------------------------------------------- Report 1 (Substantive): Considerations include changing the definition of complex to narrow the applicability of the rule, allowing for credit unions with high net worth ratios to be exempt, and simplifying the overall risk category and weighting scheme. These amendments need to be coordinated with any amendments to supplemental and secondary capital, which need to be coordinated with any amendments to the borrowing rule. Comments: Approximately 15 commenters offered comments supporting delay of the RBC rule. Several commenters specifically supported delaying implementation of the rule so that the NCUA can revisit the need for it as adopted. Approximately five commenters cited the concurrent timeline for implementation of the new CECL standard as a factor necessitating delay. One of these commenters reasoned that aligning these dates would provide additional time for capital planning and, to the degree deemed appropriate, potential alignment with community bank capital standards. The commenter felt such a delay would be high impact and low effort and consistent with Executive Order 13777's spirit. Another commenter asked that the NCUA provide to credit unions any economic analysis it has conducted on the impact of the CECL standard, which the commenter believed will likely compound compliance issues for RBC covered credit unions when it takes effect. Approximately ten commenters cited system integration and call report update issues as factors necessitating delay. Several of these commenters said that compliance requirements have not been adequately noticed to provide system integration updates. Another commenter emphasized that without delay credit unions will be challenged to make required call report and system changes as the rule remains under review. One commenter stated that internal adjustments and implementation of new call report instructions take considerable resources with each change. The commenter felt that delaying the effective date and preventing a series of smaller and possibly conflicting changes that need to be readjusted over the next year will save credit unions time and resources. Several commenters said that delay and further study should be one of the agency's highest priorities. The commenters reasoned that, given the January 2019 effective date, credit unions must begin planning for and altering operations as early as the second quarter of 2018 and strongly urged the NCUA to announce a delay as soon as possible. The commenters stressed that the longer the NCUA waits to delay the rule, the higher the likelihood that credit union operations will be affected. Another commenter said that delay is necessary to give credit unions more time to review the rule and to give the NCUA more time to develop the necessary call report changes. The commenter suggested the call report should be modernized to reduce reporting burdens and give regulators better tools for on-site exams and off-site monitoring. Approximately ten commenters asked the NCUA to narrowly tailor and simplify the rule. Approximately five commenters specifically asked the NCUA to narrow the complex credit union definition. Approximately five commenters specifically supported reducing the applicability of RBC and risk-weights to all smaller credit unions. Another commenter asked that, if the rule is retained, the NCUA further consider the rule's scope and a complex credit union definition that is not so dependent on asset size. One commenter asked the NCUA to raise the threshold to at least $500 million. The commenter reasoned that the RBC requirements are supposed to give larger institutions greater flexibility while appropriately addressing system risk posed by larger institutions, goals the commenter does not believe a $100 million threshold satisfies. Approximately five commenters suggested the NCUA simplify the overall risk category and weighting scheme. Another commenter asked the NCUA to revisit the rule in light of the other federal banking agencies' current review of simplified capital standards for community banks. Approximately five commenters asked the NCUA to exempt credit unions with high net worth ratios. One of these commenters asked the NCUA to study further whether RBC requirements should be applied to natural person credit unions and whether credit unions with high net worth ratios should be exempt from the RBC requirements. Another of these commenters suggested that the NCUA could implement an ``off- ramp'' from RBC requirements for well-capitalized credit unions similar to the CHOICE Act provision.\21\ Approximately five commenters stressed that RBC requirements should be narrowly tailored to capture only the appropriate risk profiles intended. The commenters said that credit unions are unique and vary in terms of asset class, lending activities, and membership fields and cautioned against a one-size-fits-all approach or methodology that would subject credit unions to undue regulatory burden that fails to appropriately address their activities. --------------------------------------------------------------------------- \21\ Financial CHOICE Act of 2017, H.R 10, 115th Cong. (2017). --------------------------------------------------------------------------- Approximately five commenters, in addressing the RBC recommendations, said that supplemental capital should be permitted to count towards credit unions' RBC requirements, to the extent they must be met. One of these commenters asked that, if the NCUA's 2015 RBC final rule is revised or retained instead of repealed, alternative [[Page 65935]] capital authority be provided to help covered credit unions meet the new RBC requirements. Another commenter stated that, regardless of any RBC delay, the alternative capital rulemaking should proceed now under Tier 1. The commenter said that the rulemaking is especially necessary because credit unions will need time to plan for and adopt new alternative capital options so they can manage their balance sheets prior to any RBC effective date. Several commenters asked the NCUA to adjust its RBC standards to accommodate the credit union model as opposed to the banking model, which the standards are based on. One of these commenters suggested that the NCUA should review European standards which take into account the cooperative model. The commenter suggested that, if the NCUA lacks the authority to make these changes, it should request such authority from Congress. One commenter provided a substantial comment arguing that the NCUA should incorporate the findings and actions of other federal banking agencies. The commenter cited a previous letter sent to the NCUA noting that the federal banking agencies issued a joint proposal to reduce regulatory burden by simplifying capital rules. The commenter said that the banking agencies proposed, in part, to simplify the threshold deduction for mortgage servicing assets (MSAs). The commenter stated that this would include raising the limit for MSAs from 10% of common equity tier I capital to 25%, where any MSAs that exceed that limit would be deducted from regulatory capital. The commenter felt that, while the federal banking agencies' proposal would maintain MSA risk weight at 250%, this move clearly demonstrates the commitment to reduce regulatory capital burdens. The commenter said that the NCUA could take comparable measures to ease capital requirements, such as a reduced risk-weighting for MSAs and CUSOs, as well as the disparate weighting of mortgages based on concentration. Another commenter asked the NCUA to discard the 2015 RBC final rule and return to the previous one because the prior form of RBC is consistent with prompt corrective action (PCA) requirements under the FCU Act. The commenter also noted, however, that bank regulators are increasingly wary of RBC and some economists doubt its usefulness. The commenter cited a 2013 Mercatus Center study that the commenter said concluded that RBC is not an effective predictor of bank performance. The commenter also asked the NCUA to reconsider whether a higher RBC requirement for well-capitalized credit unions, compared to the one for adequately-capitalized credit unions, is justified given the language of the FCU Act under PCA, which the commenter believed conclusively precludes this result. At least ten commenters specifically suggested that substantive amendments to RBC are a priority. One commenter stated that Tier 2 prioritization for substantive changes was acceptable, provided the NCUA delay RBC's implementation by at least 24-months. Another commenter recommended that the NCUA classify the Task Force recommendations as Tier 1 and accelerate the process to provide meaningful regulatory relief as soon as possible. Several commenters said that reconsideration of many aspects of the RBC rule should be a top priority. Report 2: After careful consideration and review, the NCUA issued a final rule related to the first report's recommendations in October 2018.\22\ The final rule delayed the effective date of the RBC rule until January 1, 2020, and amended the definition of ``complex'' credit union for risk-based capital purposes, resulting in an increase in the asset threshold from $100 million to $500 million. Part 702 is scheduled to be reviewed again as part of the Office of General Counsel's 2019 annual regulatory review. --------------------------------------------------------------------------- \22\ 83 FR 55467 (Nov. 6, 2018). --------------------------------------------------------------------------- 2. Proposed Actions 11. Appendix A to Part 701--Federal Credit Union Bylaws Addresses: FCU Bylaws. Sections: Appendix A to Part 701. Category: Improve. Degree of Effort: High. Degree of Impact: High. Report 1: Recommend using an advance notice of proposed rulemaking (ANPR) and forming a working group to update the FCU bylaws. The FCU bylaws have not been significantly updated in nearly a decade and need to be modernized; the modernization is likely to be complex enough to require a working group approach. Comments: Approximately five commenters offered general support for the recommendation. Several other commenters stated that bylaws should be optional, with credit unions permitted to use their own bylaws. Those commenters cautioned that the NCUA should not impose new and additional regulatory compliance or reporting burdens. One supportive commenter noted its previous calls for the NCUA to issue a proposed rulemaking or ANPR to implement the 2014 FCU Bylaws working group's recommendations, including amending the required number of members needed on matters relating to special meetings and board nominations. Another commenter felt that NCUA's prior approval of all bylaw changes is unnecessary when an after the fact notice to the region should suffice, particularly for changes already approved for other credit unions. The commenter also believed that sanctions for failure to comply with bylaws are overly harsh and unnecessary for most credit unions. One commenter specifically argued that Articles III and IV on member meetings and elections are overly prescriptive and need to be revisited with an eye toward facilitating governance procedures. Report 2: The NCUA issued a bylaws ANPR in March 2018 \23\ and a proposed rule with a request for comment in October 2018.\24\ --------------------------------------------------------------------------- \23\ 83 FR 12283 (Mar. 21, 2018). \24\ 83 FR 56640 (Nov. 13, 2018). --------------------------------------------------------------------------- 12. Sec. 701.21--Loans to members and lines of credit to members Addresses: Payday Alternative Loans (PALs). Sections: 701.21(c)(7). Category: Improve. Degree of Effort: High. Degree of Impact: High. Report 1: Not Available. Comments: Not Available. Report 2: In June 2018 the NCUA proposed amendments to the NCUA's general lending rule to provide FCUs with an additional option to offer PALs.\25\ This proposal would not replace the current PALs rule (PALs I). Rather, it would be an alternative option, with different terms and conditions, for FCUs to offer PALs to their members. Specifically, this proposal (PALs II) would differ from PALs I by modifying the minimum and maximum amount of the loans, modifying the number of loans a member can receive in a rolling six-month period, eliminating the minimum membership requirement, and increasing the maximum maturity for these loans. The proposal would incorporate all other requirements of PALs I into PALs II. The NCUA also solicited advanced comment on the possibility of creating a third PALs loan program (PALs III), which could include different fee structures, loan features, maturities, and loan amounts. The comment period for this proposal closed on August 3, 2018. The Task Force recommends that the NCUA evaluate [[Page 65936]] the comments received and explore the development of a PALS II final rule and potentially a PALS III proposal. --------------------------------------------------------------------------- \25\ 83 FR 25583 (June 4, 2018). --------------------------------------------------------------------------- 13. Sec. 701.21--Loans to members and lines of credit to members Addresses: Loan maturity limits for FCUs. Sections: 701.21(c)(4)(e), (f), & (g). Category: Clarify. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Combine all the maturity limitations into one section. Current maturity limits are confusing because they are not all co- located. Also, incorporate the legal opinion with respect to modifications to make it clear a lending action (like a troubled debt restructuring) that does not meet the GAAP standard for a ``new loan'' is not subject to the maturity limits. In addition, consider providing longer maturity limits for 1- to 4-family real estate loans and other loans (such as home improvement and mobile home loans) permitted by 12 U.S.C 1757(5)(A)(i) and (ii) and removing the ``case-by-case'' exception the NCUA Board can provide. Comments: Approximately ten commenters offered general support for the recommendations. Approximately ten commenters supported co-locating the maturity limits. These commenters stated that having limits spread across the regulations is confusing and inefficient and felt that having all of the limits in one section will improve compliance. Several commenters specifically supported incorporating the legal opinion. These commenters felt this would provide clarity and consistency across the examination regions and help compliance. Approximately five commenters specifically supported longer maturity limits for 1- to 4- family real estate loans and other similar housing loans and elimination of the case-by-case exception. These commenters argued that longer maturity limits would allow credit unions to more effectively compete in the real estate lending market. One of these commenters felt that removing the case-by-case requirements is consistent with the NCUA's decision to give credit unions greater flexibility in making loans, provided such loans are consistent with prudent safety and soundness standards. Several other commenters specifically suggested amendments to the FCU Act's loan maturity provisions, including changes to designate 1- to 4- non-owner occupied loans as real estate loans rather than member business loans (MBLs). Report 2: The NCUA issued a proposed rule with a request for comment in August 2018 addressing the first report's recommendations.\26\ --------------------------------------------------------------------------- \26\ 83 FR 39622 (Aug. 10, 2018). --------------------------------------------------------------------------- Addresses: Single borrower and group of associated borrowers limit. Sections: 701.21(c)(5); 701.22(a) & (b)(5); 723.2 & 723.4(c). Category: Clarify. Degree of Effort: Low. Degree of Impact: High. Report 1: Combine single borrower (and group of associated borrowers) limits into one provision. Currently these limits are interspersed in the general loan, loan participation and member business lending regulations. It would provide clarity and consistency to incorporate all references in one location. Comments: Approximately ten commenters agreed with the recommendation and offered general support. Two of these commenters stated that the recommendation will provide consistency for compliance purposes. One commenter supported the recommendation, but also asked for additional guidance and/or clarification as to the application of associated borrower in the commercial lending context. One commenter suggested moving this recommendation to Tier 3 so that resources can be used on more substantive relief. Report 2: The NCUA Board requested further comment on the single borrower and group of associated borrower limits in the August 2018 proposal addressing loan maturities.\27\ --------------------------------------------------------------------------- \27\ Id. --------------------------------------------------------------------------- 14. Part 722--Appraisals Addresses: Appraisals. Sections: 722. Category: Expand Relief. Degree of Effort: Moderate. Degree of Impact: High. Report 1: The NCUA should further explore issuing a rule to raise appraisal thresholds separately from the interagency process. In response to comments received through the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) process, the NCUA joined with the other banking agencies to establish an interagency task force to consider whether changes in the appraisal threshold are warranted. The task force is now drafting a proposed rule to relieve certain appraisal burdens. In particular, the proposal would increase the appraisal threshold from $250,000 to $400,000 for ``commercial real estate loans'' where repayment is dependent primarily on the sale of real estate or rental income derived from the real estate. In contrast to the other agencies' appraisal regulations, the NCUA's appraisal regulation does not currently distinguish, with respect to the appraisal threshold requirement, between different types of real estate secured loans. Under 12 CFR part 722, the dollar threshold for any real estate secured loan is $250,000; loans above that amount must be supported by an appraisal performed by a state certified appraiser. The banking agencies' current appraisal regulations have the same $250,000 threshold as the NCUA's regulation for most real estate related loans, but also recognize a separate appraisal threshold of $1 million for certain real estate related business loans that are not dependent on the sale of, or rental income derived from, real estate as the primary source of income (hereinafter, qualifying business loans). If the NCUA joins the task force in issuing this joint proposed rule defining and raising the threshold for ``commercial real estate loans,'' the agency will likely also need to address the appraisal threshold for ``qualifying business loans'' in a subsequent rulemaking. Recommend that, instead of joining the joint proposed rule, the NCUA further explore issuing a rule to raise both thresholds separately from the interagency process. Comments: Approximately ten commenters specifically stated that they supported raising the commercial real estate threshold to $400,000. One commenter strongly opposed raising the commercial real estate threshold. The commenter argued that the federal banking agencies' proposal exemplified regulatory arbitrage, and contradicts regulators' concerns regarding the commercial real estate market and the quality of evaluations. The commenter felt that regulators should be calling for heightened due diligence by institutions, particularly for credit unions and small community/regional banks, which the commenter suggested are less likely to have robust collateral risk management policies, practices, and procedures. The commenter asserted that bank failures overwhelmingly occur amongst smaller institutions and are in large part due to poor commercial lending decisions. The commenter also cited a recent survey that purportedly indicated an overwhelming majority of those closest to this issue believe that the thresholds should remain at $250,000. The commenter said that, while they appreciate lender concerns about appraiser availability in some rural areas, a national policy should not be tailored around isolated conditions. [[Page 65937]] The commenter stated that any one real estate market may experience rapid growth, but that growth may increase the importance of appraisals, as real estate is prone to market fluctuations. The commenter further emphasized that during the EGRPRA process many bank representatives' appraisal concerns related to residential not commercial topics. To that point, the commenter noted that the number of commercial real estate appraisers has remained relatively steady in recent years as commercial lending activity has seen slight increases. The commenter concluded by saying that if the agencies proceed with the proposal the qualifications requirements for those completing evaluations should be raised or elevated to offset the safety and soundness risks caused by the increase in the threshold level. Approximately ten commenters specifically supported raising the threshold level for certain qualifying business loans (QBLs) to $1 million like it is for banks. One of these commenters provided a lengthy historical discussion on the NCUA's appraisal waiver provision, Sec. 722.3(a)(9), and compared it to the FDIC's exemption for QBLs. The commenter analogized the need to remove the clunky waiver process to the NCUA's recent removal of the MBL waiver. One commenter opposed raising the QBL threshold. The commenter was pleased the EGRPRA review did not recommend an increase in the QBL threshold. The commenter said that this is consistent with statements made by banking sector representatives, who expressed little to no concern about the current threshold during several outreach meetings. The commenter also noted that many of the loans that would be impacted by a proposed increase in the owner-occupied threshold level are guaranteed by the Small Business Administration (SBA) and that currently the SBA requires an appraisal for all loans above $250,000. Approximately ten commenters offered support for the NCUA to act separately from the interagency appraisals working group. The commenters expressed that raising the appraisal thresholds outside of the current interagency process makes sense as credit unions and the NCUA's regulations differ from banks and the other agencies' regulations. The commenters said that the changes should maximize relief, be consistent with credit union practice, and quickly provide parity with the requirements applicable to banks on appraisals. Conversely, one commenter said that absent more information, the NCUA's withdrawal from the interagency rulemaking was concerning. The commenter noted that state and federal regulators have recognized that current appraisal requirements are in some cases overly burdensome without producing a measurable offsetting supervisory benefit. The commenter also observed that critique of the appraisal requirements was a prominent theme in response to the EGRPRA process. The commenter stated two primary concerns with the NCUA's withdrawal. First, the commenter said that the purpose of the Federal Financial Institutions Examination Council (FFIEC) is to coordinate consistent standards and that having divergent supervisory standards can cause complications when banks and credit unions interact in the marketplace. The commenter stated that the existing appraisal standard discrepancies have caused complication with loan participations, confused consumer/member borrowers, and confused loan officers. Second, the commenter was also concerned that when the NCUA has broken with its federal banking agency peers in the past it has been to impose unnecessarily higher standards on credit unions. Approximately three commenters stated the appraisals reforms should be made a priority. One of these commenters said that it was important to their state's credit unions. Another of these commenters stressed that this should be proposed as soon as feasible to afford credit unions the same regulatory flexibility that other depository institutions now have. A different commenter stated that the inconsistency of the appraisal requirements for business loans made by credit unions compared to banks is a top issue for credit unions. One commenter stated that the current thresholds limit the ability of credit unions to use more advantageous rules on appraisals from the secondary market. The commenter noted that Fannie Mae provides appraisal waivers for some home purchase loans when there is a 20% down payment and a prior appraisal was obtained under its Collateral Underwriter program. The commenter said that Freddie Mac has a similar approach. The commenter stated that certain new mortgage refinancing, such as when the borrower has at least 20% equity in the home and is not receiving cash as part of the transaction, generally no longer requires appraisals in the secondary market. The commenter urged the NCUA Board to consider these developments as it reviews the NCUA's appraisal requirements. Finally, one commenter encouraged dialogue with state regulators as changes are considered. Report 2: The NCUA issued a proposed rule with a request for comment in September 2018 addressing the first report's recommendations.\28\ The agency issued this proposal separately from the other banking agencies. The proposal would increase the threshold below which appraisals would not be required for non-residential real estate transactions from $250,000 to $1,000,000. For non-residential real estate transactions that would be exempted from the appraisal requirement as a result of the revised threshold, federally insured credit unions would still be required to obtain a written estimate of market value of the real estate collateral that is consistent with safe and sound lending practices. Additionally, the proposal would restructure Sec. 722.3 of the NCUA's appraisal regulation to clarify its requirements for the reader. Finally, the proposal would, consistent with the Economic Growth, Regulatory Relief, and Consumer Protection Act,\29\ exempt from the NCUA's appraisal regulation certain federally related transactions involving real estate where the property is located in a rural area, valued below $400,000, and no state certified or licensed appraiser is available. --------------------------------------------------------------------------- \28\ 83 FR 49857 (Oct. 3, 2018). \29\ Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115-174, 132 Stat. 1296 (2018). --------------------------------------------------------------------------- 15. Part 713--Fidelity Bond and Insurance Coverage Addresses: Fidelity Bond and Insurance Coverage. Sections: 713. Category: Improve. Degree of Effort: High. Degree of Impact: High.\30\ --------------------------------------------------------------------------- \30\ Includes potential efficiencies and/or cost savings for NCUA. --------------------------------------------------------------------------- Report 1: Explore ways to implement the requirements of the FCU Act in the least costly way possible. While requiring fidelity coverage is statutorily mandated by the FCU Act, the NCUA's objective should be to allow a credit union to make a business decision based on their own product and service needs. This will effectively reduce the NCUA's involvement in a credit union's operational decisions while remaining consistent with the FCU Act. This should be done separately from the Regulatory Reform Task Force process. Comments: Approximately five commenters agreed that credit unions should be able to make business decisions on required fidelity bond and insurance coverage. One commenter [[Page 65938]] suggested a working group that includes credit unions and insurers to update the rules to provide flexibility to make business decisions about bond coverage, particularly regarding the scope of coverage and deductibles. The commenter also felt that an ANPR would be useful to identify the range of issues before an actual proposal is developed. One commenter suggested that the NCUA move this to Tier 2 and focus on more pressing relief given the NCUA's recent legal opinion relative to this topic.\31\ --------------------------------------------------------------------------- \31\ OGC Op. Ltr. 17-0959 (Sept. 26, 2017). --------------------------------------------------------------------------- Report 2: The NCUA issued a proposed rule with a request for comment in November 2018 addressing the first report's recommendations.\32\ The NCUA also issued a legal opinion addressing the permissibility of certain joint coverage provisions in fidelity bonds in September 2017.\33\ --------------------------------------------------------------------------- \32\ 83 FR 59318 (Nov. 23, 2018). \33\ OGC Op. Ltr. 17-0959 (Sept. 26, 2017). --------------------------------------------------------------------------- 3. Future Actions 16. Part 715--Supervisory Committee Audits and Verification Addresses: Engagement letter, target date of delivery. Sections: 715.9(c)(6). Category: Remove. Degree of Effort: Low. Degree of Impact: High. Report 1: Revise this section of the regulation to remove the specific ``120 days from the date of ***calendar*** or fiscal year-end under audit (period covered)'' reference from this section. Recommend the target date of the engagement letter be presented so the ``credit union can meet the annual audit requirement.'' This allows credit unions to negotiate the target date of delivery with the person or firm they contract with, but also ensures they meet the audit requirement per the FCU Act. This would also alleviate the need for a waiver. Comments: Approximately five commenters offered general support for the recommendation. One commenter said that relief in this area is not a high priority and suggested a Tier 3 prioritization. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. A proposed rule addressing this recommendation will likely be issued during the first quarter of 2019. 17. Part 715--Supervisory Committee Audits and Verification Addresses: Audit per Supervisory Committee Guide. Sections: 715.7(c). Category: Clarify. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Revise this provision to remove the reference to the NCUA's Supervisory Committee Audit Guide. In its place, include minimum standards a supervisory committee audit would be required to meet if the committee does not obtain a CPA opinion audit. Comments: Two commenters offered general support for the recommendations. Three commenters suggested that if the NCUA pursues this change, it should not impose additional compliance burdens and instead only simplify, clarify, and streamline the ``minimum standards'' required for supervisory committee audits. Another commenter argued that more substantial changes are needed. The commenter stated that while the NCUA applies some of part 715 to FISCUs by reference in Sec. Sec. 741.6 and 741.202, it is unclear which provisions of part 715 apply to FISCUs. The commenter asked the NCUA to clarify which requirements apply to FISCUs by fully incorporating the audit requirements applicable to FISCUs in part 741. The commenter also recommended that the NCUA separate the FCU Supervisory Committees' rules from FISCUs' audit requirements since not all FISCUs use supervisory committees in their governance structures or for audits. One commenter asked that this recommendation be moved to Tier 3 because relief in this area is not a high priority. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. A proposed rule addressing this recommendation will likely be issued during the first quarter of 2019. 18. Subordinated Debt (Formerly Alternative Capital) Addresses: Subordinated Debt. Sections: 702 generally. Category: Expand Authority. Degree of Effort: High. Degree of Impact: Low. Report 1: As a follow up to the ANPR issued in January 2017, the NCUA Board should consider whether to propose a rule on alternative forms of capital FICUs could use in meeting capital standards. First, the NCUA Board should decide whether to make changes to the secondary capital regulation for low-income designated credit unions. Second, the NCUA Board should decide whether or not to authorize credit unions to issue supplemental capital instruments that would only count towards the risk-based net worth requirement. Comments: Approximately fifteen commenters offered general support for the recommendation. Several commenters suggested that the NCUA has the statutory authority to include alternative capital to satisfy the risk-based net worth requirement, and should do so. These commenters felt that an initial volume limit of 25% of retained earnings or 2% of total assets, whichever is greater, would be appropriate. Several other commenters said that alternative capital is necessary considering the RBC requirements. Another commenter argued that, in addition to allowing credit unions to use supplemental capital for RBC requirements, the NCUA should allow supplemental capital to be counted towards the current PCA capital requirements. The commenter said that the ability to raise supplemental capital provides the credit union industry and the NCUSIF additional layers of protection against unexpected losses. Approximately three of these commenters specifically said that they support efforts to explore additional sources of capital for purposes of net worth requirement calculations. These commenters felt supplemental capital should be permitted to count toward the risk-based net worth requirements. Several of these commenters suggested a supervisory approach that sets forth base requirements for issuance of capital instruments without specifying precisely how such broadly- defined instruments would comply. The commenters stated that the focus instead should be on the approval process, similar to the Food and Drug Administration's drug monograph approval procedures. Another of these commenters urged the NCUA to promulgate a rule that incorporates the following principles: (1) Preserve the not-for- profit, mutual member-owned and cooperative structure of credit unions and ensure that ownership interest remains with the members; (2) ensure that the capital structure of credit unions is not fundamentally changed; (3) provide a degree of permanence such that the sudden outflow of capital will not occur; (4) allow for a feasible means to augment supplemental capital; and (5) provide a solution with market viability. Several commenters stated that secondary capital and supplemental capital should be consolidated. One commenter felt that for supplemental capital to be effective it should: ***Transfer*** risk outside of the credit union system; be scalable and appropriate to the size and complexity of the credit union; and provide sufficient parity with the banks so as not to negatively impact investor [[Page 65939]] interest in credit union supplemental capital instruments. One commenter suggested that the NCUA create a pilot program for alternative capital, similar to the derivatives rule. The commenter believed that by piloting supplemental capital with a select group of well-capitalized, well-managed credit unions, the NCUA could efficiently monitor the program's effectiveness and glean best practices that could benefit the entire industry. At least eight commenters emphasized that this issue should be made a Tier 1 priority. One of these commenters argued that two years is too long to wait to be able to participate in capital markets. The commenter emphasized that credit unions are required to maintain the same capital ratios, sustain the same reserves, and pay for deposit insurance the same as any bank. Several commenters asked the NCUA to reaffirm its commitment to implement the rule prior to the 2019 RBC effective date. Several commenters expressed concern that the report is ambiguous as to whether the agency remains committed to a robust alternative capital rulemaking, which they deem contrary to previous statements from the NCUA linking alternative capital rulemaking to RBC. The commenters argued that substantial work and deliberation has already been done and to abdicate the progress made would squander one of the more significant, and long sought, regulatory relief opportunities before the NCUA. More specifically, one commenter took issue with the report stating that the ``Board should decide whether or not to authorize credit unions to issue supplemental capital instruments that would only count towards the risk-based net worth requirement.'' The commenter said that the NCUA Board's public statements seem to show this affirmative decision has already been made and mentioned that substantial work has already been done to develop the rule. The commenter cited the RBC comment process, the 2017 alternative capital ANPR, and the 2007 working group white paper as evidence of the work already done. The commenter asked the NCUA Board to move forward now to capitalize on this momentum. The commenter also emphasized that the NCUA, the NCUA Board, and the Chairman have consistently stated the intent to implement the supplemental capital rule prior to the RBC requirements' effective date and took issue with the report providing ``no compelling justification to reverse course.'' The commenter argued that abandonment of this initiative is inconsistent with the regulatory reform agenda's goals and while the report's effort/impact matrix makes sense generally, it falls short given the NCUA Board's consistent statements. The commenter further pointed to statements by the Chairman that suggest the rule would afford credit unions heightened opportunity to extend job-creating small business loans that strengthen the economic viability of Main Street. Additionally, the commenter reiterated that RBC requirements may impose significant regulatory burden if not accompanied by access to some form of supplemental capital. The commenter concluded that a well-designed supplemental capital rule would serve as a tool to help credit unions meet the new RBC requirements and would ensure that the RBC rules are comparable to other bank regulatory agencies as required by 12 U.S.C 1790d(b)(1)(A). Another commenter was perplexed by alternative capital's Tier 2 placement, especially since the NCUA has prioritized other PCA/net worth requirement related provisions in Tier 1. For example, the commenter argued that alternative capital's Tier 2 placement would make it unavailable for use in meeting risk-based net worth requirements until after the RBC rule's effective date. The commenter also took issue with the fact that the first report is ``ambiguous'' as to whether the agency remains committed to a robust alternative capital rulemaking. The commenter felt this contrary to repeated statements from the NCUA unequivocally linking an alternative capital rulemaking to RBC. The commenter said that alternative capital is an essential tool for both low-income designated credit unions and non-low-income designated complex credit unions to meet net worth thresholds. The commenter also cited an FAQ on the NCUA's website stating that the NCUA Board plans to move forward with a rule to allow supplemental capital to be counted in the RBC numerator before the rule's effective date.\34\ The commenter lamented that substantial work and deliberation has already been done, including, but not limited to: A 2007 whitepaper concluding supplemental capital was a worthwhile policy goal; solicitation of input on supplemental capital during the RBC comment process; a 2016 NCUA Board briefing on issues related to supplemental capital; a 2017 ANPR with over 100 supportive comments; and legislation introduced in Congress to provide alternative capital authority for all credit unions without regard to RBC standards. The commenter acknowledged that alternative capital is complex, but emphasized that state regulators, the NCUA, and many in the credit union system have been studying this issue and developing regulatory frameworks for well over a decade. The commenter asked the NCUA to commence rulemaking to enhance low-income designated credit union secondary capital rules and to establish supplemental capital for RBC. --------------------------------------------------------------------------- \34\ Frequently Asked Questions about NCUA's Risk-Based Capital Final Rule October 2015 (stating ``Q10. Will credit unions be authorized to raise supplemental capital for purposes of risk-based net worth? Yes. The NCUA Board plans in a separate proposed rule to address comments supporting additional forms of supplemental capital. As the risk-based capital final rule does not take effect until January 1, 2019, there is ample time for the NCUA Board to finalize a new rule to allow supplemental capital to be counted in the risk-based capital numerator before the effective date.''), available at   [*https://www.ncua.gov/Legal/Documents/RBC/RBC-Final-Rule-FAQs.pdf*](https://www.ncua.gov/Legal/Documents/RBC/RBC-Final-Rule-FAQs.pdf) --------------------------------------------------------------------------- One commenter strongly disagreed that an alternative capital overhaul would have a low impact and instead felt alternative capital authority would have a substantial impact. The commenter argued that capital modernization is needed as credit unions face both external challenges such as economic cycles, social media and Bank ***Transfer*** Day, with no growth opportunities beyond retained earnings. The commenter said that the need for increased earnings through managed risk is stronger than ever and a critical component of capital modernization. The commenter stated that credit unions are seeking the ability to increase loan portfolios and other growth opportunities within the not- for-profit cooperative structure. The commenter believed authority to issue and accept alternative capital is vital to safe-guarding the future of the credit union system and argued that unforeseen circumstances could strain a credit union's capital position to a point where the ability to quickly raise supplemental capital would be a valuable option. The commenter felt that increasing retained earnings, often the only current option, may not be sufficient in a severely stressed situation. The commenter suggested that alternative capital would also provide an additional source of protection for the NCUSIF. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged. [[Page 65940]] 19. Sec. 701.34--Designation of Low Income Status; Acceptance of Secondary Capital Accounts by Low-Income Designated Credit Unions Addresses: Designation of low income status; Acceptance of secondary capital accounts by low-income designated credit unions. Sections: 701.34 Category: Improve. Degree of Effort: High. Degree of Impact: Low. Report 1: See the January 2017 ANPR on alternative capital for the broad range of changes that need to be made to this regulation to relocate capital treatment to part 702 and address securities law issues, issuance and redemption standards, etc. Comments: In response to this recommendation, six commenters were supportive of alternative capital generally. One commenter said that more credit unions are looking to take advantage of the economic opportunities of secondary capital. The commenter stated that although it is a comparatively small field now, amendments could offer a new avenue for low-income designated credit unions that are hesitant due to regulatory barriers to find new sources of capital and help to provide services for chronically underserviced communities. The commenter felt that improving regulatory clarity and reducing the burden of the approval process could benefit low-income designated credit unions and the communities they serve. Another commenter argued that secondary capital accounts should be controlled by state law for FISCUs, including those seeking a low- income designation by their state regulatory agency. The commenter believed that the limits Sec. Sec. 701.32 and 701.34 place on FISCUs pursuant to Sec. 741.204 are unnecessarily preemptive and unduly burdensome. The commenter felt that while secondary capital accounts do not count toward regulatory capital requirements for non-low-income designated credit unions, the ability to offer the accounts is not inherently unsafe and unsound, and therefore should be subject to state law. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged. 20. Sec. 701.38--Borrowed Funds From Natural Persons Addresses: Borrowed funds from natural persons. Sections: 701.38 Category: Clarify/Expand. Degree of Effort: High. Degree of Impact: Moderate. Report 1: Recommend revising this section of the regulation to comprehensively address the borrowing authority for FCUs. See the January 2017 ANPR on alternative capital for a discussion on this subject. Also, see recommended changes to part 702. A comprehensive borrowing rule could provide clarity and certainty needed to support supplemental capital. Comments: Several commenters said that a comprehensive borrowing rule could provide clarity to support supplemental capital concerns, but cautioned against imposing additional regulatory burdens. These commenters stated that any rule should retain flexibility for credit unions to structure the offering in a cost-effective manner, regardless of the nature of the capital instrument, be it equity or subordinated debt. One commenter suggested the NCUA implement a pilot program similar to the derivatives rule. The commenter felt that a pilot program would yield best practices that could benefit the entire industry. The commenter recognized that statutory amendments may be necessary to provide meaningful alternative capital options for all credit unions, but suggested that a revised regulatory capital framework would still offer increased flexibility to credit unions that must meet the NCUA's risk-based net worth requirement. One commenter asked for a Tier 1 prioritization. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1. Subordinated debt (formerly alternative capital) is a priority for the Chairman, the agency, and commenters. As such, all recommendations associated with subordinated debt were moved to Tier 1. All other aspects of this recommendation remain unchanged. 21. Sec. 701.32--Payment on Shares by Public Units and Nonmembers Addresses: Payment on shares by public units and nonmembers. Sections: 701.32 Category: Expand. Degree of Effort: Low. Degree of Impact: Moderate. Report 1: Raise the nonmember deposit limit from 20% to 50%. As the functional equivalent of borrowing, this will parallel the ability of credit unions to borrow from any source up to 50% of paid-in and unimpaired capital and surplus per Sec. 1757(9) of the FCU Act. A credit union is required to be low-income designated to accept nonmember deposits, limiting the institutions that can engage in this activity. Comments: Approximately five commenters offered general support for the recommendation. Several commenters noted that they support the development and preservation of community development credit unions and the use of the NCUA's statutory authority to support and encourage their growth. These commenters felt that raising the nonmember deposit limit to 50% would be a positive step. One commenter believed that raising the limit would allow credit unions to establish deeper relationships with political subdivisions and other public units, such as cities and counties. Another commenter noted that concerns regarding the limit have caused many to shy away from or unnecessarily limit a strategic source of liquidity. The commenter stated that, as is the case for loan participations, the use of the national wholesale market on both the liability side of the balance sheet as well as the asset side allows credit unions to manage certain risks with greater precision and provides for the ability to take advantage of liquidity sources that may allow for expansion of services while competing on a level playing field. One commenter stated that these types of transactions are functional equivalents to borrowings and should be subject to the same limits. Another commenter asked that the NCUA provide an exemption to any state regulatory authority that seeks to set a higher limit. Finally, several commenters asked for a Tier 1 prioritization. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 2 to Tier 1. All other aspects of this recommendation remain unchanged. 22. Sec. 701.21--Loans to Members and Lines of Credit to Members Addresses: Compensation in connection with loans. Sections: 701.21(c)(8). Category: Clarify. Degree of Effort: Low. Degree of Impact: Moderate/High. Report 1: Modify to provide flexibility with respect to senior executive compensation plans that incorporate lending as part of a broad and balanced [[Page 65941]] set of organizational goals and performance measures. Comments: Approximately ten commenters offered general support for the recommendation. One commenter supported allowing the flexibility to structure senior executive compensation plans to incorporate lending incentives. The commenter felt that such plans will help credit unions compete more effectively for talent and align organizational goals more closely with individual incentives. Another commenter supported the recommendation, but encouraged the NCUA to add stipulations that would require loan delinquencies to be given consideration so that the quality of the loans is measured. Several commenters argued that de minimis thresholds should apply in any assessment of compensation, either discretionary or compulsory. Multiple commenters asked the NCUA to clarify how the agency interprets ``overall financial performance'' in Sec. 701.21(c)(8)(iii). One of these commenters stated that, despite the rule's allowance for covered employees to receive compensation based on the credit union's ``overall financial performance,'' credit unions and examiners sometimes disagree regarding compensation programs that appear to meet this requirement. Another commenter stated that two provisions in particular create confusion and unduly limit well managed credit unions' ability to provide incentives for good performance: (1) Section 701.21(c)(8)(iii)(B) permits bonuses and compensation to an employee but it must be based on the ``overall financial performance'' of the credit union, rather than being tied to the performance of their department or individual function; and (2) Section 701.21(c)(8)(iii)(C), under which a bonus or incentive may be provided to an employee in connection with lending performance, but the employee cannot be a senior management official. According to the commenter, the 1995 final rule's preamble states that the rule allows FCUs to pay: ``(1) to any employee, including a senior management employee, an incentive or bonus based on the overall financial performance of the credit union.'' The commenter argued that, while the regulatory text does not specifically include the ``including senior management'' language in subsection (iii)(b), the preambles of the proposal and final rules make clear the intention to include senior management in the exception. According to the commenter, the 1995 final rule did not articulate any specific concerns to warrant the exclusion of senior management from the overall financial performance exception. One commenter did not support the incentive compensation proposal. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. 23. Part 712--Credit Union Service Organizations (CUSOs) Addresses: Credit Union Service Organizations (CUSOs). Sections: 712. Category: Remove & Expand. Degree of Effort: Low. Degree of Impact: High. Report 1: Recommend examining the CUSO regulation and evaluating the permissible activities in light of the FCU Act permitting CUSOs ``whose business relates to the daily operations of the credit unions they serve'' \35\ or that are ``providing services which are associated with the routine operations of credit unions.'' \36\ --------------------------------------------------------------------------- \35\ 12 U.S.C 1757(5)(D). \36\ 12 U.S.C 1757(7)(I). --------------------------------------------------------------------------- Comments: A handful of commenters offered very general support for increasing and enhancing CUSO permissible activities. Several commenters that supported expanding CUSO permissible activities argued that, for many credit unions, the use of CUSOs will be essential as the need to seek operational efficiencies intensifies and credit unions face increasing competitive pressure from a variety of depository and non-depository financial service providers, such as fintechs. The commenters indicated that CUSOs provide a means for credit unions to address challenges related to changing consumer expectations and the need for technologies to better serve credit union members. Another commenter suggested that the NCUA abandon the preapproved list of CUSO activities and permit credit unions to invest in or loan to CUSOs offering products and services generally incidental to credit union business. One commenter asked the NCUA to allow limited FCU investment in a FISCU CUSO even if that FISCU CUSO engages in activities not permissible for an FCU. The commenter argued that de minimis exposure should not rise to the level of being considered circumvention of FCU permissible activity provisions and suggested that this change would expand the opportunities for system collaboration and innovation. Approximately five commenters asked that the NCUA expand and clarify CUSOs' loan origination powers. Commenters suggested that the NCUA expand permissible activities in Sec. 712.5 to include ``loan origination of all types of loans that may be provided by a credit union.'' The commenters noted that with this addition the specific origination authority for business loans, consumer mortgage loans, student loans, and credit card loans could be deleted. Several of these commenters also suggested the NCUA make it clear that CUSOs are able to make, purchase, or sell any types of loans that credit unions can make on their own. Several commenters wrote extensively on this issue. One of these commenters believed that CUSOs can play a pivotal role as credit unions turn increasingly to collaborative solutions in lending to reduce costs and compete with non-credit union loan aggregators. The commenter said that if CUSOs cannot be loan aggregators, credit unions will be at the mercy of non-credit union loan aggregators who are not willing to deal with the membership requirements. The commenter noted that credit unions are currently excluded from participation in the loan aggregation networks that more consumers are turning to for loans, especially for auto loans. The commenter argued that the fact that some types of loans are permitted to be originated by CUSOs and some are not seems based on historical happenstance rather than any sound policy. The commenter, along with several other commenters, stated that Sec. 712.5 is a categorical list of pre-approved activities a CUSO may provide and not meant to be an exclusive laundry list of activities. However, the ``categories'' of loan origination services CUSOs are permitted to provide are not categories of services by themselves and create confusion in the industry. To demonstrate this, the commenter noted that ``business loan origination'' has meant for years that CUSOs can originate and hold ``business loans'' and asked if this precludes a CUSO from originating ``commercial loans.'' Similarly, the commenter asked if ``consumer mortgage loan origination'' precludes the origination of home equity loans or lines of credit. The commenter emphasized that selective lending power can be awkward and confusing. The commenter suggested the time is appropriate to expand CUSO lending powers. The commenter argued that CUSOs should have the power to ``originate and hold all types of loans credit unions can make.'' The commenter believed that this change would create an unambiguous, rational, and highly defensible lending services definition for CUSO powers and would correct a policy that the commenter felt [[Page 65942]] authorizes certain lending powers for CUSOs and excludes others without a rational basis. More specifically, the commenter suggested that the NCUA amend Sec. 712.5 by deleting references to the origination of business loans, consumer mortgage loans, student loans and credit card loans (Sec. 712.5(c), (d), (n), and (s)) and adding the power to ``originate and hold loans, including the authority to buy and sell participation interests in such loans'' as a new Sec. 712.5(c). A handful of commenters emphasized that the ability for CUSOs to package and sell loans to investment buyers is critical to credit unions moving forward, particularly if Fannie Mae and Freddie Mac are eliminated or their presence in the marketplace is reduced. The commenters felt that to continue cost effectively providing home loans that put the borrowers first, credit unions need to participate in the securitization market. The commenters stressed that secured loan investment packages require scale in order to make them affordable and attractive in the marketplace and noted that, except for a limited few, credit unions do not have sufficient loan volume to create single issuer loan packages. The commenters encouraged the NCUA to explore the ability of multiple credit unions to combine to sell their loans in multi-issuer packages with cross-indemnifications. The commenters concluded that enabling this cooperative activity would be a significant contributor to future financial health and stability for the industry. Approximately five commenters provided comments addressing CUSO examinations. Several of these commenters provided general statements that CUSOs should not be subject to full examinations. Several other commenters asked the NCUA to revise the current approach to safety and soundness supervision of credit union CUSO investments and suggested it is best performed through the credit union supervisory framework, not the direct supervision of CUSOs themselves. The Task Force notes that the NCUA does not directly regulate or supervise CUSOs, but instead supervises credit unions' CUSO investments through the credit union supervisory framework. Several commenters asked the NCUA to stop exercising de facto exam powers over CUSOs. The commenters described these exams as compelling CUSOs to report directly to the NCUA and comply with NCUA directives through the credit union owners and felt this was an exercise of power without specific congressional authority. The commenters asked the NCUA to revise the regulations in a manner that leaves no doubt that the agency is acting both within its authority and consistently with the need for safety and soundness supervision of credit union CUSO investments. The commenters also suggested that the NCUA use this regulatory review process to continue to compile necessary data on the investment of credit unions in CUSOs through the registry, but discontinue conducting de facto examinations in the form of CUSO reviews. One commenter said that if the NCUA elects to continue to exercise de facto supervision over CUSOs, the agency should formally advise the Bureau of Consumer Financial Protection (BCFP) of that fact. The commenter noted that the BCFP administers the Secure and Fair Enforcement for Mortgage Licensing Act and the licensing and registration of mortgage loan originators (MLOs). The commenter said that prior to the passage of the most recent CUSO regulation, the NCUA advised the BCFP that it did not have the power to regulate CUSOs. The commenter said that this resulted in MLOs in the CUSOs providing mortgage lending services having to be licensed and not registered. The commenter explained that in multi-state situations, this means that MLOs and the CUSOs may have to be licensed in many states and incur greatly increased expenses and regulatory burden. The commenter requested the NCUA's assistance, should it continue to conduct de facto CUSO examinations in the form of CUSO reviews, in informing the BCFP that the NCUA exercises sufficient supervision over CUSOs to justify that CUSOs be exempt from the licensing requirements and the MLOs in CUSOs qualify for registration. Several commenters said that they believe the percentage credit unions can invest in CUSOs should be increased. The Task Force notes that the FCU Act limits FCU CUSO investments to the 1% of paid-in and unimpaired capital and surplus currently permitted by Sec. 712.2(a) of the NCUA's regulations.\37\ --------------------------------------------------------------------------- \37\ 12 U.S.C 1757(7)(I). --------------------------------------------------------------------------- Another commenter noted that they support review of the CUSO regulation and said that they felt the January 2016 changes were punitive and excessive in light of the relatively low risk CUSOs pose to the system and went beyond the NCUA's authority. The commenter believed that the current rule burdens CUSO operations and limits credit unions' abilities to use CUSOs to maximize their services. The commenter said that, for example, the rule established elaborate reporting of CUSO activities to the NCUA and includes a list of high risk CUSO activities such as payroll processing that subject CUSOs to additional requirements. The commenter asked the NCUA to reconsider these requirements. The commenter also asked the NCUA to reconsider the need for the ``costly CUSO Registry.'' Additionally, the commenter said that they did not support the NCUA's past efforts to obtain statutory authority over CUSOs and other third-party service providers. The commenter stated that they appreciate that the current NCUA Board is not pressing Congress for such authority. The commenter felt that such authority would be an unnecessary expansion of the agency, would result in higher costs to credit unions, and would divert the agency from its primary mission of supervising and regulating credit unions. One commenter asked the NCUA to reorganize the CUSO rules to co- locate FISCU applicable provisions or move the FISCU applicable provisions to part 741 to eliminate confusion as to which provisions apply to FISCUs. One commenter suggested that there should be a way for a corporate credit union to make a minimal investment in a company without treating it as a corporate CUSO. The commenter stated that many companies shun corporate credit union investment dollars due to the regulatory constraints of becoming a corporate CUSO, having to primarily serve credit unions and to follow the various regulatory restrictions of part 704. The commenter said that without the opportunity to invest in companies, a corporate credit union cannot direct or participate in the direction of new products or services. The commenter argued that the intent of an investment in such a company is not measured by a return as it is with traditional investments (securities) but instead is an opportunity to help bring new technologies, products, and services to credit union members. Finally, a commenter, noting their strong belief in the economies of scale and other advantages that CUSOs confer to credit unions, asked the NCUA to increase the prioritization of CUSO reform. The commenter recommended that the NCUA Board publish an ANPR in 2018 that solicits ideas and other feedback. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 1. After reviewing the degree of effort and the potential impact, the Task Force believes that this recommendation is [[Page 65943]] more appropriately placed in Tier 1. The change should be low effort and high impact. The NCUA plans to issue a 2019 proposed rule on allowing CUSOs to originate any loan that a credit union may provide. 24. Sec. 701.21--Loans to Members and Lines of Credit to Members Addresses: Loan interest rate, temporary rate. Sections: 701.21(c)(7)(ii). Category: Expand/Clarify. Degree of Effort: Moderate. Degree of Impact: Low.\38\ --------------------------------------------------------------------------- \38\ Includes potential efficiencies and/or cost savings for NCUA. --------------------------------------------------------------------------- Report 1: Research the possibility of using a variable rate instead of a fixed, temporary rate. Also, remove the specific means for ***notifying*** credit unions to preserve future flexibility in sending notices in the most efficient and suitable manner available. Comments: Several commenters offered general support for the recommendations. A handful of commenters urged the NCUA to further explore options, including eliminating the maximum interest rate. Approximately five commenters noted that the loan interest rate ***ceiling*** has stayed at 18% since 1987 and felt it makes sense to study whether future rate changes should be tied to a domestic index. One of these commenters felt such a change would give much-needed elasticity to a rate cap that hasn't changed since 1987 despite dramatic economic swings. Another commenter felt that a variable rate could result in more certainty for FCUs regarding future loan rate ***ceilings*** and would facilitate credit union lending and overall planning. One commenter suggested amending the ***ceiling*** to a 15% spread over prime, and articulated a belief that this action would help credit unions reduce interest rate risk. The commenter said that the NCUA has urged credit unions to be vigilant in identifying and managing interest rate risk and felt this action would go a long way towards helping credit unions reduce risk. The commenter believed that adjusting the interest rate cap so it floats with the level of prime would provide regulatory relief to the entire industry because it would benefit any credit union that makes variable rate loans to its members. The commenter said that, absent this relief, credit unions will either absorb margin compression, which places more capital at risk, or scale back lending to certain segments of the population. The commenter felt that this relief would enable credit unions to remain competitive, serve a broader spectrum of their members, and better manage risk and capital. The commenter concluded that this would provide relief for credit unions and reduce risk to the NCUSIF because the industry would be better positioned to absorb rising interest rates. Several commenters said that removal of a specific means for ***notifications*** is appropriate given the pace of development in modern communication technology. The commenters believed that, to that end, the NCUA should take steps to ensure the application of this principle to all aspects of credit unions' communications, including advocating that credit unions have the flexibility to contact their members via modern communications. Several commenters asked the NCUA to move the recommendation to Tier 1. One of the commenters urged the NCUA to make this its top priority given rising rates and the expectation the Federal Reserve Board will continue to raise rates in 2018. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 1. In addition to being a priority for commenters, the loan interest rate is a priority for the Board. As such, the NCUA plans to issue a 2019 ANPR to solicit further input. 4. Other Commenter Suggestions for Tier 1 One commenter asked the NCUA to eliminate the readily marketable collateral standard in the new MBL rule. The commenter said that readily marketable collateral is a legal term of art that has not previously been imposed on credit unions. The commenter stated that, in determining whether to classify collateral as ``readily marketable,'' the Office of the Comptroller of the Currency has focused on an instrument's fungibility, trading ease, the ability to obtain reliable price quotations on a daily basis, and trading of the instruments through a regulated market. The commenter noted that, unlike banks, which the commenter said can easily obtain and utilize such collateral, credit unions typically do not often deal with collateral that satisfies the above criteria. The commenter said that this has resulted in some credit unions being unable to engage in MBLs that they were previously authorized to engage in, notwithstanding the fact that one of the primary purposes of the NCUA's MBL reforms was to give credit unions greater flexibility to make MBLs provided doing so was consistent with a credit union's risk profile and expertise. The commenter concluded that the NCUA should exercise its regulatory power to remove the readily marketable collateral standard and instead mandate that a credit union only be allowed to make such loans based on sound and prudent underwriting standards backed by adequate collateral. The commenter suggested a Tier 1 prioritization for this recommendation. Several commenters asked for changes related to the restoration of accrual status on member business loan workouts. The commenters recommended clarifying appendix B to part 741, the interpretive ruling and policy statement on loan workouts, non-accrual policy, and regulatory reporting of troubled debt restructured loans. More specifically, the commenters recommended the NCUA align its policy pursuant to restoration to accrual status on member business loan workouts with those of other federal bank regulators. The commenters said that the NCUA's rules require a repayment period of six consecutive payments while banking agencies require only six consecutive months. The commenter stated that the NCUA's more restrictive term creates difficulties with credits with annual payments. The commenters said that under the NCUA's structure a credit could be in non-accrual status for six years despite strong performance in the case of an annual credit. The commenters asked the NCUA to reconsider whether the more stringent repayment requirement for credit union commercial accrual status remains necessary. One of these commenters noted that semi-annual or annual payment schedules are commonly found in ***agricultural*** purpose MBLs. The commenters suggested a Tier 1 prioritization for this recommendation. ii. Tier 2 (Year 3) 1. Part 703--Investment and Deposit Activities Addresses: Investment and Deposit Activities. Sections: 703. Category: Improve & Expand. Degree of Effort: High. Degree of Impact: High. Report 1: Revise the regulation to remove unnecessary restrictions on investment authorities not required by the FCU Act, and provide a principles-based approach focused on governance for investing activity. Also, remove the pre-approval requirement for derivatives authority and substitute with a notice requirement (coheres this to part 741 for FISCUs as well). See the appendix for details on modifying this regulation. Investments Comments: Approximately ten commenters offered [[Page 65944]] explicit support for the expansion of investment authority, removal of unnecessary restrictions not required by the FCU Act, and a principles- based approach. Several of these commenters said that these changes would allow credit unions to reduce risk and perform better. Several more of these commenters said that in order to be competitive in today's financial services marketplace credit unions should be permitted to invest in a broad range of investment alternatives, subject to the decision-making control of their member directors. These commenters said that amending this section could give credit unions access to professionally-managed, separate-account investments with greater transparency than is afforded via permitted mutual funds. Several other commenters argued that if the FCU Act allows a type of investment, a credit union should be able to consider its purchase based on its balance sheet needs, risk appetite, and safety and soundness position. One commenter suggested that any approved rule changes should be accompanied by similar guidance and training for examiners to help ensure principles-based changes are permitted. One commenter stated that a principles-based approach may enhance permissible investment options available to credit unions to fund executive and employee benefit programs that help retain and attract quality employees. Another commenter argued that a more principles- based approach will allow credit unions to tailor their investment activities to their individual portfolio needs. The commenter also concluded that allowing further authority will strengthen the board and senior management's ability to consider the best options based on individual circumstances. Several commenters stated that they support the removal of the prescriptive due diligence requirements applicable toward investment advisors and broker-dealers, given the nature of those business models, and instead requiring credit unions to perform due diligence. One commenter encouraged the creation of a working group that includes credit union officials and investment advisors. The commenter also suggested the development of an ANPR to provide a foundation for a comprehensive update of part 703. The commenter further recommended that the NCUA consider investment authority for community banks as it reviews new flexibility for credit unions. Approximately five commenters asked the NCUA to permit credit unions to purchase mortgage servicing rights. Approximately five commenters asked the NCUA to allow credit unions to invest in municipal bonds without limitation. One of these commenters said that the blanket limitations on municipal security exposure only hamper credit unions that are able to appropriately measure, understand, and deal with the risks specific to these investments, which the commenter stated are quite common in other financial institutions. The commenter argued that the ability to take some credit risk in the investment portfolio allows credit unions to maintain needed earnings while reducing other portfolio risks, such as interest rate risk. The commenter stated that some credit unions have suffered material losses and/or lost revenue due to this unnecessary limit. The commenter also said that the limit does not factor risk considerations for general obligation versus revenue securities as is considered in the FCU Act (revenue issues having a limit versus general obligations having none), nor does it consider the effect of other credit enhancement factors, such as sinking fund provisions. One commenter prioritized and strongly supported removing limits on zero-coupon investments. The commenter felt that change would provide credit unions with added flexibility to manage their investment portfolios as they seek to offset risk. Another commenter objected to requiring a minimum of investment grade for all investments and argued it would increase regulatory burden. One commenter asked the NCUA to expand investment authority to include other asset classes important for risk diversification and portfolio performance. The commenter asked the NCUA to explore authorizing the purchasing of: Investment-grade corporate debt; auto and other consumer debt asset-backed securities; and mortgage servicing rights assets. The commenter argued that for a credit union with sufficient resources, knowledge, systems, and procedures to handle the risks, there is no reason why investing in investment-grade corporate debt and asset-backed securities products should be prohibited. The commenter felt that authorization would promote the overall efficiency of credit union industry investment holdings since these asset classes are important for risk diversification and portfolio performance. The commenter argued that empirical data shows that a reasonable allocation to these assets classes provides diversification benefits such that the return series is less risky, not more risky. The commenter did advise that they are not aware of the legal landscape and the effort authorization would require. The commenter also said that credit unions are already in the mortgage servicing business and many are already large holders of these assets. The commenter noted, however, that many credit unions also may desire to shed the asset, possibly because of concerns over the asset's risk profile or the economic barriers to building an efficient servicing operation. The commenter concluded that allowing for transacting could promote the greater efficiency of the overall system. Several commenters asked that at least some of the part 703 changes be moved to Tier 1. One of these commenters specifically asked that the recommendations in Subpart A numbers 1, 5, 7, 9, and 16 be moved to Tier 1. Derivatives Comments: Approximately five commenters explicitly supported removal of the preapproval requirements for derivatives and replacement with a ***notification*** requirement. One commenter opposed removal of the pre-approval requirement and replacement with a notice requirement. The commenter felt that at this point it is important for the NCUA to ensure that a credit union is sophisticated enough to purchase derivatives. One of the supportive commenters commended efforts to widen the rule's applicability and said that the replacement of the application process with a ***notification*** requirement and the removal of the volume- based limits are a step forward in promoting a more efficient interest rate risk management process. Several of the supportive commenters also supported the removal of limits on permissible off-balance sheet hedging instruments and expanding eligible collateral to include agency debt. These commenters felt that these changes would allow more credit unions to effectively manage interest rate risk, subject to appropriate supervisory intervention. Another commenter suggested that the authorization of two instruments, Eurodollar futures and interest rate swap futures, would improve hedging efficiency and effectiveness. One commenter noted that the NCUA has not reviewed the derivatives rule since it was issued in 2014 and asked that review of the rule be made a priority. The commenter said that the combination of the suspended annual regulatory review and the Tier 2 classification defers consideration until [[Page 65945]] 2020 at the earliest. The commenter argued that this designation ``creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies,'' which is one of the criteria of Executive Order 13777. Further, the commenter disagreed that the effort associated with revising this rule is high. The commenter reasoned that the derivatives volume limits appear in a narrow section of part 703 and the invention of these artificial limits created more work than removing them would. The commenter did not understand why, given the Task Force acknowledged that the impact of revising this rule would be high, it is not a Tier 1 proposal--high impact and low effort. The commenter concluded by urging the NCUA to at least fix the weighted average remaining maturity notional (WARMN) limit immediately if the agency delays review of the entire rule. Several commenters asked the NCUA to immediately eliminate the volume-based limits. One of these commenters argued that the derivatives volume limits, particularly the WARMN, have no parallel in the regulatory practice of any other FFIEC regulator, nor any state regulatory body of which the commenter is aware. The commenter also said that, similarly, the fair value limit threshold of negative 25% of regulatory net worth is arbitrary and is not evidence that a credit union has failed to hedge its assets properly. The commenter said that failure to manage interest rate risk, created by serving members' needs through long-term real estate lending, is the greatest mid- to long- term financial threat facing credit unions, and therefore, the NCUSIF. The commenter felt that credit unions and the NCUSIF have been fortunate to have gone through a sustained period of low interest rates, but luck is not a risk-mitigation strategy. The commenter cited the following to evidence that the need for hedging is significant: 49% of credit union loans are real estate loans, a portfolio that continues to grow at 10% per year; only 15% of credit union mortgage loans are adjustable rate loans; and 33% of credit union assets are long-term, whereas only 4% of credit union deposits are longer than three years. The commenter felt that part 703 already provides the governance and approval framework required to ensure that credit unions do not use derivatives for speculative purposes or in ways that inadvertently create harm to their net worth. The commenter argued that the derivatives volume limits do not reduce risk and said that, to the contrary, they limit the capacity of credit unions to adequately hedge the interest rate risk inherent in their business practice, thereby creating risk to the credit unions and the NCUSIF. The commenter continued by arguing that tying notional value limits to a small multiple of net worth, as opposed to the amount of long-term assets the FCU holds, fails to match permissible risk mitigation to the risk created by holding those long-term assets. The commenter said that if an FCU has 10% net worth and mixes its swaps between 5 and 10 years to cover the longer-end of its fixed-rate loan portfolio, a 100% WARMN means the FCU cannot have notional swaps of more than 13.33% of assets. The commenter concluded that such a limit is sufficient if the FCU has long-term assets limited to 25-30% of its assets, but it is probably insufficient if an FCU has more long-term assets. As an example, the commenter said that a credit union with 60% of its assets in mortgage loans should be permitted to hedge at least 50% of this amount with long-term swaps, or roughly 25% of assets (or 250% of net worth). The commenter said that if instead the credit union can only hedge 13.33% of assets, as short-term rates rise sooner than assets mature, the credit union's net worth can quickly dissipate, given the fact that a large share of the long-term assets are largely un-hedged. The commenter said that, put more simply, the current WARMN limit means that a credit union with 10% net worth can only hedge 10% of its balance sheet with 10 year pay-fixed interest rate swaps. The commenter argued that this is simply insufficient for the large percentage of credit unions engaged in mortgage lending. The commenter believed that the current WARMN limit dramatically increases interest rate risk for the credit union system overall. The commenter finished by stating that the industry cannot wait two to three more years with nothing more than a hope that unhedged interest rates will remain stable and low. Two commenters provided detailed comments advocating that the NCUA allow credit unions to invest in mutual funds that have access to the same interest rate risk mitigating derivatives as credit unions. One of these commenters suggested that mutual funds could be effective in mitigating interest rate risk by engaging in limited derivative activities. The commenter noted that Sec. 703.100(b)(2) of the NCUA's regulations specifically excludes mutual funds that contain derivatives from being a permissible FCU investment. The commenter felt that mutual fund managers with a high level of derivatives expertise and a well-developed derivatives program infrastructure could help mitigate the portion of interest rate risk attributable to credit unions' indirect investments. The commenter stated that mutual funds marketed to credit unions and restricted to FCU permissible investments should be expected to encounter risks similar to those faced by FCUs themselves. The commenter said that those risks, including interest rate risk, are passed on to shareholder credit unions if left unmitigated by the portfolios. The commenter recommended that the NCUA clarify that mutual funds have access to the same interest rate risk mitigating derivatives as credit unions themselves. The commenter believed that this broad, comprehensive view of interest rate risk mitigation would ultimately reduce risk to the NCUSIF. The commenter suggested that the NCUA explicitly state that, in addition to investing in all other FCU-permissible investments, mutual funds that possess an NCUA-approved level of financial sophistication, risk management, and operational capabilities (and market to credit union investors) may invest in permitted derivatives to mitigate the inherent risks of those other FCU-permissible investments. The commenter felt this change could be implemented with a low degree of effort given the regulatory and compliance infrastructure a mutual fund registered under the Investment Company Act of 1940 already has in place, but could have a significant impact given the limited number of credit unions that have been granted derivative authority to date. The other commenter asked the NCUA to allow credit unions to invest in mutual funds offered by Management Investment Companies (MICs). The commenter said that the MIC would be the entity receiving NCUA derivatives authority as opposed to numerous individual credit unions. The commenter suggested that the NCUA could modify regulations to incorporate requirements for individual credit union investors utilizing any MIC issued funds with derivative authorities (policies, procedures, etc.). According to the commenter, the MIC would be registered under the Investment Company Act of 1940 and the Securities Act of 1933. From this perspective, the commenter said that the MIC would fall under the SEC's regulatory scope. The commenter noted that the existing regulatory framework of the mutual fund industry includes considerable oversight at the time of registration, as well as frequent ongoing reporting requirements. The commenter said that, [[Page 65946]] as they understand it, this reporting includes an annual prospectus, annual and semi-annual reports and other requirements related to various changes which occur during the interim. The commenter concluded that with this approach a credit union could invest in mutual funds that obtained derivatives authority from the NCUA. The commenter said that the intention would not be to create a fund invested entirely in derivatives, but to allow approved MICs the ability to utilize derivative tools to manage the interest rate risk within the fund. The commenter suggested that, as opposed to credit unions investing in individual securities with embedded interest rate, a credit union could utilize a fund as an alternative investment tool. The commenter noted that investing in such a fund would not grant any additional derivative authority to a credit union. The commenter concluded that this solution could: Increase the number of credit unions that could afford to participate and receive the benefits of derivative tools; allow access for credit unions with assets less than $250 million; reduce the cost of participating in the program; utilize the expertise of regulated third parties; provide less of a resource drain on NCUA staff; and retain for the NCUA the direct ability to set and monitor requirements of third-party vendors. The commenter felt that this could be an important risk management tool. Addresses: Put option purchases in managing increased interest rate risk for real estate loans produced for sale on the secondary market. Sections: 701.21(i). Category: Clarify. Degree of Effort: Low. Degree of Impact: High. Report 1: Recommend moving Sec. 701.21(i) to part 703 Subpart B-- Derivatives Authority to have all options/derivatives authority in one section. Comments: Two commenters offered general support for the recommendation, noting that they support all conforming clarifications to ensure that regulations are clear, consistent, and where appropriate bundled in relevant and rational sections. One commenter opposed this recommendation and the recommendation to rename 703 Subpart B ``Derivatives and Hedging Authority.'' The commenter felt that the changes add complexity, which is contrary to the intent of the regulatory reform agenda. One commenter asked that it be deprioritized since it is a procedural change that the commenter does not believe will afford significant relief. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation to the top of Tier 2 and the NCUA plans to take action related to this recommendation in 2019. The Task Force has also merged into the investments recommendation the separate recommendation to move Sec. 701.21(i) to part 703 Subpart B--Derivatives Authority so that all options/ derivatives authority in one section. The Task Force also emphasizes that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking in this area. All other aspects of these recommendations remain unchanged. 2. Sec. 701.22--Loan Participations Addresses: The limit on the aggregate amount of loan participations that may be purchased from any one originating lender not to exceed the greater of $5 million or 100% of the FICU's net worth (unless waived). Sections: 701.22(b)(5)(ii); 701.22(c). Category: Remove. Degree of Effort: Low. Degree of Impact: High. Report 1: Remove the prescriptive limit on the aggregate amount of loan participations that may be purchased from one originating lender. Replace with a requirement that the credit union establish a limit in their policy, and tie into proposed new universal standards for third- party due diligence with heightened standards if it exceeds 100% of net worth. Eliminates the need for the waiver provision in Sec. 701.22(c). Comments: Approximately 15 commenters offered support for eliminating the prescriptive limit on the aggregate amount of loan participations that may be purchased from any one originating lender and allowing credit unions to establish limits within a board approved policy. One commenter asked the NCUA to provide coordinated training and guidance for examiners if the recommendation is adopted to avoid an exam defaulting to the previous prescriptive standard. Another commenter stated that they felt this proposal was well- reasoned. The commenter said that the credit risk associated with an individual loan and the concentration risk from a high aggregate single borrower exposure are more significant risks to the NCUSIF than those associated with overexposure to a properly vetted originating lender. The commenter felt that the current limitation has the adverse and unintended effect of forcing credit unions to pursue loans from new, unfamiliar, and in some cases less qualified and experienced originators simply to avoid an arbitrary cap. The commenter believed that such pursuits result in an inefficient use of internal resources to conduct proper and ongoing originator due diligence, which if not done properly will result in additional risk within a credit union's portfolio. The commenter concluded that allowing each credit union to establish its own sensible policy limit on the aggregate amount of loan participations purchased from a single originating lender will bring needed flexibility and encourage credit unions to customize their participation loan programs to their own size, needs, and appetite for risk. Another commenter observed that under the MBL rule the NCUA treats certain purchased loan participations as MBLs, including for risk weighting under the RBC rule. The commenter said that if the participation involves a loan to a member of the purchasing credit union, even though the loan was originated by the selling credit union, the interest in the participation must be counted as an MBL by the purchasing credit union. The commenter felt that this treatment is not justified and encouraged the NCUA to reconsider it as it reviews this regulation. The commenter said that, in light of the provisions that apply to loan participations under the MBL rule, the loan participations rule could benefit from the approach proposed for eligible obligations (strip away requirements not required by the FCU Act and consolidate provisions in one place in the regulations). One commenter noted that the conflict of interest provisions regarding the use of third parties to review a loan participation could be clearer as to when the third party can actually acquire an interest in the loan participation. Several commenters asked that this be made a priority and moved to Tier 1. One commenter argued that the recommendations require relatively low effort, involve removing prescriptive limits or otherwise streamlining requirements, and would help credit unions manage their balance sheets more effectively. The commenter reasoned that removing unnecessary prescriptive limits and elements that are contrary to modern holistic balance sheet funds management theory would provide some credit unions risk management options that may be too late in three years when the market environment may have changed further. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization, with an understanding that the FCU Act [[Page 65947]] prevents the NCUA from offering all of the relief credit unions are seeking. 3. Sec. 701.23--Purchase, Sale, and Pledge of Eligible Obligations Addresses: Purchase, sale, and pledge of eligible obligations. Sections: 701.23 Category: Clarify & Expand. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Simplify and combine all the authority to purchase loans and other assets into one section, and provide full authority consistent with the FCU Act. Eligible obligations of the credit union's members should have no limit. Remove CAMEL rating and other limitations not required by the FCU Act.\39\ --------------------------------------------------------------------------- \39\ See 12 U.S.C 1757(7)(E), 1757(13), and 1757(14). --------------------------------------------------------------------------- Comments: Approximately ten commenters offered general support for the recommendations. Several commenters said that the removal of supervisory ratings and limitations beyond the statutory scope will aid credit unions in their member service business by reducing regulatory burden. The commenters felt that providing credit unions with the unlimited ability to purchase, sell, and pledge eligible member obligations is in the spirit of the credit union business model. One commenter opined that current limits to purchasing eligible obligations may only exacerbate the challenges facing credit unions that are struggling for earnings and/or risk diversification and take away much needed opportunities that could otherwise be part of a strategic aspect to cure concerns. The commenter said that waivers take time and rely on examiners recognizing the strategic importance/appropriateness of the request. One commenter stated that the NCUA has the authority to allow credit unions to purchase whole loans from non-credit unions and argued that credit unions ought to have broad authority to purchase loans from other originators, particularly other federally insured depositories. The commenter argued that purchasing loans from other financial institutions can be a risk-appropriate, well-priced alternative to purchasing low-yielding, over-priced securities. Another commenter said that, although the recommendation lacks detail, they would support a revised rule that allows for any credit union to purchase an eligible obligation that has been originated by a FICU, regardless of whether it is an obligation of its members. The commenter believed such a rule would not bring new risk into the system, yet would provide purchasing and selling FICUs with more market options, which ultimately would lower the cost for consumers. Finally, one commenter asked the NCUA to clean up the language in Sec. 701.23, which it believes to be the single most confusing regulation governing FCU powers. Several commenters also asked that the recommendations be moved to Tier 1. One commenter contended that since the regulation was part of the Office of General Counsel's 2015 regulatory review revisions should be considered in 2018. Another commenter argued that the recommendations require relatively low effort, involve removing prescriptive limits or otherwise streamlining requirements, and would help credit unions manage their balance sheets more effectively. The commenter reasoned that removing unnecessary prescriptive limits and elements that are contrary to modern holistic balance sheet funds management theory would provide some credit unions risk management options that may be too late in three years when the market environment may have changed further. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. 4. Sec. 741.8--Purchase of Assets and Assumption of Liabilities Addresses: Purchase of assets and assumption of liabilities. Sections: 741.8 Category: Improve. Degree of Effort: Moderate. Degree of Impact: Moderate. Report 1: Review this regulation to determine if NCUA approval is really needed in purchasing loans and assuming liabilities from market participants other than FICUs. Credit unions already have relatively broad authority to make loans, buy investments and other assets, and enter into transactions that create liabilities. Requiring NCUA approval in all cases (including transactions not material to the acquirer) is an inordinate burden for the institution and the NCUA. Comments: Approximately ten commenters offered general support for the recommendation and felt prior approval an unnecessary burden. Several commenters agreed that requiring agency approval in every case might be an inordinate burden, especially since credit unions already have broad authority to make loans, buy investments and other assets, and enter into transactions that create liabilities. Several commenters said that credit unions should retain the broad flexibility and authority to lend, purchase, and sell assets and liabilities, not subject to NCUA approval in all cases. These commenters welcomed review to determine whether NCUA approvals are necessary in deals between credit unions and other non-FICU market participants. One commenter argued that preapproval should not be required for a FISCU purchase of liabilities from a non-FICU. The commenter believed that the NCUA's approval for such transactions has never materially contributed to the transaction's safety and soundness and argued that there is no indication that a non-FICU, regulated by a state regulator, is less safe than an FCU. Another commenter argued that nothing in Title II of the FCU Act gives the NCUA the authority to proscribe the loan purchase powers of a FISCU. The commenter asked the NCUA to eliminate the loan seller restrictions governing FISCUs in Sec. 741.8 Finally, several commenters asked that this recommendation be moved to Tier 1. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization, with an understanding that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking. 5. Sec. TBD--Third-Party Due Diligence Requirements Addresses: Third-party due diligence requirements. Sections: TBD. Category: Simplify & Improve. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Add a comprehensive third-party due diligence regulation and remove and/or relocate such provisions from other regulations. Comments: A handful of commenters supported increased clarity and simplification, but cautioned that no new or additional regulatory burdens should be imposed. One of these commenters was concerned that ``comprehensive'' implies additional regulations. This commenter said that vendor due diligence is a priority for credit unions as more services become more complex requiring the use of specialized vendors. However, the commenter felt that the current regulations achieve the NCUA's desired goal of a safe and sound credit union system. One commenter agreed with a review of what they believed to be considerable and burdensome due diligence requirements. This commenter generally agreed with consolidating due diligence requirements in one rule, but did not think the agency should regulate how credit unions meet their due [[Page 65948]] diligence obligations. The commenter said that any revised due diligence rule should not be overly prescriptive, but should focus on allowing credit unions to determine how best to vet third parties. Several other commenters felt the recommendation did not provide sufficient information to comment. One of these commenters said that they would oppose any recommendation that would increase NCUA authority over third-party vendors. The commenter believed that would significantly increase credit unions' costs. Another of these commenters stated that they have a robust due diligence program and do not support additional regulatory burden aimed at reinventing the third-party services landscape. The commenter argued that such action would run contrary to Executive Order 13777. Addresses: Third-party servicing of indirect vehicle loans. Sections: 701.21(h). Category: Remove. Degree of Effort: Low. Degree of Impact: Moderate. Report 1: Revise this section to eliminate the portfolio limits and related waiver provision. A single, comprehensive third-party due diligence regulation would address the minimum expectations for credit unions using any servicers. Comments: Approximately ten commenters offered general support for the recommendations. One of these commenters specifically noted that the recommendations will assist compliance. Several commenters offered support, but were concerned that a ``comprehensive'' regulation would lead to overly burdensome requirements. One of these commenters asked the NCUA to focus on clarifying and condensing existing third-party due diligence requirements. Another of these commenters expressed their desire that the NCUA ensure that credit unions maintain control over the direction of their institution and are not intimidated by examiners who may micromanage credit union contracts. One commenter supported the Tier 1 prioritization. Another commenter asked that once the comprehensive guidance related to third- party management is developed all references to third-party due diligence be consolidated into a single provision requiring credit unions establish policies for managing third-party relationships. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has combined these recommendations in Tier 2 to avoid bifurcating rulemakings addressing third-party management. 6. Part 709--Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation Addresses: Payout priorities in involuntary liquidation. Sections: 709.5 Category: Clarify. Degree of Effort: Low. Degree of Impact: Low.\40\ --------------------------------------------------------------------------- \40\ Includes potential efficiencies and/or cost savings for the NCUA. --------------------------------------------------------------------------- Report 1: Revise the payout priorities to make unsecured creditors pari passu with the NCUSIF. Currently, unsecured creditors are senior to the NCUSIF. Comments: A handful of commenters generally supported the recommendation. Several of these commenters felt that the recommendation would help the larger credit union industry. One commenter noted that while the recommendation lacked detail, they support it because it could further protect the NCUSIF. Report 2: Upon further consideration and in response to stakeholder feedback the Task Force has moved this recommendation from Tier 3 to Tier 2. The Task Force believes this recommendation will help to protect the NCUSIF and higher prioritization is appropriate. iii. Tier 3 (Year 4+) 1. Sec. 701.21--Loans to Members and Lines of Credit to Members Addresses: Preemption of state laws. Sections: 701.21(b). Category: Simplify & Improve. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Enhance federal preemption where possible and appropriate. FCUs that are multi-state lenders still are subject to a variety of state laws that create overlap and additional regulatory burden. Enhancing preemption where possible and appropriate may help reduce overlap and burden. Comments: Approximately ten commenters offered general support for the recommendations. One of these commenters asked the NCUA to clarify the scope of preemption as it applies to FISCUs, not just FCUs. Approximately five of the commenters emphasized the potential beneficial impact on credit unions in multi-state situations. These commenters emphasized that multi-state lenders face regulatory overlap and additional burden. They felt that providing greater clarity on where federal law applies through regulation would provide regulatory relief. One commenter said that any opportunity to ensure and clarify for credit unions the supremacy of federal lending laws is welcome and long overdue. Another commenter said that determining whether a state law is preempted is difficult and they would appreciate any additional or explicit guidance. One commenter emphasized that preemption to facilitate operations can help reduce compliance burdens and produce cost savings. The commenter noted that it supported the NCUA's view of its preemption authority and encouraged the agency to consider preemption broadly while being mindful of consumer and state authority concerns. Several commenters felt that preemption should be made a priority. These commenters recommended elevating the recommendation to either Tier 1 or Tier 2. A few commenters did caution the NCUA to make sure that federal preemption of applicable state laws and regulations is narrowly tailored so as not to undermine a state supervisory structure. The commenters said that since many credit unions opt for state charters based on their members' business needs, any federal legal preemption should not unduly burden the compliance obligations of credit unions who have not sought the degree of federal oversight imposed. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. 2. Sec. 701.37--Treasury Tax and Loan Depositaries and Financial Agents of the Government Addresses: Treasury tax and loan depositaries and financial agents of the Government. Sections: 701.37 Category: Remove/Improve. Degree of Effort: Moderate. Degree of Impact: Low. Report 1: Determine if this regulation remains relevant and necessary. Comments: Several commenters thought this regulation irrelevant, unnecessary, and no longer applicable. Report 2: The Task Force recommends eliminating this regulation. 3. Part 714--Leasing Addresses: Leasing. Sections: 714. Category: Improve. Degree of Effort: Moderate. Degree of Impact: Undetermined. Report 1: Review this regulation to identify if any changes or improvements are needed. Comments: Approximately five commenters encouraged relief to provide flexibility and inspire more leasing. One of these commenters noted [[Page 65949]] that the leasing rule was adopted in 2000 and, while there may not be the need for numerous changes, it is appropriate that the NCUA review the rule, which the commenter believed to be overly detailed and oriented toward micromanagement. The commenter stated that, for example, the rule controls the amount of the estimated residual value a credit union may rely upon to satisfy the full payout lease requirement, which is 25% of the original cost of the leased property unless the amount above that is guaranteed. The commenter felt this kind of detail about the mechanics of a leasing program would be more appropriately determined by the credit union. Several commenters said that credit unions should have the flexibility to run their business as best suits their members' needs. These commenters argued that the leasing regulations should be reduced to allow more credit unions, other than the largest, to engage in this activity if it is appropriate to their business needs. The commenters felt that credit unions are uniquely positioned to provide creative, tailored lease terms that give members greater flexibility in personal leases. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. 4. Part 725--National Credit Union Administration Central Liquidity Facility (CLF) Addresses: National Credit Union Administration Central Liquidity Facility (CLF). Sections: 725. Category: Clarify. Degree of Effort: Moderate. Degree of Impact: Moderate. Report 1: Update this regulation to streamline, facilitate the use of correspondents, and reduce minimum collateral requirements for certain loans/collateral. Comments: Approximately five commenters provided comments offering support and substantive recommendations. Several commenters stated that they support updates that reduce minimum collateral requirements as well as facilitate the use of correspondents. As detailed more fully below, one commenter provided a number of substantive recommendations. The commenter said that for the past several years, the corporate credit union community has worked closely with the CLF in order to provide operational efficiency with advances, repayments, and collateral management through a correspondent agreement with each corporate credit union. As such, the commenter asked that the NCUA amend Sec. 725.2 to include a definition of a correspondent. The commenter also asked the NCUA to modify Sec. 725.19 to reflect a market-based approach to collateral values. The commenter noted that current CLF collateral requirements call for a blanket net book value equal to at least 110% of advances and for certain types of collateral, i.e marketable securities, CLF collateral values compare unfavorably to the Federal Reserve Board discount window and the Federal Home Loan Banks. Additionally, the commenter requested that the NCUA eliminate various references to dates in part 725 that are outdated. The commenter also suggested the NCUA consider amending Sec. 725.4(a)(2), which requires an agent member to purchase capital stock for all of its member natural person credit unions, in conjunction with a change to Sec. 304(b)(2) of the FCU Act,\41\ to allow the purchase of capital stock on behalf of a select group of member credit unions. The commenter noted that as corporate credit unions recapitalized their balance sheets following the crisis, the purchase of CLF capital stock for all member credit unions was thought to be prohibitively expensive by the corporate community. The commenter believed that the suggested changes would enable more natural person credit unions to access liquidity from the CLF during periods of tight liquidity. --------------------------------------------------------------------------- \41\ 12 U.S.C 1795c(b)(2). --------------------------------------------------------------------------- The commenter also thought that corporate credit unions should have the ability to borrow directly from the CLF for liquidity purposes, and requested that the NCUA consider modifications to part 725 in conjunction with efforts to modernize the FCU Act in order to allow CLF advances directly to corporate credit unions. The commenter noted that during the financial crisis the CLF instituted several programs, including the Credit Union System Investment Program, which provided access to liquidity for select corporate credit unions. The commenter said that these programs required an advance from the CLF to a natural person credit union, following which the natural person credit union invested proceeds of the advance in a note issued by the corporate credit union and guaranteed by the NCUSIF pursuant to the Temporary Corporate Credit Union Liquidity Guarantee Program. The commenter argued that, while these transactions facilitated liquidity to corporate credit unions, the transactions were complex and costly. The commenter also noted that they object to Sec. 306(a)(1) of the FCU Act,\42\ which reads in part ''the Board shall not approve an application for credit the intent of which is to expand credit union portfolios.'' The commenter argued that all advances expand a credit union's portfolio and the determination of whether or not an advance serves a liquidity purpose should be left up to the CLF. --------------------------------------------------------------------------- \42\ Id. Sec. 1795e(a)(1). --------------------------------------------------------------------------- A separate commenter asked the NCUA to review the authority for the CLF as well as its role and function. The commenter opined that the CLF was designed to be an important and useful facility that provides access to liquidity for those credit unions that could demonstrate the need and repay their borrowings. The commenter also stated that the CLF provides credit unions with a reliable resource for contingency funding needs. The commenter said that despite the CLF's past role, it currently has only 269 regular members and has no loans. The commenter believed that the CLF can be a useful facility that credit unions may utilize for liquidity when interest rates begin to rise again and asked the NCUA to work with Congress to restructure the CLF, ease requirements for credit unions to be members, and extend the range of borrowing opportunities. One commenter specifically supported the Tier 3 categorization. Another commenter, citing the CLF's role during the financial crisis, felt part 725 warrants a higher priority. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization, with an understanding that the FCU Act prevents the NCUA from offering all of the relief credit unions are seeking. 5. Part 741--Requirements for Insurance Addresses: Maximum borrowing authority. Sections: 741.2 Category: Remove. Degree of Effort: Low. Degree of Impact: Low. Report 1: Remove the 50% borrowing limit for FISCUs and the related waiver provision. State law should govern in this area. Comments: Approximately five commenters offered general support for the recommendation. One commenter specifically supported the Tier 3 categorization. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. [[Page 65950]] 6. Part 741--Requirements for Insurance Addresses: Special reserve for nonconforming investments. Sections: 741.3(a)(2). Category: Remove. Degree of Effort: Low. Degree of Impact: Technical Amendment. Report 1: Remove as no longer necessary and not consistent with GAAP.\43\ --------------------------------------------------------------------------- \43\ There are 11 FISCUs from 8 different states that report a total of $4.4 million in this account on the Call Report as of December 31, 2016. --------------------------------------------------------------------------- Comments: Several commenters agreed with the recommendation. One commenter stated that a low prioritization is appropriate. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. 7. Part 748--Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance Addresses: Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts, and Bank Secrecy Act Compliance. Sections: 748. Category: Improve. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Review this regulation to identify if any changes or improvements are needed. Recommend using an ANPR and forming a working group due to the complexity. Comments: Approximately 15 commenters asked the NCUA to reform the Bank Secrecy Act (BSA) regulations and suggested the NCUA work with the Department of the Treasury and other regulators to support meaningful changes to minimize the costs and problems encountered in meeting BSA and anti-money laundering (AML) requirements. Several other commenters emphasized that BSA and AML compliance remain substantial issues and urged the NCUA to minimize compliance burdens. Another commenter noted that BSA compliance is a huge burden in paying for systems, training, and personnel. Several commenters also asked the NCUA to work with the Treasury and the Financial Crimes Enforcement Network (FinCEN) to eliminate burden from duplication in BSA requirements. Approximately five commenters asked that the threshold for Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) be raised to a minimum of $20,000 to provide relief, ensure that only effective useful data is transmitted, and allow field examiners to provide consistent guidance during exams. Commenters noted that the current threshold has remained unchanged since 1972 and that the threshold would be over if $50,000 if adjusted for inflation. Several commenters requested that the SAR and CTR forms be combined into one form submission. Another commenter asked that the NCUA promote better communication over mandatory reporting. The commenter stated that credit unions often file defensive SARs, which are of little use to law enforcement, to avoid compliance failures. The commenter believed reforms to promote open communication between law enforcement and credit unions would allow the system to function like Congress intended. The commenter also argued that enforcement of FinCEN regulations by the NCUA, without direct law enforcement feedback, is cumbersome and should be changed. Another commenter suggested significantly curtailing customer due diligence requirements and eliminating redundant SARs filings for corporate credit unions. One commenter suggested that FinCEN and federal law enforcement should consider awarding a percentage, such as 10%, of fines or awards to credit unions in civil and criminal actions when those institutions' filings were instrumental in a case. The commenter believed that incentivizing better filings would result in better quality SARs, greater compliance, and the alleviation of some of the high costs of BSA compliance. One commenter asked the NCUA to relax its requirement for monthly reporting of SAR activity to the board. The commenter stated that there is no statutory requirement that mandates monthly reporting and asked the NCUA to allow credit unions to report SAR filings promptly to the board, with promptly defined as the next regularly scheduled board meeting or at least quarterly. Approximately five commenters offered support for a working group. Another commenter specifically supported the use of an ANPR. Several commenters said the NCUA should persuade FinCEN, other financial regulators, and Congress to reform some of the BSA inefficiencies. Approximately 15 commenters asked that part 748 be made a priority. One commenter noted their appreciation for the NCUA's effort to reform BSA compliance procedures, but articulated a belief that substantive changes must originate from FinCEN and Congress. Another commenter asked the NCUA to explain all exam policies and priorities, particularly new ones, and provide the information in one ``examination issues'' location on the agency's website and in agency documents, such as letters to credit unions and examiners' guides. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. Further, the Task Force emphasizes that the NCUA has limited authority in this area. Many of the changes requested by commenters fall outside of the NCUA's purview. The Task Force does note that the NCUA continues to participate in interagency work in this area. 8. Part 749--Records Preservation Program and Appendices--Record Retention Guidelines; Catastrophic Act Preparedness Guidelines Addresses: Records Preservation Program and Appendices--Record Retention Guidelines; Catastrophic Act Preparedness Guidelines. Sections: 749. Category: Improve. Degree of Effort: Moderate. Degree of Impact: High. Report 1: Review this regulation to identify if any changes or improvements are needed. Recommend using an ANPR and forming a working group due to the complexity. Comments: Approximately 15 commenters stated that the record retention guidelines are unclear and conflicting. One of these commenters noted that, while the rule states that any records not explicitly mentioned as vital records do not need to be maintained permanently and can be destroyed periodically as determined by the credit union, other parts of the NCUA's regulations have record retention requirements. The commenter included two examples. First, under part 749 certain supervisory committee documents are not vital records and are subject to periodic destruction; yet under part 715 certain supervisory committee documents must be retained until the completion of the next verification process. Second, merger documents are not explicitly listed as permanent records in part 749; however, the NCUA's Credit Union Merger Procedures and Merger Forms Manual states that the continuing credit union must maintain all documents and records related to a merger. Another commenter agreed with the review and noted that some retention requirements lack a termination date. Several commenters asked the NCUA to update part 749 to reflect and adapt to technology record maintenance changes. Approximately 15 commenters asked that changes to this regulation be made [[Page 65951]] a priority. Conversely, one commenter felt the changes would have negligible benefit and agreed with the Tier 3 prioritization. Several commenters asked the NCUA to develop a working group. One commenter specifically supported using an ANPR to frame the numerous issues. Report 2: The Task Force recommends adopting the first report's recommendation and prioritization. iv. Other Comments 1. Timeline Several commenters asked that the four year timeline be accelerated. One commenter agreed with reassessing the timelines based on credit union feedback. Another commenter asked the NCUA to consider the implementation timelines for these changes, noting that credit unions and the NCUA will require substantial transition time to conform to new or changed regulations. The commenter asked that examiner training be emphasized to avoid implementation inconsistencies. 2. Prioritizations Generally One commenter asked the Task Force to use a taxonomic system with Tier 1, Class A regulations receiving highest priority, followed by Tier 1, Class B regulations, and so forth. 3. Other Other suggestions included: Co-locating all rules applicable to FISCUs; amendments to the definition of loan-to-value in part 723; formation of a Credit Union Advisory Council; flood insurance amendments; suggestions for how to better comply with Executive Orders 13771 and 13777; investment in fintech companies; clarity and parity for financing of pre-sold construction homes; changes to the PALs program; and more. d. Appendix to Section III--Part 703 Recommendations Details Investments--Part 703 Subpart A ------------------------------------------------------------------------ Item Change Rationale ------------------------------------------------------------------------ 1.............. Investment Policies Sec. 703.3 -------------------------------------------------------- Fine tune section to focus Reduces burden on credit on investment activities unions by not requiring and not on balance sheet IRR and liquidity activities. E.g , remove policies in the (c) and (d), IRR and investment policy. Also liquidity, since those should help credit unions items should be addressed focus on balance sheet in the IRR and liquidity risk. policies. ------------------------------------------------------------------------ 2.............. Discretionary Control Over Investments and Investment Advisor Sec. 703.5(b)(1)(ii), Sec. 703.5(b)(2)-- (Net worth limit) -------------------------------------------------------- Remove 100 percent of net This would allow credit worth limit for delegated unions to have discretionary control. professionally managed, Would need to add language separate-account, to ensure credit unions investments without have provided investment imposing a limit. There advisors with investment are no limits on mutual guidelines that contain: funds where the credit Duration/average life union has less control of targets, permissible what the manager invests investments, and in. Separate-account investment limits. delegated discretionary programs have considerably more transparency than mutual funds. ------------------------------------------------------------------------ 3.............. Discretionary Control Over Investments and Investment Advisor Sec. 703.5(b)(3)--(Due diligence) -------------------------------------------------------- Remove prescriptive due This section is too diligence requirements and prescriptive for a credit simply state the credit union to perform due union must perform due diligence. It also does diligence on the not focus on the investment advisor. investment advisor's ability to manage investments for the credit union. ------------------------------------------------------------------------ 4.............. Credit Analysis Sec. 703.6--(Due diligence) -------------------------------------------------------- Modify exception to credit This will make it clear analysis requirements to that NCUA requires credit only securities guaranteed analysis for investments by the entities listed in not guaranteed, but the section. issued by, agencies. Currently the rule would not require a credit analysis for a Fannie Mae loss sharing bond or an unguaranteed subordinate tranche of a Freddie Mac multi-family mortgage security. ------------------------------------------------------------------------ 5.............. Credit Analysis Sec. 703.6--(Maximum credit risk) -------------------------------------------------------- Require a minimum of Sets a minimum expectation investment grade for all of credit worthiness for investments. all investments purchased under the part 703 investment authority. ------------------------------------------------------------------------ 6.............. Credit Analysis Sec. 703.6--(Credit union process and people) -------------------------------------------------------- A credit union, or its This establishes the basic investment advisor, must standard for a credit have sufficient resources, union to purchase an knowledge, systems, and investment. This will procedures to handle the allow for a loosening of risks and risk management part 703 since NCUA has (e.g , IRR modeling) of established standards to the investments it purchase investments that purchases. may have been prohibited or restricted in the past. ------------------------------------------------------------------------ 7.............. Broker-Dealers--Sec. 703.8(b)--(Due diligence) -------------------------------------------------------- Remove prescriptive due This section is too diligence requirements and prescriptive for a broker- simply state the credit dealer that doesn't union must perform due provide advice. May want diligence on the broker- to specify standards for dealer. broker-dealers that provide advice to credit unions. ------------------------------------------------------------------------ 8.............. Monitoring Non-Security Investments Sec. 703.10-- (Reporting requirements) -------------------------------------------------------- Remove this section........ Unduly prescriptive. ------------------------------------------------------------------------ [[Page 65952]] 9.............. Valuing Securities Sec. 703.11(a) & (d)--(Due diligence) -------------------------------------------------------- Combine sections and remove Currently too the reference to two price prescriptive. A quotations. The principled approach requirement should be that conforms more to market the credit union use convention. market inputs to determine if the purchase is at a reasonable market price. ------------------------------------------------------------------------ 10............. Valuing Securities Sec. 703.11(c)--(Due diligence) -------------------------------------------------------- Remove this section........ Unnecessary. This should be dictated by GAAP. ------------------------------------------------------------------------ 11............. Monitoring Securities Sec. 703.12(a)--(Reporting requirements) -------------------------------------------------------- Move to and combine with Streamlines part 703. Sec. 703.11 ------------------------------------------------------------------------ 12............. Monitoring Securities Sec. 703.12(b), (c) and (d)-- (Reporting requirements) -------------------------------------------------------- Remove these sections and Unduly prescriptive. 703.12(a) will be combined with part 703.11 ------------------------------------------------------------------------ 13............. Permissible Investment Activities and Permissible Investments Sec. 703.13 and Sec. 703.14 -------------------------------------------------------- Merge these sections and Streamlines rule and add language from the FCU provides full investment Act for permissible authority allowed under investments. the Act. ------------------------------------------------------------------------ 14............. Permissible Investment Activities Sec. 703.13(d)-- (Borrowing repurchase transactions) -------------------------------------------------------- Allow mismatch permissible A 30 day mismatch is low in Sec. 703.20 as the risk. ``base'' permissible activity. ------------------------------------------------------------------------ 15............. Permissible Investments Sec. 703.14(a)--(Permissible indices for variable rate investments) -------------------------------------------------------- Expand permissible indices This could provide credit for credit unions that unions with investments have sufficient resources, that they could benefit knowledge, systems, and from and not pose a risk procedures to handle the to the NCUSIF. risks of the investment. Ability to model the investment for IRR should be required. ------------------------------------------------------------------------ 16............. Permissible Investments Sec. 703.14(e)--(Muni bond limits) -------------------------------------------------------- Remove limitations on This limit is unnecessary. municipal exposure. Credit unions should determine limits. ------------------------------------------------------------------------ 17............. Permissible Investments Sec. 703.14(h)--(Mortgage note repurchase transactions) -------------------------------------------------------- Limits will be reviewed to Limits may need to be determine if they are increased or eliminated. appropriate. ------------------------------------------------------------------------ 18............. Permissible Investments Sec. 703.14(i)--(Zero coupon investment restrictions) -------------------------------------------------------- Remove limits on zero- Interest rate and coupon investments. liquidity risk should be managed from a balance sheet standpoint. This appears to try to manage it from an individual security standpoint. This limit is unnecessary. ------------------------------------------------------------------------ 19............. Permissible Investments Sec. 703.14(j)(3)-- (Commercial mortgage related securities) -------------------------------------------------------- Remove this section........ Not realistic in the current market place. Furthermore, having a large number of loans was actually a negative in many CMRS deals prior to 2007. Less attention was paid to the smaller loans that were poorly underwritten versus the larger loans in the deal. ------------------------------------------------------------------------ 20............. Prohibited Investment Activities Sec. 703.15--(Short Sales) -------------------------------------------------------- Review regulatory history Restriction may be on the prohibition of reconsidered. short sales. ------------------------------------------------------------------------ 21............. Prohibited Investments Sec. 703.16(a)--(Mortgage servicing rights) -------------------------------------------------------- Determine if mortgage Buying MSRs from other servicing rights (MSRs) credit unions may offer are permissible for credit efficiencies in the unions to purchase per the credit union system. FCU Act. If so, there should be consideration given to permit the purchase of MSRs. ------------------------------------------------------------------------ 22............. Prohibited Investments Sec. 703.16(b)--(Exchangeable, IO and PO MBS) -------------------------------------------------------- [[Page 65953]] Remove this section........ A credit union should be able to purchase interest- only and principal-only investments if it has sufficient resources, knowledge, systems, and procedures to handle the risks and risk management (e.g , IRR modeling) of the investments it purchases. ------------------------------------------------------------------------ 23............. Grandfathered Investments Sec. 703.18 -------------------------------------------------------- Remove sections that will Some parts of the section no longer apply based on may not apply due to other changes in the rule. other changes in the rule. ------------------------------------------------------------------------ 24............. Investment Pilot Program Sec. 703.19 -------------------------------------------------------- Remove this section........ Pilot programs will no longer be needed with the proposed changes. ------------------------------------------------------------------------ 25............. Request for Additional Authority Sec. 703.20 -------------------------------------------------------- Remove this section........ Will no longer be needed with the removal or alignment of the restrictions in other sections. ------------------------------------------------------------------------ Derivatives--Part 703 Subpart B and Related Items ------------------------------------------------------------------------ Item Change Rationale ------------------------------------------------------------------------ 1.............. ``Move'' Put-option purchases in managing increased interest rate risk for real estate loans produced for sale on the secondary market, in 701.21(i) to 703.102(a) -------------------------------------------------------- Move the product to the This would consolidate Subpart B permissible into one place all derivative products. permissible derivative activities. ------------------------------------------------------------------------ 2.............. ``Move'' European financial options contract in 703.14(g) to 703.102(a) -------------------------------------------------------- Move the product to the This would consolidate Subpart B permissible into one place all derivative products. permissible derivative activities. ------------------------------------------------------------------------ 3.............. ``Rename'' 703 Subpart B from ``Derivatives Authority'' to ``Derivatives and Hedging Authority'' -------------------------------------------------------- Name change................ Would widen the rule to address off balance sheet hedging instruments that are permissible. ------------------------------------------------------------------------ 4.............. ``Move and Modify'' Derivatives section in 703.14(k) to 703 Subpart B -------------------------------------------------------- With the move, remove Would provide more clarity 703.14(k)(1), move on hedging activities for 703.14(k)(2) to 703.100 TBA, Dollar Rolls, etc. and move 703.14(k)(3) to 703.102 ------------------------------------------------------------------------ 5.............. ``Modify'' Derivatives Application process to ``***Notification***'' -------------------------------------------------------- Remove the FCU application The ``***Notification***'' requirements and replace requirements would with a ``***Notification***''. include providing NCUA This would require changes with at least 60 day to Sec. 703.108, Sec. notice before initially 703.109, Sec. 703.110, engaging in a Derivative Sec. 703.111, Sec. transaction. 703.112 ------------------------------------------------------------------------ 6.............. ``Remove'' Derivatives Regulatory Limits -------------------------------------------------------- Remove the volume limits on Will be better supported derivatives activity. This as part of supervision would require changes to guidance and possible use Sec. 703.103, Sec. as scoping metrics. 703.105, Appendix A. ------------------------------------------------------------------------ 7.............. ``Expand'' Eligible Collateral for Margining -------------------------------------------------------- Expand the eligible This is an acceptable collateral in practice and should have 703.104(a)(2)(iii) to been in the Final Rule. include Agency Debt (Ginnie Mae Securities). ------------------------------------------------------------------------ 8.............. ``Modify'' Eligibility (only part) -------------------------------------------------------- Remove or change 703.108(b) Allows for more credit to require notice but not unions to use derivatives pre-approval, and re- to manage interest rate evaluate the CAMEL and risk subject to asset size eligibility supervisory intervention criteria. if they are not equipped to manage it properly. ------------------------------------------------------------------------ 9.............. ``Modify'' ***Notification*** requirement for FISCUs -------------------------------------------------------- Change 741.219(b).......... Make consistent with FCU ***notification*** requirements. ------------------------------------------------------------------------ [[Page 65954]] 10............. ``Remove'' Pilot Program Participants -------------------------------------------------------- Change 703.113 ............ Not relevant anymore. ------------------------------------------------------------------------ By the National Credit Union Administration Board on December 13, 2018. Gerard Poliquin, Secretary of the Board. [FR Doc. 2018-27473 Filed 12-20-18; 8:45 am] BILLING CODE 7535-01-P

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**End of Document**



[***E US Army asks for FLRAA conceptual designs; The US Army is soliciting conceptual designs for its Future Long Range Assault Aircraft (FLRAA), opening the competition to replace the Sikorsky UH-60 Black Hawk.***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5X0G-NXB1-DYX4-73PJ-00000-00&context=1516831)

Flight International

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**Body**

The US Army is soliciting conceptual designs for its Future Long Range Assault Aircraft (FLRAA), opening the competition to replace the Sikorsky UH-60 Black Hawk.

In the first phase of the competitive demonstration and risk reduction process, industry participants are asked to submit an initial aircraft conceptual design. That includes “technical documentation to support the design, requirements decompositions, trade studies, and requirements feasibility,” says the US Army in a 3 September online post.

In an effort to speed up FLRAA development and delivery efforts, the service will use its Other Transaction Authority (OTA) to carry out the competition through the Aviation and Missile Technology Consortium. The consortium is managed by Advanced Technology International, a private organization specialising in industry-government collaborations.

Sikorsky-Boeing SB-1 Defiant first flight

Sikorsky-Boeing

According to the consortium, benefits of the OTA process include a faster prototype-acquisition process and the ability to engage a diverse range of suppliers.

“[OTA]-based collaborations are not subject to some of the regulations that apply to Federal Acquisition Regulation-based acquisitions,” says the Aviation and Missile Technology Consortium on its website. “The [OTA]-based consortium model allows government and industry to communicate more openly, from requirement generation to the proposal stage."

The US Army believes bypassing regulations should allow it to field a new rotorcraft in about a decade.

"We are committed to equipping the Army's first unit with the Future Long Range Assault Aircraft no later than 2030," says Colonel David Phillips, US Army project manager for FLRAA.

The US Army wants its next utility rotorcraft to have significantly better performance than its current aircraft, the UH-60. In April 2019, it unveiled its desired specifications. These include a maximum cruise speed of 280kt (519km/h). It also wants the aircraft to have an unrefuelled combat radius of 300nm (556km), and a one-way unrefuelled range of at least 2,440nm (4,520km).

Two leading contenders in the FLRAA competition have developed technology demonstration aircraft: a Sikorsky-Boeing team, and Bell. Sikorsky-Boeing’s SB-1 Defiant compound helicopter made its first flight in March 2019. Bell’s V-280 Valor tiltrotor first flew in December 2017.

JOURNAL : Farmers Weekly

A Pembrokeshire farmer has been jailed for six months and told to pay more than £160,000 for breaching cattle identification and movement rules.

Paul Vizza, 57, was sentenced at Swansea Crown Court on Friday (23 August) after admitting moving animals without licences, failing to maintain cattle passports and proper animal identification systems, and failing to ***notify*** authorities about animal deaths.

Mr Vizza was jailed for six months and ordered to pay £20,000 of prosecution costs. Judge Paul Thomas also confiscated £143,000 after ruling it represented some of the profits Mr Vizza had made.

See also: 10 most common cross-compliance breaches and how to avoid them

Judge Thomas said the defendant would serve an extra 18-month sentence if he did not pay the £143,000 within three months, and an extra six months if he failed to pay the £20,000 within six months.

Hundreds of failings

Mr Vizza had a dairy herd at Brynfa Farm, Hermon, Glogue, near Fishguard. Alexander Greenwood, for the prosecution, said that for several years Mr Vizza was responsible for “hundreds of failings” in relation to complying with legislation designed to prevent the spread of animal diseases, in particular bovine tuberculosis.

There had been hundreds of animal movements from and on to his farm, despite many warnings that he needed licences.

Inspectors invariably found more or fewer cows on the farm than there should have been, and it was clear he was buying and selling animals without ***notifying*** the authorities.

There appeared to have been 458 animal movements the authorities could not monitor and at least 143 sales that would have involved moving cows off the farm without licences.

Mr Vizza set up P A Vizza Developments and was the sole director and shareholder. When the authorities began to warn him about prosecution, he claimed he was mentally ill and failed to provide documentation, attend meetings or answer questions.

Once he was charged, he did not comply with a Proceeds of Crime Act investigation aimed at discovering how much money he had made.

At one stage he said he had “completely forgotten” that his company owned a £2m farm near the village of Steynton.

‘Devious and dishonest’

Judge Thomas said he had no doubt Mr Vizza had deliberately flouted the law to make money and that, as the net began to close, he salted it away.

He said he accepted that Mr Vizza had suffered mental illness but believed he had exaggerated the extent to try to explain his failure to comply with the rules.

He described Mr Vizza as dishonest and devious and said most of his explanations were simply unbelievable.

Judge Thomas said: “The message has to go out that these regulations are important for the safety of cattle and the public.”

JOURNAL : Farmers Weekly

Animal rights activists plan to occupy the UK’s biggest wholesale meat market as they call for an end to livestock farming.

The Animal Rebellion group said 10,000 activists would occupy Smithfield Market, which covers 4ha in the City of London, on Monday 7 October.

See also: How to deal with animal activists and difficult neighbours

The group made the announcement as it draped a banner over one of the market buildings.

It said the protest would take place as “part of a wider rebellion against the government for failing to act on the climate emergency”.

‘Peaceful protest’

Pledging that its protest would be peaceful, the group said it recognised that it would cause inconvenience but said: “We are in a climate change emergency and animals are dying.”

It added: “We will treat police, farmers and butchers with love and respect at all times.

“We may be met with anger or aggression, but we will remain non-violent at all times, in our words, in our tone and in our actions.

“At times this may be hard, but we will support each other to act with kindness to all.”

The group said it had chosen to target Smithfield because of its dominance in the UK’s trade in “animal flesh and body parts”.

It said Smithfield symbolised the government’s failure to act on the violent and environmentally destructive animal farming and fishing industries.

“We will do this at a time when Extinction Rebellion and other social movements will be occupying London and demanding the government take urgent action on the climate crisis,” it said.

Climate change

The group said it was working in solidarity with these movements.

“We aim to draw attention to the harms caused by the ***agricultural*** system as a whole, of which Smithfield is a part,” it said.

The planned action is the latest example of protestors targeting the UK livestock sector.

But farm leaders argue that British farmers are leading the way in climate-friendly food, animal welfare and environmental protection.

The IPCC's Debra Roberts said: “Balanced diets featuring plant-based foods and animal-sourced food produced sustainably in low greenhouse gas emission systems, present major opportunities for adaptation to and limiting climate change.”

The NFU has pointed out that 65% of UK farmland is best suited to growing grass – which is a huge store of carbon as well as producing high-quality beef and lamb.

JOURNAL : Farmers Weekly

Latest quarterly figures on serious pollution in England show that ***agriculture*** bucked the trend in 2018-19 as the only sector to cause fewer incidents than in 2017-18.

Environment Agency data for the final quarter of 2018-19 show that the industry was responsible for 6% fewer incidents than the previous year, compared with a 23% increase in overall pollution cases.

See also: Which rules are relaxed when farmland is flooded?

At 59, the total number of incidents in ***agriculture*** was also lower than in any other sector, including water companies, illegal waste sites and other regulated industry sectors.

“In total, 493 incidents were recorded for 2018-19, compared with 430 incidents in 2017-18,” the EA said in its quarterly scorecard to directors, pointing out that the figure could go higher still once all ongoing investigations were complete.

The greatest increase came from illegal waste management, which saw a 59% upturn to 78 reported pollution incidents.

“Whilst illegal waste sites continue to be an issue in many areas, specific parts of country have also seen a rise in illegal dumping,” the report said.

“We continue to tackle waste crime as a corporate priority and have had significant additional government funding to explore new opportunities to prevent and disrupt waste crime,” it added.

Weather related

The EA suggests that the increase in pollution may be linked to the prolonged dry weather and extreme summer temperatures last year.

But for ***agriculture***, this was a positive factor in reducing water pollution, which fell from 63 incidents in 2017-18 to 59 in 2018-19.

 “The main reason for this is believed to be the prolonged dry weather during 2018, which allowed farmers to enter the winter with empty slurry stores,” it said.

There were no incidents as a result of full slurry stores, although one involved a leak from a new slurry store.

Most ***agricultural*** pollution was still linked to dairy and livestock farming (31 cases), followed by intensive farming (22 cases), arable and horticulture (five cases).

Two incidents related to odour at intensive farming sites, one to a leak from an intensive farming effluent collection system and the others to problems with dirty water systems.

JOURNAL : Farmers Weekly

***Agricultural*** workers are being urged to join a subsidised management training scheme to bridge a skills gap on UK farms.

Less than 35% of farmers and growers in the UK receive formal management training, the AHDB said.

However, ***agricultural*** businesses may lead and manage a wide variety of people including contractors, advisers and employees.

See also: Advice to help progress your farming career

The levy board’s industry skills development manager Tess Howe said there was a lack of training to increase leadership and management skills – particularly in the livestock sector.

“Often farmers believe that because they don’t employ many people, they don’t manage people,” Ms Howe said.

“But that’s not the case – working with your feed supplier, your vet, your bank or financial adviser, all takes management and leadership skills.”

She added that improving leadership and management skills would help the industry become more productive, with research showing a correlation between business performance and the level of training and education.

AHDB farmer surveys have indicated a demand for an intermediate management training programme aimed at workers with some leadership experience but who were not yet making bigger-picture decisions.

How to apply for a place on the Effective Manager Training Programme

The Effective Manager Training Programme costs £200 for levy payers

The course runs over four days, on dates beginning in October 2019 and running until February 2020

Venues are in Worcester and Peterborough

To reserve a place contact the AHDB Knowledge Exchange Events Hub on 01904 771218 or email [*Naiya.khatri@ahdb.org.uk*](mailto:Naiya.khatri@ahdb.org.uk)

“That’s why we’ve sponsored the effective manager training programme for levy payers and their staff, who receive a £350 discount on the Institute of Leadership Management (ILM) course,” Ms Howe explained.

The four-day course leads to an internationally recognised qualification, the ILM Level 3 Award, building a foundation of leadership skills which give farmers confidence in managing people.

JOURNAL : Farmers Weekly

Looking around the world there is very little to suggest any possible significant upward movement in grain prices in the next few months.

While uncertainly over the US corn crop produced a rally in prices in early summer, the reality of the world supply situation came crashing home in mid-August with one of the most eagerly awaited USDA reports of recent times.

Previous concerns over planting delays affecting crops were washed away with the report outlining a much smaller than expected drop in US corn acres, compounded by a shock yield increase over previous estimates.

See also: How two farmers hope to make better use of crop inputs

Futures markets dropped sharply after the report, with the fall compounded by a 3 million tonne increase in Ukrainian corn production pushing their output to a record 36.5m tonnes.

In terms of wheat, the trade hadn’t really been expecting anything bullish and it didn’t get it. Global wheat production is still expected to be as much as 38m tonnes more than last season.

While this is somewhat less than the 45 million tonne increase predicted by some analysts a few months ago, an additional 10 million tonnes of carry out stocks now look like being a reality.

Weakness of the pound

Sterling’s recent weakness has cushioned domestic grain values against much of the drop in prices globally, but the writing is now well and truly on the wall regarding the world’s supply situation.

Only a major production issue in the southern hemisphere could now change the overwhelmingly negative tone to markets but, other than the usual dryness in Australia, there are few problems in view.

Deterioration in US/China trade talks could have a major effect on markets, but in reality this is likely to affect trade flows more than outright demand.

Aside from some potential volatility as these talks continue, or a major change in weather, any hope of a significant rally in the short term has now largely been dashed.

UK wheat finally becomes competitive

With harvest in southern and eastern England entering its final run, crop quality generally has been good, although there are concerns that the recent wet weather is starting to have an effect, with the North being worse hit.

Domestic yields remain generally strong with the final wheat harvest widely anticipated to be in excess of 15.5m tonnes – an increase of around 2 million tonnes on last year.

That would give us a potential exportable surplus of 1.6m tonnes with UK wheat now finally export competitive.

But the run down to the 31 October Brexit deadline date is getting worryingly close and even if all ports run at full capacity, we’ll still have a significant proportion of the surplus left to ship after this date with no clear picture of how easy this will be to achieve.

It’s not just an issue for wheat, as many now predict a similar-sized exportable surplus of barley, too.

Road haulage bottleneck

Ironically, one of the biggest constraints on shipping more volume is the availability of road haulage. The recent smaller harvests have forced many in the transport industry to move away from ***agricultural*** commodities, and a shortage of HGV drivers isn’t helping either.

While this is seriously hampering harvest logistics, the reality is that farmer selling isn’t running at the required pace either, particularly considering the risks now faced.

While the possibility of leaving the EU without a deal is a big risk to UK ***agriculture***, a deal scenario actually creates problems of a different nature in the form of currency.

If a deal is struck with the EU, sterling will strengthen as it gains back some of the weakness that the uncertainty of Brexit has caused. This means UK wheat and barley values will have to fall further in order to remain at competitive levels in euro and dollar terms.

A summary of the current main price factors and their probable influence

Red: Factors putting downward pressure on prices – accounts for 60% of market influence

Revised estimates of US corn production, ample wheat supplies around the world and a strong carry out for 2019 are putting formidable pressure on markets with little respite in sight.

Amber: Watch this space – 30%

Still some market scenarios to play but ever fewer. Final US corn yields, results of drought in Australia and conditions at planting in the northern hemisphere, could still exert some influence

Green: Factors exerting upward pressure on prices – 10%

Vanishingly little in the world to suggest, other than the odd rally here and there, that prices will lift short term. Sell rallies.

JOURNAL : Farmers Weekly

A mix of starter and promotion units within a local authority’s farms estate management programme can help businesses grow and progress while building trust with the landlord and the bank.

Dorset Council is using this structure for its 41 tenanted farms over about 2,500ha.

In a time when many local authorities are selling off their assets to raise capital, Dorset has committed to maintaining its estate, stating it enables economic growth within the ***agricultural*** sector and other businesses that support the industry.

See also: 4 farmers tell us how they secured county council tenancies

Its two-tier classification system of starter and promotion holdings has been praised by George Dunn, chief executive of the Tenant Farmers Association, for supporting both new entrants and working farmers.

Ensuring future for farmers

Despite county farms often being associated with new entrants, the ***Agriculture*** Act 1970 (the last piece of legislation to reference local authority smallholdings) states that councils should “provide opportunities for persons to be farmers on their own account”.

Mr Dunn said: “This is not just for new entrants. It’s about progression and ensuring farmers don’t fall off the conveyor belt after the tenancy ends.”

Dorset Council aims to have a ratio of one starter holding to two promotion holdings, with starter holdings let on a farm business tenancy (FBT) for 10 years and promotion holdings let for 15-20 years.

According to its County Farm Estate Management Plan for 2016-21, to encourage progression, existing starter farm tenants will be given preference for promotion farms, and the council will proactively establish links between private landowners and current tenants.

Affordability

Ben Lancaster, rural practice manager at Dorset Council, said the system benefits both the farmers and the landlord.

“We’re able to try tenants on a starter unit, which is slightly smaller, who rarely have experience of running a farm in their own right,” Mr Lancaster said.

“It’s more affordable for them to go into, especially when starting from scratch, and it’s a way of proving themselves.”

See also: Full extent of decline in county farms estate revealed

The 10-year agreement length gives greater security to banks offering loans and is a more affordable period to take a larger loan over, he said. This allows people to come into farming, grow their business and build up capital, which allows them to take the next step.

For the landlord, the period of time allows a relationship with the tenant to develop into one of mutual trust and the steady turnover of tenants helps with the council’s financial sustainability.

“We give quite a bit of help to starter tenants, because for some of them this is the first one they’ve applied for and they might not be as business savvy as when they’ve had years running their own farm,” said Mr Lancaster.

Progression

“By the time they’re ready to move on, we expect slightly more, and we’ll ask them different questions to satisfy ourselves they have learned and developed that business knowledge.”

Tenants can progress on to a bigger promotion farm after 10 years, with the next step being to go out into the private sector, which is a much more difficult goal.

Some private landlords want to engage, others are more cautious about taking people from outside their estate and their own tenants, and it’s highly competitive, he said.

Once there are just three years of a tenancy term to run, the council gives tenants the opportunity to submit a business case if they want an extension, with evidence of investments they have made in the holding and attempts to progress.

Knowing the tenants and what farms are available means the council can match applicants with the best-suited farm and be flexible.

Mr Lancaster hopes the council can continue to support and invest in tenants more in the future, such as helping with employment law and staff recruitment and management.

Pros and cons of the system

Pros:

A starter farm is an easier first step for a new entrant or first-time tenant

It helps prove themselves to the landlord and build a relationship

Almost guaranteed promotion holding available when tenant is ready to move on

Progress and security of long-term tenancy agreements helps tenant improve knowledge and confidence and improve their business

Bank prefers security of lending money over 10 to 20 years compared with shorter terms

Cons:

Trickier to move from promotion holding to private tenanted farm – extremely competitive

If farms are not available, system can get clogged up

Case study 1: Moving from a starter unit to a new opportunity

James Macpherson lives at 49ha Burley Road Farm with his wife Louise and their two young children.

Farm facts

Farm name: Burley Road Farm

Location: Sixpenny Handley, north-east Dorset

Unit type: Starter holding

Tenancy length: 10 years

Started: 2012

Size: 49ha

Enterprise: Dairy

Stock: 200 pedigree British Friesians

The 37-year-old moved to Dorset from Staffordshire in 2012 after successfully applying for the tenancy.

“We sold everything we had in 2012 and bought 55 cows and started completely from scratch,” Mr Macpherson said.

“It was a massive change but we had to take the opportunity. We had applied for tenancies all over the country previously before getting this one.”

Mr Macpherson, a first-generation farmer, said his 10-year tenancy agreement was flying past and anything shorter than eight years put additional pressure on people looking to start out and borrow a substantial amount of money from banks.

“You will outgrow a starter unit pretty quickly by putting effort into the job but it’s been very good for us and we have been very lucky,” he said.

“People said we couldn’t make it work before we started and it’s nice to prove them wrong to a point. It’s an all-consuming life but it’s well worthwhile and I’ve no complaints about it whatsoever.”

Though a proponent of Dorset Council and its progression scheme, Mr Macpherson plans to leave the county at some point in the next 12 months, rather than moving on to a promotion holding.

The family have bought a parcel of land in Staffordshire with the aim of building their own farm.

“We couldn’t have got to where we are now without this tenancy,” said Mr Macpherson. “We would’ve been happy to stay on with Dorset Council if this opportunity hadn’t come up in Staffordshire.”

Case study 2: Moving from a starter unit to a promotion holding

Yorkshireman Jon Stanley, 44, was living in Somerset with wife Clea when he successfully applied for Dorset Council’s Allans Farm.

At the time it was a starter unit but it has since been reclassified as a promotion holding and Mr Stanley’s tenancy agreement has been extended.

Coming from a family of butchers and with a family history of tenant farmers, he felt farming was the right path and soon realised a council farm was his best opportunity.

Farm facts

Farm name: Allans Farm

Location: West Melbury, north Dorset

Unit type: Starter holding

Initial tenancy length: 10 years

Started: 2011

Size: 44ha

Enterprise: Dairy

Stock: 190 Jersey Friesian crosses

“They were in their heyday when I was growing up and I had applied for quite a few tenancies before, but this was the first one I applied for in Dorset,” he said.

“It’s a well-kitted and smart farm and having that security of a longer tenancy agreement means we’re willing to invest and do improvements.

“You do see tenancies advertised for seven years or less and I can’t see how you can get going, I feel like we’re just now getting going.”

Mr Stanley agrees with the TFA’s suggestion that tenant farmers who are not new entrants still need support, especially with many county’s farms estates being sold off and land parcels tending to go to large-scale neighbouring farmers.

“I’m very grateful for Dorset, the estate is very well-managed and it’s been fantastic for us,” he said. “I don’t know how we would’ve farmed without it.”

Case study 3: Moved from a starter unit to a promotion unit

Luke Trowbridge worked on his parents’ farm before moving to a 35ha starter unit on Dorset Council’s estate on a 10-year farm business tenancy.

When looking to move on from this farm, Mr Trowbridge, who grew up in Dorset, looked at various options, from contract farming to private tenancies to council farms, from Cornwall to Cheshire.

Farm facts

Farm name: Provost Farm

Location: Stour Provost, north Dorset

Unit type: Promotion holding

Tenancy length: 20 years

Started: 2010

Size: 81ha

Enterprise: Dairy

Stock: 340 Holstein Friesians and crossbreds

“Our intention was always to take the best opportunity that came up and we had an open dialogue with the council about what we were doing and they provided references when we applied for other farms,” said Mr Trowbridge, 41.

“We ended up just moving 10 miles down the road onto another Dorset Council holding and the system worked well for us.”

Having lived at Provost Farm for nine years, Mr Trowbridge believes short-term tenancies are risky for farmers, landlords and banks as repaying loans becomes more difficult.

Dorset’s system works well because tenants can go into a smaller holding, which requires less capital, grow their business and then move onto a larger unit when they’re ready, he said.

“It can be difficult to move from a farm when there aren’t many options but this way people aren’t holding onto land and clogging up the system,” Mr Trowbridge said.

“A lot comes down to the relationship between the council and the tenant, to work it needs to be one where everyone’s doing their best and playing their part.”

JOURNAL : Farmers Weekly

The UK's native livestock breeds could be set for a resurgence. Farmers Weekly met Rare Breeds Survival Trust (RBST) chief executive Christopher Price to find out how.

Read the Q&A with Mr Price and find out more about farm policy on rare breeds and why one farmer runs Traditional Herefords rather than the modern breed.

Rare breeds are often associated with enthusiasts or smallholders – what do they have to offer modern livestock farmers?

Anyone who cares about the countryside or the future of UK ***agriculture*** owes a huge debt to those enthusiasts and smallholders who stuck with our native breeds.

As a result of their dedication and tenacity nothing has become extinct since the early 1970s and so we still have these wonderful animals available to us.

This could be particularly significant in the years to come what with the increased threats from climate change and new diseases. The genetic diversity retained in our native breeds will provide some of the tools to meet these challenges.

See also: Rare breeds are ‘public good’ says former minister

Do rare breeds really have anything to offer larger production systems – or will it always be a niche sector?

There are clearly going to be challenges, after Brexit and the withdrawal of the basic payment, for farmers wanting to continue trading competitively on global commodity markets – particularly if meeting UK standards.

When the increasing concerns about meat consumption are factored in too, livestock production could look very different in just a few years’ time. That's where we see an increasing role for native livestock breeds.

For many farmers, the future is going to be in lower input, lower volume, high value produce – particularly if it has a good story to tell. Native breeds farmed in the right place, at the right density, have a big role to play here for sustainable UK ***agriculture***.

Defra minister George Eustice looks to reward farmers who keep native breeds (see box below). What form should this support take?

We expect working for native livestock to be more widely accepted as being commercially viable over the long term under a sustainable model.

The changes we are going to see in ***agriculture*** over the next few years should provide opportunities for native breed farmers, but government has a duty here to ensure that those farmers are ready for a more market-facing world.

That means investing in things such as skills training and infrastructure, abattoirs and the like.

Of course, some breeds will never have a significant economic use. But they still provide public benefits in terms of conservation grazing, biodiversity and enhancing the landscape.

They should be directly supported under the government's forthcoming environmental land management scheme.

What are your aims as RBST chief executive over the next five years?

It’s more about the breeds than the RBST itself. They may have been saved from extinction, thankfully we are beyond any immediate risk now.

The challenge going forward is about restoring them to where they should be – at the heart of UK ***agriculture***. That means working with industry to find markets to support native breeds where we can, and with government to support them where we cannot.

You've recently suggested that native breeds can encourage more sustainable farming. How so?

UK native livestock breeds are integral to a future for sustainable farming.

Their contribution to environmentally friendly food production, to habitat management, to landscape-scale restoration projects and the support of biodiversity, plus the resilience of the livestock sector to disease, are all things that need to be more widely recognised.

As always, marketing the end product will be important. Do you have any plans for an RBST food label?

The best way of raising RBST’s profile is by raising the profile of our native breeds. I don’t see another labelling initiative as the way forward though.

There are already too many of those. Instead we need to be ensuring that native breeds are at the centre of existing sustainable farming schemes.

There is a specific issue about the honesty of labelling. It should not be permissible to claim your produce is “pedigree native breed” when that breed only makes up a fraction of the actual product.

It misleads the consumer and does nothing to help the breed.

Showing or exhibiting rare breeds is popular too – but does maintaining a pedigree herd help or hinder their commercial viability?

We need to raise awareness of our native breeds among both producers and consumers, and showing them at the right events is an excellent way of doing so.

Prize winners may not always reflect commercial realities, but if we get a few more people thinking and talking about the breeds, that’s fine.

What single thing could policymakers do to improve prospects for rare breeds?

Keeping native breeds is becoming increasingly significant commercially and we need the infrastructure to reflect this.

In particular, abattoirs need to be able to cater for the special characteristics found in native breeds – the time they take to mature, the horns and thick coats.

Many producers make use of the offal or the hide as well as the meat, and so need to be able to recover it. In addition, many native breed producers operate on a small scale, keeping a variety of species and prizing high welfare standards.

A network consisting of a few large abattoirs processing a standardised single species cannot cope with this. The current model needs to change – and that won’t happen at sufficient speed without government encouragement.

Minister voices support for native breeds

Defra minister George Eustice believes rare native livestock breeds should receive special government support after the UK leaves the European Union.

In comments made before his reappointment as Defra minister by Boris Johnson this summer, Mr Eustice said UK native breeds were a public good, which should be supported post-Brexit by the government's ***Agriculture*** Bill.

He said: “The genetic resources contained within rare and native breeds gives our livestock industry the ability to adapt to new challenges around disease and to changing approaches in livestock husbandry.

Defra already supports genetic diversity in crops through projects such as the Millennium Seed Bank, said Mr Eustice. He added: “It is time for diversity in farm animal genetics to be placed on the same footing and recognised and supported as a public good.”

Mr Eustice confirmed he had tabled two amendments to the Bill. The first changes makes specific mention of farmers managing livestock, as well as land and water. The second defines “natural heritage” as including biodiversity and genetic resources.

Taken together, the changes bring support for rare breeds and native breeds squarely within scope as a “public good” under the first clause of the ***Agriculture*** Bill.

Gene bank preserves rare cattle embryos

Cattle embryos from the UK's rare native cattle breeds – including the Irish Moiled, Albion and Native Aberdeen Angus – are being collected and stored in a gene bank.

The gene bank was created to ensure the right genetics remain available to recreate a breed in the event that it dies out. A full gene bank collection typically requires eight embryos at a combined cost of some £3,200.

The RBST is putting its fundraising efforts behind the programme under its Saving the Future Today campaign. Recreating a breed using embryos has enormous advantages over using stored semen, says field officer Richard Broad.

“Using artificial insemination from stored semen involves grading up over several generations before you arrive back as close as you can get to the original breed,” he explains.

“In contrast, by using embryos you can have pure-bred animals on the ground from the first generation. With sufficient embryos in store representing a diversity of bloodlines, this would give a project to recreate a breed a flying start and ensure its genetic integrity.”

Case study: Silcocks Farm

Kent farmer David Fenton has 110-115 Traditional Hereford breeding females in his Boresisle herd, at Silcocks Farm, near Tenterden.

“We've been keeping Traditional Herefords for about 30 years,” he told Farmers Weekly. “They thrive on very ordinary pasture – not requiring any inputs or anything of that sort – and they are hardy, easy-to-handle, good at calving and have good mothering ability.”

Suitable for outwintering, Traditional Herefords also produce a good carcass with high-quality meat without any additional feeding.

All but six males are reared as steers and slaughtered at two years, with meat sold through Silcocks Farm Shop.

“A modern Hereford wouldn't be suitable for us – it is made for a different purpose ,” says Mr Fenton. “They are too big to be a grazing animal for our sort of farm. Our cows average about 500-600kg, whereas a modern Hereford is about 800kg.

“An animal that size needs more maintenance, causes more damage to the land and the steers need more fattening. There are benefits and they have their place, of course, but it's not the sort of system for us.”

JOURNAL : Farmers Weekly

Analysts are suggesting cattle prices could lift through the autumn after a summer that beef producers will want to forget.

Values often fall sharply in the first half of the year due to less prime cut demand, according to the AHDB.

However, the 2016-18 period was stable because of strong manufacturing beef demand across the EU.

The levy board added that a 7% lift in Irish beef production, higher UK slaughter weights and lower retail and foodservice demand had pressured cattle values.

However, national figures show UK beef imports back 11% on the year for the second quarter of 2019. Exports are up 7%, with lower calf registrations in 2018 a potential driver of strong beef prices in late 2019 and 2020.

See also: Talks to end Irish beef crisis make progress

Sedgemoor

Auctioneer Robert Venner of Greenslade Taylor Hunt told Farmers Weekly that prime cattle values were looking "settled" and had found a level.

He said the market was pricing cattle below cost of production and called on retailers to market beef as a nutritious protein source to stimulate demand.

Last week’s trade (19 August) saw 57 prime cattle meet a similar trade to recent weeks, with steers averaging 169.7p/kg and heifers averaging 162.6p/kg.

This is sharply back on the year, when both classes of livestock were selling for 180-190p/kg.

However, he said store sales have been resilient and throughputs have been 50% higher than a year ago, with 716 head sold on 17 August and 605 sold on 24 August.

“Breeding stock are selling well too,” he added. “A good second calver with a tidy calf will probably make £1,200, so there is still confidence in the sector.”

Selby

Cattle trade has picked up ever so slightly in the past couple of weeks for fat cattle auctioneer Richard Haigh at Selby.

In-spec heifers and bulls are dearer, with the better continental bulls often making 210-220p/kg.

However, he said trade remained 10p/kg back on the year for bulls and 6-10p/kg back on the year for heifers overall.

Mr Haigh said heifers at 480-580kg were making 225-235p/kg, with the best over 250p/kg.

“It feels that the market has bottomed – touch wood,” said Mr Haigh. “Normality will soon be resuming with holiday season over and children going back to school, which usually helps demand.”

He said a slight influx of cattle at the market had been seen when processors dropped prices, but this ended six to eight weeks ago.

JOURNAL : Farmers Weekly

Whether it’s a legal, tax, insurance, management or land issue, Farmers Weekly’s experts can help.

Here, Nicola Palfrey of Carter Jonas advises on the prospects for making use of permitted development rights which allow certain farm buildings to be converted to residential use.

Q. I am planning to retire from dairy farming as I have no successors.

I would like to achieve the best value for my farm and therefore I wonder if my 90’x45’ (27.4m x 13.7m) cubicle shed which the cows are currently occupying will comply with the Class Q rights to convert farm buildings to residential use.

It is steel portal framed with part concrete block and part timber clad walls beneath a fibre cement roof and concrete floor, with some large openings for getting the tractors in to scrape out.

A. Having made the decision to retire, the next step is planning for the future to ensure your property is in the best position for a profitable sale.

The government extended the perimeters of the Class Q rights last year and the rules are increasingly being used by landowners to convert barns to residential use.

Your building totals approximately 4,050 sq ft (376 sq m), which falls within the size parameters under the rights. It has the potential for conversion into one residential building, at 376 sq m, or four dwellings, none exceeding 100 sq m.

See also: Business Clinic - advice on rhi and planning permission

Before proceeding, check that Article 2 designations concerning protected land do not apply to your farm. If any of the curtilage falls within a protected area this will make the building ineligible for Class Q.

There is a long list of such designations, including Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest and World Heritage Sites.

Additionally, your ***agricultural*** permitted development rights must have not been used since 20 March 2013.

There must be suitable and safe access to the building from the highway and the building must not be in a flood risk zone or have any previous contamination issues.

If the farming operation is to cease, issues concerning noise impacts and general environmental health may not be a problem, but any close buildings are likely to require a non-livestock use to ensure they do not cause a nuisance to the dwelling occupiers.

From your description, your barn sounds fairly modern.

Following the High Court judgement of Hibbitt & Anr v Secretary of State for Communities and Local Government & Anr, some modern structures have fallen foul of the rules, with applications being refused because the proposal involves extensive rebuilding and goes beyond what could reasonably be described as conversion.

However, our team has recently obtained approval on a modern ***agricultural*** barn in Sedgemoor District Council, which has many similarities to your building.

In the Sedgemoor case, the barn – also a former cubicle shed – was steel portal framed with a concrete floor, part concrete block walls with timber cladding above and a pitched corrugated roof.

The proposal retained all structural aspects of the frame, roof and part concrete block walls, but would replace the timber cladding and install windows and doors.

The timber cladding was allowed to be removed and replaced because it did not form part of the structure of the barn and instead provided weather screen cladding.

The proposal also included demolition of a bay to reduce the size of the overall barn to ensure it complied with the size restrictions of the legislation. The application was supported by a structural appraisal report to prove the building was capable of conversion.

As always, the devil is in the detail, but on the face of it, it looks like there’s the potential for a successful application.

For the next step I would arrange for a planning consultant to view the building to ensure it meets the necessary criteria and to assist in preparing an application for Class Q.

It may sound obvious, but a well-prepared application that specifically addresses all aspects of the legislation has a much higher chance of being given the green light.

Do you have a question for the panel?

Outline your legal, tax, finance, insurance or farm management question in no more than 350 words and Farmers Weekly will put it to a member of the panel. Please give as much information as possible.

Send your enquiry to Business Clinic, Farmers Weekly, RBI, Quadrant House, The Quadrant, Sutton, Surrey SM2 5AS.

You can also email your question to [*fwbusinessclinic@rbi.co.uk*](mailto:fwbusinessclinic@rbi.co.uk)

JOURNAL : Farmers Weekly

Whether it’s a legal, tax, insurance, management or land issue, Farmers Weekly’s experts can help. Here, Paul Topham of accountant Baldwins explains the ins and outs of tax on woodland.

Q. We have about 35 acres of woodland on our mixed farm and have not managed it much other than to clear fallen trees for our own firewood.

Now we would like to make more of it. Selling timber is an obvious option and I’ve heard that woodland has favourable tax treatment but don’t know the detail.

Can you advise how we should go about this, what the tax considerations are and any pitfalls?

A. Making the most out of your woodland could be a great form of diversification and help to manage a post-Brexit future.

With the demand for timber being strong, prices have been increasing for several years and are currently at an all-time high.

It could provide you with a sustainable income stream to help supplement your farm income.

Tax considerations

Profit generated from the sale of unprocessed timber from the ownership of commercial woodlands is exempt from both income and corporation tax. However, this means that the costs associated with production and sale of the timber are not allowable expenses for tax purposes .

It’s important to identify the costs and income for the woodland separately to those of the farming operation, even though they are likely to be within the same business and set of accounts.

The sale of timber is a standard-rated (20%) supply for VAT unless sold as firewood (in which case it’s 5%).

Forestry and commercial woodland would qualify for rollover relief from Capital Gains Tax (CGT). This would allow a capital gain on the sale of a qualifying business asset to be deferred into the purchase of commercial woodland, making it very attractive to investors should you wish to sell in future.

If you were to sell a commercial woodland, the proportion of the value relating to the growing crop of timber would be free of CGT. However any increase in the value of the land would be subject to CGT, although capital costs incurred since acquisition of the woodland such as those for fencing, gates, roads or tracks and legal expenses could be offset.

Commercial woodland qualifies for up to 100% Business Property Relief (BPR) once held for two years, reducing Inheritance Tax (IHT) payable on death.

See also: Business Clinic: Rollover relief from Capital Gains Tax

Pitfalls

It is important to demonstrate that the woodland has been ‘commercially occupied’ to qualify. How this is achieved depends on the circumstances, including the extent of the woodland and types of trees, for example, showing it has been managed with a view to a profit could include active management such as planting, thinning and felling, as well as grant applications and advice from a recognised forestry professional.

Income from short rotation coppice (harvested within 10 years) is classed by HMRC as income from farming rather than commercial woodlands.

Profit generated from growing Christmas trees is included in farming income and so is taxable, but any associated costs could be deducted for tax purposes.

It is important to get the ownership structure right – there are many options and it is worth spending time with both legal and tax advisers on this and the other aspects mentioned above.

Other uses of the land should not be ignored before deciding whether to manage the woodland commercially. For example, the woodland may provide valuable shelter for livestock, and opportunities such as letting the land for paintballing may generate more, albeit taxable, income.

Do you have a question for the panel?

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JOURNAL : Farmers Weekly

Freedom of movement for European citizens entering the UK will end on 31 October under a no-deal Brexit, leaving the ***agriculture*** and horticulture industries questioning how they will get access to seasonal workers.

A blog published on the Home Office website says that arrangements for people coming to the UK for longer periods of time and for work and study “will change”.

EU nationals will still be able to come to the UK for a holiday and for short trips, but the government says plans for a new immigration system are “being developed”.

See also: 10-point plan for attracting the best farmworkers

Prime minister Boris Johnson has indicated that he wants to introduce an Australian-style points-based immigration system, which would allow the UK to welcome people to the country on a visa system, based on meeting set criteria.

The NFU says it is “incredibly concerned” about the effect the policy could have on the farming and horticulture industries, which rely on 70,000 to 80,000 seasonal workers – many of them EU nationals – to help harvest crops.

Joint letter

A joint letter from farming unions, including the NFU and NFU Scotland, has been sent to home secretary Priti Patel to express the need for urgent clarity about how EU workers can come to the UK post-Brexit and reiterate to her the crucial role they play in delivering safe, traceable and affordable food to the British public.

The letter points out that EU nationals are required to fill a range of food and farming roles, including positions in abattoirs, processing, packaging and manufacturing – as well as delivering produce from field to fork.

The weak pound, a perception among some EU nationals that they are no longer welcome in the UK since the Brexit vote and a likelihood of a no deal have all affected the industry’s ability to source staff from the EU – both permanent and seasonal.

Pilot scheme

Defra has introduced a seasonal ***agricultural*** workers’ scheme pilot for 2019 and 2020, which allows two pilot operators to source up to 2,500 workers from outside the EU for up to six months.

But unless the scheme is vastly expanded, staff shortages will arise.

NFU deputy president Guy Smith said: “With no current alternative arrangements being communicated by government, a critical supply of people for British food and farming will be cut off overnight and our members feel it leaves an irresponsible gap in government policy.

"Farmers and growers are alarmed by this decision and it has left them with no clarity about whether they will have access to workers from the EU after 31 October.”

JOURNAL : Farmers Weekly

Farmer-owned dairy co-operative First Milk increased turnover and operating profits in the year ending 31 March 2019, growing sales of both liquid milk and cheese.

The co-op saw group turnover rise from £252.7m in 2018 to £272.3m in 2019, with operating profit (before exceptional items) jumping from £6.6m to £7.2m.

However, net profits were down from £3.2m in 2018 to £2.7m in 2019, with the business incurring exceptional costs of £2.2m, some of which relate to the end of its old haulage contract and the potential sale of its Scottish creameries.

See also: First Milk announces Arran creamery closure

It admitted its plan to sell off the creameries at Campbeltown and Arran, because they were too niche for its new streamlined operation, had not proceeded 'as anticipated’ and it was currently working to bring this process to a conclusion.

Earlier this month, it announced the closure of the Arran site and said operations at Campbeltown would be scaled back while negotiations over a potential farmer buyout continue.

In its annual report, the business said its financial performance was in line with budget expectations and it was in a good place to move forward and grow.

It is the third year in a row that First Milk has posted positive financial results and follows a massive shake-up of the business which suffered a pre-tax loss of nearly £25m in 2015.

First milk results at a glance

Group turnover up 7.8% to £272.3m (2018: £252.7m)

Operating profit for the year stable at 2.6% of turnover

Net profits down from £3.2m to £2.7m

Net debt down by £3.8m year-on-year

Net assets up by £4.4m year-on-year

Relative milk price continuing to improve

Over the past 12 months, the co-op has reduced its bank borrowings by £3.8m year-on-year and invested £4.4m across its sites to increase operating capacity and reduce costs.

It had also delivered improved returns to its farmer members by improving its relative milk price.

This is measured by its milk price index, which tracks its milk price against its competitors on a 12-month basis.

‘Stable financial performance’

Shelagh Hancock, First Milk chief executive, said: “Over the last 12 months we have been focused on further strengthening and developing the business, with stable financial performance, efficient manufacturing, strengthened commercial relationships and, crucially, improved returns to members.

“With a strong platform in place, we are committed to maximising the value we return to our members.”

Ms Hancock said the future success of the business would come from building demand, growing capacity and securing supply – in that order.

Growth in sales

Over the past 12 months the co-op has grown the cheese volumes it supplies to Ornua, an Irish agri-food business that is the largest buyer of British cheese in the UK.

It has also grown its international cheese sales and now exports to more than 21 countries, including Saudi Arabia, Turkey, Jordan, Australia and Taiwan.

The business has also taken steps to maximise returns from whey by forming strategic partnerships that allow it to tap into rising global demand for whey concentrate.

On the liquid milk side of the business, First Milk remains Nestlé’s single largest UK supplier and it has also been recruiting farmers in the Somerset area to supply Yeo Valley with conventional milk for their own-label manufacturing.

JOURNAL : Farmers Weekly

A gang of Irish conmen are facing long jail sentences after they admitted swindling farmers in Devon, Cornwall and Wales out of hundreds of thousands of pounds.

One member of the gang has already been jailed for fleecing two brothers who run a sheep farm in Wales out of £37,000, and three others await sentencing.

They include 57-year-old gang leader Dennis McGinley, who has been jailed before for fraud, and has now admitted to further conspiracies totalling more than £500,000, involving multiple victims.

See also: ‘Terrified’ farmer feared for life in £200,000 blackmail plot

His sentence has been adjourned pending a fact-finding hearing in January, in which some of the victims will give evidence.

The only member of the gang to be sentenced so far is Jimmy Connors, 44, of Pentregal, Llandyssul, Carmarthenshire, who admitted two counts of conspiracy to defraud the two brothers and another man in Wales.

He was jailed for 20 months by Judge Peter Johnson at Exeter Crown Court on Wednesday (21 August).

He had run a legitimate business importing machinery from Ireland and selling to farms in west Wales. He used his contacts to target the two brothers and a retired farmer in a scam which the judge branded as “thoroughly dishonest”.

The scam

In November last year he told his victims that a lorry containing a new quad bike and other kit had been impounded on its way from Ireland by customs at Pembroke Docks for supposedly running on red diesel.

He told them he needed cash to get it released and then got friends to con them out of even more money by saying he had been arrested and needed to be bailed.

Brothers Peter and Stephen Weeks, who run a sheep farm at Boncath, west Wales, were left with almost no savings and struggling to buy fertiliser and other essential supplies after handing over £37,000.

Retired farmer Spencer Edwards was also swindled out of £4,000 by the same scam, but asked for advice from his bank when the gang asked for more money, resulting in the police being alerted.

After he was arrested at the ferry port of Heysham, Lancashire, Mr Connors told police he needed the money to pay for his sister's wedding back in Ireland.

Other conspiracies

At the subsequent court hearing in Exeter this week, his cousin, Luke Connors, 30, of County Wexford; John Maughan, 56; and Dennis McGinley, 57, all admitted to other conspiracies to defraud.

The judge told Mr Connors: “Peter and Stephen Weeks had done business with you and your parents for 30 years and trusted you as a friend. They have a modest sheep farm which was viable and they were keeping their heads above water.

“You were an essential part of the conspiracy because you were trusted by them and were able to get your foot in the door and spin the yarn about the lorry.

“You knew this was a thoroughly dishonest enterprise from the outset.”

The other members of the gang went on to target others in Devon and Cornwall, who paid much larger sums. They will be sentenced in January next year.

JOURNAL : Farmers Weekly

A Dorset sheep farmer has told of the emotional toll of being targeted by a militant vegan activist who branded him and his wife “murderers” and “animal abusers”.

Poole Magistrates’ Court heard that animal rights activist Emma Christoforakis carried out a series of harassment incidents against Wimborne farmer John Wood between February and October 2018.

Mrs Christoforakis was sentenced in court on Friday 23 August having been previously found guilty of harassment without violence, contrary to the Protection From Harassment Act 1997.

She had denied any wrong-doing.

See also: How to deal with animal activists and difficult neighbours

Magistrates handed Mrs Christoforakis a two-year restraining order and ordered her not to contact John or Karen Wood, either directly or indirectly, including via social media.

She must also not go within 200 yards of the Woods’ farm.

The mother-of-three, 37, was given an 18-month conditional discharge and was told by presiding magistrate Caroline Foster to expect a more severe penalty if she harassed Mr and Mrs Wood again.

She also ordered her to pay John Wood £400 compensation, court costs of £620 and a victim surcharge of £20.

Home visit

Richard Oakley, prosecuting, detailed the Crown’s case against Mrs Christoforakis.

He said she had turned up uninvited at Mr Wood’s home while he was not present, “holding her phone up, apparently recording” as she approached the gate.

Mr Oakley said: “She [Mrs Christoforakis] said she wanted to ask him [Mr Wood] questions about abuse on Facebook.

Facebook group prompted vegan backlash

Farmer John Wood went to Bournemouth in March 2018 to promote his “Meat & Greet British Farming” Facebook group, which he had started to help educate the public about British farming.

He said he created the group to dispel lies being told by animal rights activists.

While he was promoting livestock farming in Bournemouth Square, he said Emma Christoforakis and her colleagues approached him as part of a group and took issue with him.

“From there, they took our photos from our Facebook page and put them on every vegan website going, including in the US.

"We were branded ‘murderers’, ‘animal abusers’ and even worse. We had dozens of calls and no end of threats, including threats to kill.”

Red Tractor-assured beef and sheep farmer Mr Wood said neither he nor anyone in his business had never breached any animal welfare rules.

"Mrs Wood told the children to go inside and was not happy with the defendant being on private property.

“The defendant then shouted: ‘How many sheep die? ‘What’s your mortality rate?’. Mrs Wood then walked away. She then shouted: ‘You are murderers’.”

On one occasion, Mrs Christoforakis attended a farming event in Bournemouth and was abusive to Mr Wood.

On another, she turned up at a livestock market and asked the organisers if they had ever dealt with him.

in August 2018, Mrs Christoforakis made a Facebook post with Mr and Mrs Wood’s profile picture, calling them “animal abusers”.

In October, she posted a video of sheep being sheared, as part of an animal rights campaign, and commented: “‘We know first-hand how vile sheep farmers are, don’t we? One in Wimborne too’.”

In March, Mr Wood cancelled a lambing open day on police advice for fear of Mrs Christoforakis organising a demonstration.

The event, which is held every year and attracts 2,000 people, raises money for charities including Macmillan Cancer Research.

'My life has changed'

A victim impact statement from Mr Wood was read out in court.

He said Mrs Christoforakis was an active member of the Animal Liberation Front.

“My day-to-day life has changed,” he said.

“I no longer go to Bournemouth because I don’t want the confrontation.

"I don’t go into Blandford for fear of running into her.

“I have had many sleepless nights. I find myself worrying we will be broken into.

"She has recently been involved in the liberation of farm animals, which is a concern because I am worried we are going to have some lambs stolen.”

Patricia Sheahan, defending, said her client “felt strongly that she had a case to put [forward]” in the trial and she asked magistrates to take this into account when considering costs.

Vegans visited farm to ‘put an end to bullying’

Emma Christoforakis told Farmers Weekly that she decided to visit John Wood’s farm because she wanted to put a stop to online bullying.

She accused farmers of bullying her on his Facebook group, Meat & Greet British Farming, and said this had to end.

“We are vegans, he’s a farmer. We are never going to get on.

"But we have to draw a line under the social media bullying,” she said.

“They called me all the names under the sun.

"They called me an ugly, anorexic b\*\*\*h, a nutjob. It got so nasty that I just wanted to go tell him that had to stop.”

Mrs Christoforakis said she would not contact Mr Wood again but would continue campaigning against livestock farming.

“It’s 2019. We don’t need to be eating animals, do we? We’re not cavemen.”

JOURNAL : Farmers Weekly

Eleven people have been charged with trespass after animal rights activists raided an abattoir in Kent.

The raid took place at Forge Farm Meats in Southborough, near Tunbridge Wells, in the early hours of Tuesday (27 August).

Activists chained themselves to machinery inside the building at the slaughterhouse, and said they would stay there until the animals were freed.

See also: How to deal with animal activists and difficult neighbours

A Forge Farm Meats spokesperson said the protesters were on the site until 6pm on Tuesday, and police officers had told them it had wasted valuable resource.

The spokesperson defended the abattoir’s record on animal welfare, saying: “We are satisfied that these animals are treated with the utmost respect until they die.

“We have 16 CCTV cameras here on every single pen. We are making sure the animals are fed, watered and happy.”

In a statement, Kent Police said: “Eleven people have been charged with trespass offences after Kent Police was called to a protest at a business premises in Powder Mill Lane, Tunbridge Wells, at around 3.35am on Tuesday 27 August 2019.

“Following enquiries, the following people have been charged with aggravated trespass:

Charlotte Helliker, 32, of no fixed address

Cassie Simons, 27, of no fixed address

River Braithwaite, 18, of no fixed address

Zoe Sim, 23, of no fixed address

Samantha Henttonen, 24, of no fixed address

Dylan Roffey, 24, of no fixed address

Claire Matwiy, 34, of White Wood Road, Sandwich

Jordan McCusker, 25, of no fixed address

Edith Sizer, 18, of no fixed address

Ciaran Brady, 31, of Firs Close, Wokingham, Berkshire

“In addition to these charges, Andreu Navarro-Lopez, 25, of no fixed address, has been charged with aiding and abetting aggravated trespass.”

All have been bailed to attend Sevenoaks Magistrates’ Court on Tuesday 8 October, 2019.

Original story below:

Five women and a man have been arrested after animal rights activists stormed an abattoir in Kent.

Up to 15 campaigners raided Forge Farm Meats in Southborough, near Tunbridge Wells, in the early hours of Tuesday (27 August).

The group, called SMASH Speciesism, chained themselves to machinery inside the building at the slaughterhouse, with the intention of staying there until the animals were freed.

See also: How to deal with animal activists and difficult neighbours

The group said it would be willing to abandon the blockade if all animals due to be killed at the abattoir were transported to an animal sanctuary “to live out their lives in freedom”.

Activists let off pink smoke bombs outside the building, erected a banner saying #shutdown speciesism and moved sheep into a holding pen.

The group later released a video of the protest and they warned that the protest was the first of many actions it would be willing to take to bring down livestock farming.

‘Waste of police resource’

A Forge Farm Meats spokesperson said the protesters were on the site until 6pm on Tuesday and police officers had told them it had wasted valuable resource.

“We had 25 police officers and 15 vans and cars here. It has wasted a month’s resource.

"How is that good for the community when we are trying to stop stabbings on our streets?” he said.

The spokesperson defended the abattoir’s record on animal welfare, saying: “We are satisfied that these animals are treated with the utmost respect until they die.

“We have 16 CCTV cameras here on every single pen.

"We are making sure the animals are fed, watered and happy.”

Aggravated trespass

A spokesman for Kent Police said five women were arrested for aggravated trespass and a man was held on suspicion of aiding and abetting them.

The spokesman added: “Kent Police was called at 3.35am on Tuesday 27 August to reports of a protest at the premises in Powder Mill Lane and officers attended to speak to those involved.

“The women and man remain in police custody while enquiries continue at the scene.”

JOURNAL : Farmers Weekly

A fire in a pig unit can have devastating consequences, often spreading quickly and destroying the piggery operation.

Following a recent spate of farm fires in Ireland, some pig producers are finding premiums have increased substantially and older or poorly-managed buildings are excluded from cover.

And it seems likely that UK producers could find themselves in a similar situation.

Below, Ciaran Roche, risk manager at FBD Insurance – which works with farmers to reduce their risks – highlights how producers can improve fire safety and stay up to date with insurance requirements.

Upgrade your ***ceiling*** insulation

When there’s a fire, it’s generally not small and results in considerable losses.

A recent incident saw a farm lose its entire 40x70m sow house in less than 20 minutes, after the ventilation system in the ***ceiling*** overheated.

Because of the material used in the roof, the fire spread very fast, killing more than 1,000 sows – the claim cost was in the millions of euros.

See also: How a pig farmer has overcome salmonella infection in weaner piglets

It is therefore vital to consider the fire risk and materials used in the building construction at the design stage.

Consider upgrading ***ceiling*** insulation to save costs and improve fire safety.

Prevent electrical fires

A fire needs three things: heat, oxygen and fuel.

Oxygen is ever present, but producers can control heat sources and the flammability of their buildings and contents.

Most risks relate to electrical equipment, so make sure electrical installations are inspected, tested and certified at least every three years.

Don’t install electrics next to combustible material, change lights to LEDs, and hang them from the ***ceiling*** rather than in or on it to prevent heating.

Beware of heat hazards

Heating systems are another source of fire – electric heat pads, lamps and elements all carry a risk.

Good maintenance is really important.

Or you can opt for indirect heating systems with a central heating system, where the boiler is located in a detached boiler house.

Numerous fires have occurred due to a heat lamp falling on paper shredding and this risk can exacerbated by the presence of plastic slats.

Where farrowing houses have plastic slats, don’t use paper shredding under heat lamps.

Where heat lamps are used, ensure that they are securely held in place with a protective mesh guard under the bulb.

Maintain ventilation systems

Ventilation systems should be maintained in good condition and serviced at least annually.

This will help prevent a system failure and reduce the likelihood of a suffocation or fire.

Choose fire-resistant materials in buildings

Having tackled potential fire triggers, producers should then look at addressing the fuel: the building structure and contents.

Although many farm buildings are exempt from regulation under English law, Irish building regulations stipulate that internal insulation linings should have a minimum fire classification of C s3 d2 (see below).

How to understand fire ratings

Building materials are classified from A (non-combustible) to F (easily flammable). In the Netherlands, all intensive pig and poultry units must meet the B rating.

Smoke production is rated from s1 (no or very little smoke generation) to s3 (heavy smoke generation) in the first 10 minutes of exposure.

A burning droplets rating measures the release of flaming particles in the first 10 minutes of exposure, ranging from d0 (none) to d2 (quite a lot).

And regardless of legislation, it’s sensible, when building or refurbishing buildings, to choose the highest-rated products available to minimise the spread of any fire.

For example, choose concrete over wood, and high-spec insulation rather than cheaper plastics.

Insulation has a limited lifespan so farmers will have to renovate buildings.

The roof and ***ceilings*** are often where things fall down.

Consider where you site your building

Often piggeries have lots of buildings very close together, so a fire can quickly spread from one to another.

Look at spreading the gaps between them.

It’s also worth compartmentalising buildings internally, by putting in concrete walls to prevent fire spreading, and installing water sources with easy connection for fire services, should a fire break out.

Often farmers keep all their sows in one large farrowing house, and if that goes up, they lose all of their breeding stock.

The business interruption from that can be huge, so consider spreading the risk with several farrowing houses or by having fire breaks within them.

Consider the costs

The benefits of reducing the fire risk are tangible. Not only is the farm less likely to suffer a fire, but the insurance premiums will also reflect the risk level.

The insurance offered depends on the type of farm and construction. In some very high-risk situations, it’s not appropriate to offer insurance cover at all, whereas the lower the risk, the lower the premium.

Case study

Conor O’Brien, who keeps 2,000 sows and finishes 50,000 pigs a year at Killee Farm, Mitchelstown, County Cork, has a regular programme of reinvestment to keep his facilities up to date.

And for his most recent investment – refurbishing a fattening house – he has chosen to upgrade to the most fire-resistant products and design possible.

“Our insurer is very anxious that the best current materials are used in the housing, so for me it’s the fire rating and efficiency that’s important,” he says.

Below, Mr O’Brien explains what steps he has taken to reduce risk:

Lights The old fluorescent lights were inefficient and a greater hazard, so he changed them to LEDs and mounted all lights at least 12in away from the ***ceiling***. Electric controllers have a stainless-steel surround to prevent fire spreading should they malfunction.

Flooring He installed a steel floor as infrared heat lamps over plastic floors are a greater fire threat.

Heating system As the farm is only 7km away from a natural gas system, he had a connecting pipe laid and now uses a gas boiler to heat water, which is pumped through radiators below the sow stalls. He has installed flat heat pads in the 500 farrowing places with temperature sensors, so he can reduce the temperature as the piglets get older.

Fire breaks He has installed concrete fire breaks to contain any fire, and in the fattening unit he has replaced the ***ceilings*** with Recticel’s highest fire-rated insulated panels. He has used 60x220ft individual panels so that, in the event of a fire, the whole ***ceiling*** should not be lost if properly fitted. The insulation boards also fit below the purlins and come with an aluminium coating for easy wash down.

Farm facts

4ha site

25,000 pigs on site at any one time

2,000 sows

Selling 27 piglets a sow

20 full-time and part-time workers

JOURNAL : Farmers Weekly

There is a bit of concern rumbling around the pig industry this month ahead of a debate in September on the 'End the cage age' petition, disseminated by NGOs (non-governmental organisations), calling for Defra to ban farrowing crates.

The UK pig sector has recently made great gains in the research and development of alternatives to crates and is supportive of farmers wishing to move in this direction. However, a unilateral ban is not the right way to go.

Freedom farrowing crates vary. Some allow the sow to move freely at all times, others have a moveable restraint to limit sow movement for a few days after farrowing.

Farrowing crates serve an important role in the protection of both the piglet and the stockperson after birth. I, like many others, would be very interested in installing an alternative system and have visited a few farms to see how they work.

See also: How freedom farrowing pens match crates on performance

If an alternative system provides satisfactory protection, then the sticking point is cost, I’m afraid. Despite calls from NGOs and the public to ban conventional crates, there is no market demand or government support for freedom farrowing systems.

The costly switch is unlikely to bring a return on investment, so it’s very difficult to justify to ourselves, let alone the bank manager.

A unilateral ban would be sure to make UK pig farming uncompetitive, forcing farmers out of business and resulting in the UK importing pork from nations with inferior welfare standards.

We saw this when sow stalls were unilaterally banned in 1999 and half the sow herd was lost. Government support and market demand for alternative systems are needed to encourage a switch to alternative systems while also protecting the UK pig sector.

On the farm we’ve had another pleasing batch go through the finishing buildings, with 815 bacon pigs killing out at 82kg at 150 days old, putting on 827g/day since weaning.

Speaking to other producers though, it is very apparent that we are sending to slaughter quite light, limited by our finishing space. IPPC (integrated pollution prevention and control) restrictions meant that I temporarily parked plans for new buildings, but I think it might be time to revisit this and think outside the box a little.

Sophie Hope is a Farmer Focus writer from near Cheltenham. Read her biography

JOURNAL : Farmers Weekly

Harvest is proving to be very stop-start. It started very well, but unreliable weather reports and very localised heavy showers whenever the wheat is almost dry have slowed progress.

While it is frustrating, hopefully by the time you read this the bulk of it will have been completed.

Unfortunately, harvest hasn’t been without its mechanical issues either, with a fairly major breakdown at 5pm on a Friday evening, 10 minutes into the first field of wheat.

See also: Potato contractor finds the best tractor for flailing success

It was probably my own fault for tempting fate and starting then.

Big thanks has to go to Tom and Richard from P Tuckwells for getting us up and running again within 48 hours.

On a positive note, where as I normally wish the horrible wet, heavy clay patch in the field wasn’t there, this year I have been wishing the whole field was like it.

Yield maps mirror soil maps, with those difficult, heavy wet areas producing some very spot yields, with overall yields also good.

Reduced traffic

This harvest I have started trying to implement a semi-controlled farm traffic system.

Tramlines last year were all marked out with the RTK on the sprayer at 36m and will stay in the same place permanently.

Harvest traffic has been kept to these as much as possible, the combine has been run at 7.2m to fit into 36m and trailers loaded facing the gate, or on the headland.

In the long term I hope to move to a 9/36m system, but in the short term I’m very pleased with the positives already evident from simply managing the traffic, sharing A-B lines and making things fit as best they can.

Interestingly, despite the cabbage stem flea beetle pressure on oilseed rape, we have contract drilled just as much, if not more than in the past couple of years, with a roughly 50/50 split between the John Deere 750a and the Dale drill.

Personally, I have also gambled and drilled some, choosing the Dale option with diammonium phosphate (DAP) fertiliser placed with the drill, and berseem clover, phacelia and buckwheat in the mix with Campus oilseed rape.

I’m obviously hoping the OSR is successful, but if not it should be a reasonable cover crop ahead of late winter beans, or a spring crop.

Matt Redman operates a contracting business specialising in spraying, Avadex application and direct drilling in Bedfordshire. He also grows cereals on tenancy land and was 2014 Farm Sprayer Operator of the Year.

JOURNAL : Farmers Weekly

We were flying along with harvest, finishing the wheat about the earliest we ever have, and then the rain hit.

We’ve only manged a few hours in the past 10 days and it will be interesting to see how the spring barley has fared when it dries up.

So far yields are up, but proteins and malting nitrogens are down with us, and at our local co-op.

See also: Potato grower increases worm numbers with cover crops

There has been the odd day when we have managed to plant some pre-emptive oilseed rape companion crops plus cover crops.

Although earlier-planted OSR may get away from the flea beetle threat at cotyledon stage, it seems it may accumulate more larvae in the stems and, for us at least, subsequently yielded less than early September planted crops.

Weed strategy

We have also tried our straw rake replacement on the OSR stubble.

When we first started direct drilling, using a rake in this situation did help with residue distribution and slug reduction, and therefore wheat establishment.

However, it also redistributed grass weed seed, flints and sandstone.

We’re hoping the wavy discs we now have can do a similar job without the downsides.

Initial signs are good and they seem to be able to accurately work the whole width to 1-2cm.

It was confirmed to me at the excellent Groundswell show that any deeper than that and weed seed germination decreases, which seems to me like putting them in the fridge to keep for later.

I also heard that for weed control with cover crops, I really need to produce 4-5t DM/ha – too often I have only manged half of this.

This can stop the weeds seeds germinating, and the boosted beetle numbers can consume them at a rate of 1,150-4,000/sq m per day!

Apparently different beetles eat different seeds, so we plan to breed some partial to a bit of blackgrass.

Andy Barr farms 700ha in a family partnership in Kent. See his biography.

JOURNAL : Farmers Weekly

We spend our winter here at Valetta shifting break fences for sheep on winter feed crops of kale, swedes and oats.

Currently we have 14 to shift every morning, so it would be fair to say that by late August we are looking forward to taking the leggings and gumboots off and getting the tractors going on spring cultivation and planting.

We have had a kind winter, dry through June and July and a bit wet during August.

See also: Beet growers set to benefit from herbicide-tolerant varieties

Feed utilisation and growth rates have been very good, and our establishments of autumn crops look very well.

We have started on the first fertiliser dressing for spring with 250kg/ha of NPKS in the ratio 15-10-10-8 going on ryegrass seed crops, and 300kg/ha at 20-10-0-12 being applied to autumn sown feed wheat.

For our ryegrass production it is always a balancing act driving tiller development and health with nitrogen, potassium and sulphur, generating enough feed to see the lambs finished to weight without blowing the crop out, and not being able to control the vegetative growth.

Spring cultivations

We expect to soon be out sub-soiling grazed kale ground ready for cultivating with a ‘short-disc’ packer and rolls combo, ready for planting into milling wheat.

Where possible, all spring ground following winter feed we surface work rather than plough, to keep the nitrogen loading on the surface ready for the spring crop.

Spring barley, peas and hybrid oilseed rape for multiplication are another three weeks or so from planting.

We have a new Clydesdale that has been patiently waiting in the stables for the last month, so I’m eagerly looking forward to getting it into full harness on our 6m subsoiler to see what it can do.

Crop options for the spring look very good, with all fields allocated well ahead of time.

We are even entering a brave new world by signing up to grow 26ha of hemp for seed for planting in October, so it would seem we will be swapping overalls and toe-cap boots for a tie-dyed kaftan and a pair of roman sandals!

David Clark runs a 463ha fully irrigated mixed farm with his wife Jayne at Valetta, on the Canterbury Plains of New Zealand’s South Island. He grows 400ha of cereals, pulses, forage and vegetable seed crops, runs 1,000 Romney breeding ewes and finishes 8,000 lambs annually.

JOURNAL : Farmers Weekly

This year continues to baffle. The weather forecasters are being made a fool of by mother nature with plenty of non-forecast showers.

The arable farmers around us are starting to get a little anxious. We cannot complain as our fourth cuts are bulking up nicely and we have also been able to get our wheat stubbles worked and back into grass.

I am hoping to see a good yield improvement by building wheat into the rotation and not just going grass to grass. We shall see.

You will be pleased to know that the maize ground that we re-sowed with fast grass has come nicely and should give us a cut in September at some point.

We were concerned last week as to where we might put all of our forage – a relief compared with this time last year.

See also: 4 must-dos for transition cow management

We have had a bit of a funny run with the cows of late.

A result of feeding heavily in the winter has meant that we have had a few fat cows calving in, and with that we have had the usual host of issues including milk fevers, retained cleansings and unfortunately a couple of displaced abomasums.

We are being a bit more proactive in the dry cow period and have seen an improvement, so that is good. We have also seen repercussions from stopping feeding in the parlour.

It would appear taking away the parlour cake has contributed in part to two very random mid-lactation cows with milk fever.

I hadn’t accounted for the levels of calcium that this would then take out of the diet. We have now reviewed our mineral specification in the blend and hopefully that should be the end of it.

We have been doing a lot of work now on the diet to really optimise forage-inclusion rate and make the most of the three forages we now have available to us.

We have also included brewers’ grains, with the price now at a more justifiable level. The herd is continuing to freshen up so we hope that this will start to result in a steady rise in output.

Read more about Shropshire farmer Henry Wilson

JOURNAL : Farmers Weekly

If you have been reading my articles, or really any ag trade publication from the US lately, you know that beef is entering crisis mode.

This was exacerbated on 9 August by a large fire at a Tyson packing facility in Kansas, which slaughters 6,000 head per day.

Immediately, cattle futures locked limit down for three days and our already depressed market lost another 10% of value. The Chicago Mercantile Exchange can only trade a certain value before it is ‘locked’ to a limit in an excessive single day move.

This is a critical time because spring calves are heading to markets now. Obviously, a down market when hardly any animals are selling is a different beast to a down market with heavy volume.

See also: Irish farmers picket factories for fairer beef price

So the little guy in the country is slowly having the blood drained out of him, but what about the packers?

Not only did they immediately pull their bids from the market to completely to let it fall, but the story is that they immediately hyped the plant-burning to their wholesale grocer customers and raised the price of beef by nearly 10%.

They are making nearly $500 per head at the moment. We have faced a huge amount of market consolidation in the past two decades, so although there are some regional packers, four companies basically control the whole industry.

You’d think that it would be a huge problem losing the plant. It has issues obviously, but all they did was turn up their other plants and the net result is we are having daily kills that are nearly what they were a week ago.

People are saying it’s sanctioned collusion and price fixing at the expense of rural America.

I went to a livestock meeting yesterday (because despite this not being on the programme, everyone and their dog knew it would hijack all the talk) and it was interesting.

This bad market feels different to bad markets in the past. This time the greedy players overplayed their hand, it seems.

I’m not sure what will come of it but I hope it is profound.

Daniel Mushrush is a Farmer Focus writer from Kansas. Read his biography.

JOURNAL : Farmers Weekly

Farmers are being told to pay back hundreds of pounds that the Rural Payments Agency (RPA) accidentally overpaid after being sent invoices with an immediate due date.

Farmers Weekly reported last week that the RPA was in the process of contacting about 1,000 farmers who had received overpayments totalling £5m for their agri-environment agreements.

The RPA said it made payments to 15,000 farmers in July for Countryside and Environmental Stewardship scheme historic revenue claims, but then discovered it had paid out £5m in capital works for which payment was not due because of a “systems error”.

See also: Exclusive: Source reveals Defra farm payments fiasco

The agency said the issue would be addressed through “alterations to future CAP payments to ensure each customer receives the correct amount” and farmers could call or email the RPA for further advice or information.

However, a number of farmers have already been sent an invoice for the overpayment, which was sent with the same date as the payment due date.

No response from RPA

Rona Amiss farms beef and sheep at the most southerly point of Cornwall on a 97ha National Trust coastal holding surrounded by Sites of Special Scientific Interest.

A Higher Level Stewardship (HLS) agreement, which is due to end in 2022, was already in place when the Amiss family moved to the tenant farm in 2012.

The RPA sent an email on 9 August saying it had mistakenly included a capital claim of £900 that had already been paid and needed to be recovered.

The following week Mrs Amiss received an invoice dated 15 August with a payment due date of 15 August.

Though Mrs Amiss replied and suggested the money was taken off her next payment, she did not receive a response.

“We do HLS to make the farm profitable and it’s really important for small livestock farmers like us so we can farm how they want us to farm,” said Mrs Amiss.

“We do rely on subsidies because people aren’t paying the right amount for food and what we do get goes straight to the landlord.

“Years ago they worked with you and wanted you and your business to be successful, but now it’s so complex to apply for schemes and difficult to know what you’re owed.”

Mrs Amiss, who has diversified into a tearoom and farm shop, said a couple of years ago the farm had an inspection and though no problems were found the RPA failed to process this and withheld the payment.

When questioned, the RPA paid out immediately, and it’s in this rush that the overpayment may have occurred, she says. The changes to how and when payments were made to farmers made it difficult to know what was due.

“It doesn’t seem to be about supporting farmers any more and it’s really frustrating,” she said. “Some farmers must be facing much higher repayments than me to account for the £5m total overpayment.

“I don’t have much confidence for a new regime and I do wonder if we’ll receive our payments in December.”

Scam fears

Organic beef and sheep farmers Martin and Pauhla Whitaker from Gloucestershire have also been contacted by the RPA and have been told to repay £1,500.

First fearing the email stating a bill was on the way was a scam, the Whitakers phoned the RPA to clarify and were told there had been a significant overpayment because the agency was pushing to not have too many overdue payments.

“The letter arrived dated 15 August with the invoice due for payment on 15 August,” said Mrs Whitaker.

“I think the email gave us until the end of last week to pay. We put a cheque in the post and they cashed it straight away.”

The couple’s farm is in the HLS scheme and the RPA stated the overpayment was for a capital claim.

“The email gives the impression that they’re leaving the door open for further claims for repayment in future, but it didn’t give an option for it to be recovered from future payments,” said Mrs Whitaker.

“I can’t wait to see how well they cope with the post-Brexit world if they still haven’t got the current system sorted after all these years.”

Bitter irony

NFU deputy president Guy Smith has asked the RPA to apply a soft approach to recovering this money from farmers who have been overpaid by no fault of their own, to avoid stress at an already turbulent time for farming as the Brexit deadline approaches.

He said: “Many farmers will rightly be struck by the glaring unfairness and bitter irony of being asked to pay money to the RPA in double-quick time having had to wait months, if not years, for money owed to them by the same organisation.”

An RPA spokesman said: “We have a variety of mechanisms in place to recover money which has been received as part of an overpayment.

“These include sending a dated invoice with the recovery letter giving customers sufficient time to make the repayment or offering the alternative of making alterations to future CAP payments, to ensure each customer receives the correct amount.

“It is standard practice in circumstances such as these for an immediate terms invoice to be issued which requests the amount be repaid as soon as possible.

“Customers have been given a contact number and email address should they need to speak with the RPA about their specific circumstance.

“The RPA will always seek to respond to all queries as soon as possible, but apologise for any delays experienced by customer.”

JOURNAL : Farmers Weekly

Farmers owed money by auctioneer Wright Marshall, which went into administration in late June, are unlikely to get even 5p in the pound.

Two farmers are owed £50,000 or more by the firm and a further 18 are owed between £3,000 and £31,000.

Among the 1,200-plus unsecured trade creditors who are owed a total of more than £1.6m, more than 260 amounts owing are listed against farm addresses.

Payout prospects

Their prospect of any payout depends on the administrators’ ability to recover a further £400,000 owed to Wright Marshall. It is likely to be another nine months before any payment is made.

The NFU said it had been contacted by about 60 members affected by the collapse of Wright Marshall through its CallFirst service. These were mainly in the North West but members in the West Midlands and Wales are also affected.

HMRC is also an unsecured creditor, owed £253,888 in addition to the £1.6m owed to trade creditors.

See also: Business clinic: your legal, tax, management and insurance questions answered

The only secured creditor is RBS, which was owed £1.098m on 26 June, when administrators Ben Woolrych and Anthony Collier of FRP Advisory were appointed.

Their report, dated 16 August, says “it is likely that RBS will suffer a shortfall on its indebtedness in this matter”.

Former employees of the auctioneer are preferential creditors and have claimed £36,771 in holiday pay and pay arrears.

Deterioration in performance

The deterioration in performance of the company was mainly due to increased losses in the rural auctions division and continued under-performance of the fine art and estate agency businesses, the administrators said.

Net assets after liabilities, including creditors falling due within a year (mainly the bank loan), were negative at £126,615 in May this year, according to the administrators’ report.

Management accounts for the 10 months to May this year show a loss of £246,436 before tax compared with a profit of £222,252 in the previous full-year accounts to July 2018.

This compares with statutory (tax) accounts showing a pre-tax profit of £170,518 in the year ended July 2017.

Turnover fell from £6.06m in 2017 to £4.85m in 2018 and to £3.82m in the 10 months to May this year.

What happens next?

The value of any future payout to unsecured creditors is unpredictable.

A legal provision in the insolvency act requires in certain circumstances that unsecured creditors are paid a portion of what would be due to secured creditors, referred to as the “prescribed part”.

In this case, the statement of financial position in the administrators’ report puts £179,343 as available to unsecured creditors.

However, Simon Farr, a director of FRP Advisory, told Farmers Weekly that the actual amount was likely to be less than £100,000, which would mean a payout of less than 5p in the pound.

Assets of Wright Marshall (mainly book debtors) would continue to be realised, he said. After this process is completed as far as possible, the administration costs are paid, then any preferential creditors.

Following this, 50% of the first £10,000 available is carved out for unsecured creditors, then 20% of what remains, subject to a £600,000 cap, which in this case is unlikely to come into play.

Creditors can ask for a meeting, and while no request has been made so far, FRP is expecting that a meeting will be requested.

The next update is due from the administrators in late December.

Wright Marshall – background

Incorporated in 2013 from merger of Frank Marshall and Wright Manley.

Four divisions – rural auctioneers (mainly livestock), professional, fine art and estate agency.

Administrators appointed 26 June 2019.

Livestock market ceased trading 20 June, subsequently 66 staff were made redundant, with a few retained to help the administrators wind down the division.

The estate agency arm was sold on 28 June and completed on 29 June, with 52 employees ***transferring*** to the new owner.

No buyer was found for the fine art division, which has ceased trading, with its remaining employees made redundant on 9 August.

JOURNAL : Farmers Weekly

A new survey is encouraging farmers to health-check their hedgerows to safeguard the future of this important habitat.

The Great British Hedgerow Survey, launched by wildlife charity People’s Trust for Endangered Species (PTES), is open for farmers and landowners to complete online. To take part visit: hedgerowsurvey.ptes.org

Farmers who take part will be offered instant feedback about the health of each hedge, as well as tailored advice on what type of management will ensure it thrives in the future.

See also: Handy guide to key cross-compliance dates 2019

The results also provide conservationists with vital data helping build a national picture of the health of Britain’s hedges.

Megan Gimber, key habitats project officer at PTES, said: “With 70% of UK land being ***agricultural***, hedgerows offer the safest route for wildlife to travel across the countryside. We would love to see a bigger, better and more joined-up hedgerow network to give our wildlife the fighting chance of survival they deserve.”

Historically, the UK lost about half its hedgerows after the Second World War. But the rates of direct hedge removal have reduced in recent decades, thanks largely to agri-environment schemes that incentivise landowners to establish and maintain hedgerows on farmland.

Control erosion

Hedgerows are a vital part of the farming landscape in the UK, providing important services for farmers including shelter for livestock and crops while helping control soil erosion and runoff.

As well as lending beauty and character to the farming landscape, they provide a wide range of benefits to wildlife and the environment, such as habitat and foraging sites for birds, mammals, butterflies and other insects.

They also act as corridors for the movement of animals, shelter and a source of food.

Hedgerows can also help in the fight against climate change. According to the Wildlife Trusts, a 2km hedgerow has the potential to store between 1,200kg and 1,600kg of carbon dioxide. The average car generates this much carbon dioxide by travelling 6,000 miles. There are more than 475,000km of managed hedgerow in Britain.

Countryfile feature

The survey has attracted the attention of the BBC's Countryfile and it will feature on its next episode to be broadcast at 7pm on Sunday (25 August) on BBC One. Presenter Helen Skelton travelled to Warwickshire to meet the PTES team and find out why hedgerows are in need of more wide-scale management.

Hedgerows and wildlife facts

One study counted 2,070 different species in just one 85m stretch of hedge

55% of the priority species associated with hedgerows are dependent, or partially dependent on hedgerow trees

Poor quality, gappy hedges are detrimental to several farmland bird species

Since different shrub species flower and fruit at different times, having a wide diversity of plant species extends the flowering and fruiting period. This benefits nectar and pollen feeding invertebrates, and their predator species

Sixteen out of the 19 birds included in the Farmland Bird Index, as used by government to assess the state of farmland wildlife, are associated with hedgerows

Source: PTES

Hedgecutting and trimming season due to reopen

The closed period for hedgecutting, which aims to protect nesting and rearing birds, is due to come to an end.

Under cross-compliance rules, hedgecutting is banned from 1 March through to 31 August across all four devolved regions of the UK.

The hedgecutting season opens for all from Sunday 1 September.

JOURNAL : Farmers Weekly

Scottish farmers are being warned to complete and return forms quickly to access loans covering 95% of their 2019 Basic Payments Scheme money.

This is the second consecutive year in which the Scottish government is advancing payments in October through the loans system, which is interest free.

Stewart Johnston of land agent Galbraith’s Aberdeen office said that it was in every farmer’s interest to complete the National Basic Payment Support Scheme forms as soon as possible – anyone who did not do so was risking their BPS payment being made as late as June 2020.

See also: Red tractor announces tougher dairy farm standards

Following loan payments made in October last year, 2018 BPS balances were paid from January, with the bulk arriving in March and April, said Mr Johnston.

“For many this is crucial funding, without which it would be near impossible to carry on with farming operations. This year there are additional challenges from the falling returns and rising costs.

It’s vital to look out for the envelope arriving and complete the form as soon as you receive it,” said Mr Johnston, who is the former head of the Scottish government’s Rural Payments and Inspections Directorate for Grampian.

JOURNAL : Farmers Weekly

Six weeks ago, one thing was certain. Cast in stone. A sure thing. Nope, my mind was made up, and there was nothing – nothing, I tell you – that would change it: we weren’t growing oilseed rape again.

After 11 months of drilling, re-drilling, slug pellets, and spraying insecticide produced 44 acres of crop out of an original 80, that was that. Done and dusted. And that’s my final word.

So it seemed odd to be sitting in my tractor on a wet August weekend, with my little Horsch on behind, trundling backwards and forwards across Drier Field, sowing oilseed rape. How on earth did we get to this?

See also: Read more from Charlie Flindt

Well, it started when we went out and combined those 44 acres of OSR. They yielded quite reasonably, especially the little field that hasn’t had OSR for a couple of decades. (It was enough to start planning an all-new 20-year rotation.)

It helped that the Hangar ended up being re-drilled with spring barley, and the complete loss of OSR in that field was airbrushed, like childbirth, from the memory.

Eureka moment

And then – call it force of habit, or being stuck in my ways, or sheer ***agricultural*** autopilot (although Einstein would have called it madness) – I looked at the pile of seed, grabbed a bucket, and put a couple of hundred seeds on a wet cloth on the Aga. Near as damn it all of them grew.

Just under half a ton went into an old seed bag, then into the back of a van, and then came back in shiny clean 25kg paper bags; no treatments, no stimulants, just a (relatively) cheap-as-chips re-clean and bag.

The spring barley in Drier Field had been baled, it had had a dose of Roundup, it was another field that hadn’t seen OSR for many years, and the wet weather meant no combining for a couple of days. In theory, it was a no-brainer.

I mulled it over with Tod the Cropdoctor. Shall we? Should we? The beetles are still out there.

They were in the trailers, on your boots – there were so many in the lorries I half expected to see the live animal transport protesters out in force blockading the entrance to Trinity Grain. (Soap dodgers vs IH Transport’s head man – I’d pay good money to see that.)

And talking of soap – there were two beetles in our bathroom sink one morning.

We decided it was too good an opportunity to miss – but we’d try a new seed rate policy, provisionally titled "Give ‘em all they can eat".

It’s based on the fact that the volunteer crop in the old fields looks splendid, and the only possible reason for that is that the seed rate is too much for the beetles to handle. And no – it’s not because the beetles somehow know the difference between "sown" and "volunteer".

First rate, old chap

So I dug out the old CO3 and calibrated for 10kg/ha. The Horsch decided to join in with the new high seed-rate policy and, in a display of elderly incontinence (we’ll all be there one day), actually sow the first third of the field at 15kg/ha.

I reversed the slightly-perished rubber seed flap, and the rest went in at the planned rate. The ideal three-day August job while the combine stands idle.

It wasn’t the perfect seed-bed. But it had a good rain and a roll, and we await the results. It might get away and be worth the effort. It might not.

Doing the same thing over and over and hoping for different results? That’s not madness, Mr Einstein – that’s farming.

JOURNAL : Farmers Weekly

There's just over a week left to submit your entries into Farmers Weekly's annual harvest photo competition and be in with a chance of seeing your image on the magazine front cover.

The entry deadline is midnight on 8 September and we'll reveal the winning harvest shot on 20 September, along with several runners-up.

With a record-breaking number of submissions this year, the task of selecting just one image will be tougher than ever.

How to enter

Visit our harvest 2019 gallery to upload your photos and videos, check out what others have been sharing and to read the full terms and conditions of the competition.

We will also be sharing our favourite harvest photos and videos on our Facebook, Twitter and Instagram pages – so keep an eye out.

When uploading your entries, don’t forget to add a short description telling us where the photo was taken and what it shows.

Top tip – cover-worthy images will need to be high-resolution (that’s about 2,400 pixels wide or a minimum 2MB file size) and suitable to be cropped to a square.

For inspiration, check out some of our top picks below and see last year’s winning harvest photo and the runners-up.

Green team

Nicola Legg sent in this shot of a John Deere combine and tractor bringing the harvest in near sunny Cirencester in Gloucestershire.

Case fans

Lee Wakefield of Manor Farm, Bury, at the helm of his Case AFS 8230 harvesting wheat on the Cambridgeshire Fens, with wind turbines whirring in the distance. Mark Norman shared this photo.

Black and gold

Woodsford Farms with a 9T on demo, being chased by a brace of New Holland combine harvesters in Dorset. Tom Balchin entered this one into our harvest photo competition.

Baling round the clock

This great silhouette of baling in Ludlow, Shropshire, was uploaded to our harvest gallery by Becky Hamer.

Storm racing

Jamie Meyrick captured this battle between farmers hauling bales and the weather in Herefordshire on a hot late afternoon with a heavy overcast sky promising rain.

Dusty evening

With wheat being combined, dust fills the air and clouds the low-slung sun in Suffolk. Neil Worby entered this image in our competition.

JOURNAL : Farmers Weekly

Combines made rapid progress over the record-breaking bank holiday weekend, with harvest in the east of England almost wrapped up.

But further west and north, there’s plenty still to go at, with grain quality becoming a pressing concern.

Inverness

In north-east Scotland, the spring barley harvest is nearing 40% complete, according to Gary Catto, chief executive at Highland Grain.

“We’ve had about 15,000t harvested so far, of more than 40,000t committed,” he said.

“Quality is good, nitrogen contents are averaging 1.4% and there’s no sign of pre-germination yet, although we are getting reports of it in Perthshire.

"We’ve also heard of some skinned grains, but haven’t seen any yet.”

See also: Harvest 2019: The 5 top-yielding winter oilseed rape varieties

About 80% of the spring barley crop is Laureate, with the rest predominantly Concerto, and yields are averaging just over 7.4t/ha, said Mr Catto.

Specific weights are about six points below last year, at about 61kg/hl.

“When it started coming in, moisture contents were about 19-20%, but the past couple of days have been phenomenal, so it’s dropped to 14.5% in places.”

A lot of the crop is ready now, although some is still seven to 10 days off.

“There is a bit of brackling, but generally farmers are very positive.”

County Down

Across the water in Northern Ireland, Graham Furey is expecting to finish harvest at Castleview, Killyleagh, today (27 August) – unusually early for him.

“It’s been a bit stop-start, but the past three or four days have been very dry so a lot’s been done.”

Earlier crops had come off at up to 21% moisture, but the oats are now coming in at 16-17%.

“Yield-wise, it’s been as good a harvest as we’ve ever had.

"But the straw has been very green, so about three-quarters of it is still lying in the field.”

Winter barley averaged 8-8.6t/ha, with oilseed rape coming in at 4.3t/ha, said Mr Furey.

Graham, Zyatt and Kerrin winter wheat also did very well, at 9.9-12.4t/ha.

“I’ve never seen wheat like it – it’s been a good growing season all the way through.”

Wiltshire

However, prospects are not looking as good in southern England, where the wet weather has caused significant damage to remaining crops, according to Izzie Lawrence, store manager at Trinity Grain.

“There’s a lot of wheat still in the fields – we’re about three-quarters of the way there and quality has dropped a lot,” she said.

Hagbergs have fallen back considerably, particularly in Skyfall, with some protein levels also suffering, she added.

“That said, there’s still some Crusoe coming off at 14% – it’s held up the best around here.”

The rain has also affected spring barley quality, with a lot of split and skinned grains and fusarium creeping in.

“The maltsters don’t like the look of it at all – it’s a real shame because anything that came in early was lovely and bright with low nitrogen.”

Fortunately, the later crops have not needed much drying, with moisture contents now about 13%.

Norfolk

It is a very different story in East Anglia, which has generally escaped the worst of the weather, according to Andrew Dewing at Dewing Grain.

“With the exception of some beans, harvest is pretty well done, and people are happy enough with their yields,” he said.

“Spring barley yields have been 20% above expectations so we’ve had to make sure we have enough capacity for the wheat – logistics is king.”

Some spring barley has been affected by the rain, so would have to be segregated in store, but, generally speaking, samples have been nice, with big, bold grains and low screenings, he added.

“Wheat yields have been reasonable – although perhaps not as big as first thought.”

Bean yields are also looking promising, although there is plenty of bruchid beetle about.

“I think there will be a big premium for beans for human consumption, as there will be a lot of beetle damage this year.”

JOURNAL : Farmers Weekly

Edward Vipond has made radical changes to his cropping system in his ruthless quest to reduce blackgrass numbers by slashing the seed return.

The weed has become a real headache for Mr Vipond, who manages nearly 1,500ha across a full spectrum of soil types ranging from light Breckland soil to heavy clay.

However, it’s on the heavier land where blackgrass is particularly prevalent.

Farm Facts - Troston Farms

Area: just under 1,500ha

Cropping: Winter wheat, oilseed rape, sugar beet, winter rye, forage maize, forage rye, forage triticale and spring beans for human consumption

Soils: Range from blow-away sand to moderately heavy clay

He points to the latest block of land, which the farm acquired in 2015 and which had plenty of blackgrass.

He subsequently grew forage rye with the aim of silaging it for anaerobic digestion to take any blackgrass seed off with it.

See also: Beet growers set to benefit from herbicide-tolerant varieties

However, the seedbank was so huge that in the following crop of oilseed rape, there was still lots of the weed.

“We gave it the works with Kerb (propyzamide), Centurion Max (clethodim) etc, and it didn’t really work," he says.

“We were still multiplying [blackgrass] seed and the problem was getting worse despite the heavy use of chemistry.”

Edward Vipond’s blackgrass strategy

Good combine hygiene during harvest

Min-till, as ploughing risks bringing old seed to the surface

At least two stale seed-beds

Drilling a month later

Robust chemistry with pre-, peri- and post-emergence herbicides

Prepared to drill in spring if he doesn’t see a flush of blackgrass

Prepared to pull the plug on areas

Wheat followed the oilseed rape and last year, as the weed population was so vast, he finally gave in and for the first time sprayed off 2ha within a 27ha field.

“This was the tipping point,” he says. “I have about 20 harvests left and I want to see a real improvement. So what can I do to tackle the problem?”

One glimmer of hope was that the benefits of spraying off the wheat was noticeable in the following bean crop.

“You could see the spray line and we saw a big improvement. This proved that we had to be much more ruthless.”

Min-till and herbicides

Last year he saw success in his wheat by taking a robust approach and he now knows what he needs to do.

His starting point is not to plough because of his concerns over bringing up old seed, as demonstrated in one field this year that was cultivated after sugar beet spurred on by the open autumn.

“The land was ploughed and pressed which was a mistake as it brought up more seed,” he says. It resulted in a carpet of blackgrass."

Instead, he takes a min-till approach, drilling with a Vaderstad Rapid drill. The plough is used only where necessary.

Cultivation strategy depends on land type, heavier land is cultivated with a Sumo Quattro, left to dry a little then cultivated further with a Rexius Twin.

This gives a 75% seed-bed effect which is left to weather and, hopefully, germinate blackgrass. Lighter land usually only takes one pass with the Quattro.

Another key part of his strategy is a robust autumn herbicide programme, which proved successful last year. “We need a really robust and ruthless stack.”

He follows this with a peri-emergence and then a post-emergence spray in the autumn. “If you do it [the post-emergence spray] in spring, then you have lost the battle.”

His herbicide programme consists of a pre-emergence of Crystal (flufenacet + pendimethalin) and diflufenican. This is followed by a peri-emergence application of Avadex (tri-allate).

The post-emergence hit consists of Hatra (iodosulfuron + mesosulfuron) and Liberator (diflufenican + flufenacet).

Delayed drilling

Another part of his strategy is to delay drilling. Last year, he started drilling in mid-October, a month later than the previous year.

“I’m not happy doing it [delayed drilling] on the heavy land, but it is a must and, hopefully, we will get two stale seed beds.”

He isn’t afraid to raise his seed rates to achieve the target ear count of 650-700 ears/sq m. Seed rates start at 350 seeds/sq m in the first week of October and he nudges it up by 25/sq m each week.

He is also prepared to leave it for a spring crop if he doesn’t achieve a good flush of blackgrass prior to drilling.

Looking ahead, he admits the one key challenge is deciding when to spray off blocks. “I have about a dozen areas that suffer with blackgrass and it’s knowing when to pull the plug.

“You have to put the pre-emergences on, then you have until Christmas to decide, before you spend any money on fungicides.”

In conclusion, Mr Vipond believes he has already made progress, although recognises he needs to get even more control to 96%.

“We still have got blackgrass, but it is much better and the population is lower.”

By following this more ruthless approach, he hopes to make real inroads within his next 20 harvests.

Basf trial results

A trial carried out last season shows the value of a robust pre-emergence herbicide strategy, especially with delayed drilling.

There is a huge amount of data comparing different herbicides, but there are few trials looking at the interaction of agronomy with product choice.

To help plug this knowledge gap, Basf carried out a trial last autumn looking at three key factors: drilling date, level of pre-emergence input, and the value of a post-emergence spray.

Drilling date: 28 September and 13 October

Pre-emergence input: Crystal (flufenacet + pendimethalin), Avadex Factor (tri-allate), diflufenican and Defy (prosulfocarb) versus Avadex.

Value of a post emergence: Heavy comprising mesosulfuron + iodosulfuron, ethofumesate + flufenacet + diflufenican versus none.

Stuart Kevis, business development manager says the results showed that delayed drilling (even two weeks) gave a huge benefit. It also showed that a weak pre-emergence programme made a post-emergence treatment essential.

However, his colleague Philippa Overson points out that this is high risk. “This puts pressure on getting back on with post-emergence sprays.”

She concludes that the best approach is with a good robust pre-emergence stack/sequence combined with delayed drilling.

The trial is being expanded this autumn to three sites and will also look at ryegrass.

JOURNAL : Farmers Weekly

Residual herbicide Avadex (tri-allate) has seen a bit of a renaissance in recent years, with many growers using the granules to get on top of blackgrass immediately after drilling, as well softening up the weed for follow-up sprays.

With flufenacet showing the first signs of blackgrass resistance, using the differing mode of action offered by Avadex, along with an integrated approach that includes good cultivations, crop rotation and cultural methods, is the key to getting on top of autumn weeds.

See also: Why a major blackgrass project is looking at soil health

Ben Chapman, an agronomist with Essex company Harlow ***Agricultural*** Merchants, is a big advocate of using the herbicide as part of a chemical stack to benefit from its different mode of action.

About 82% of the winter wheat and spring barley land he looks after will receive the herbicide, spread after drilling.

However, he also strongly advises farmers that good application of the product is essential to make the most of the chemistry.

“In situations that require Avadex, it is key to apply the product as soon as humanly possible and when moisture is present,” says Mr Chapman.

For best results, application should be an even coverage at 50cm above the soil, level with the surface. Fixed outlets behind the drill or rolls help to maintain this.

Chemistry

The active ingredient in Avadex is tri-allate, a member of the thiocarbamates and classified as a group N herbicide, which acts by inhibiting lipid synthesis on susceptible species of grassweeds including wild oats, brome, annual meadow-grasses and importantly black-grass.

When applied to the soil, Avadex forms a chemical barrier through which germinating weeds grow. The active ingredient is taken up through the coleoptile or protective sheath around the emerging shoot of the weed.

Tri-allate has a half-life in the soil of about 100 days and helps to boost the overall performance of the pre-emergence stack.

Ideally, growers should aim for Avadex to be spread within 48 hours of drilling.

Seed-beds

Mr Chapman is convinced that although Avadex has its benefits, it’s not the only weapon and a focus on getting the right seed-beds will help farmers get the most from the product.

He would dissuade growers from using the product in situations where the seed-bed is cloddy and dry as the granules could end up slipping down the profile between large clods and harming the seed.

Conversely, there are times where the seed-bed is too fluffy and extra consolidation is needed before drilling.

Drilling depths for wheat and spring barley should be 40mm and winter barley at 32mm.

He says it is worth pointing out that the operator needs to be PA4G qualified, which is a different test to the sprayer and slug pellet qualifications.

Tips on getting the most from Avadex

Apply on the same day as drilling

Ensure there is soil moisture

Good quality seed-beds needed – not cobbly or too fluffy

Accurate application

Part of an integrated approach

Integrated approach

“The joined-up approach of a chemical sequence, with cultivation and cultural controls, means the whole focus is greater than the sum of their individual parts alone,” explains Mr Chapman.

“Avadex can help provide a base for the following pre-emergence stacks, helping heat up these products to be more effective when they are applied.”

Applying it at the same time as drilling guarantees instant protection from grassweeds and if weather prevents a pre-emergence application, the crop has a good chance of getting away before the weeds.

“Avadex won’t cure the blackgrass problem, but it’s about maximising the control the product can offer and tweaking the application method to get that extra few percent,” says Mr Chapman.

“A big focus is put on the herbicide regime in the autumn as if we get this wrong, by the spring, the tillers are there and the grassweeds are already too well established to control,” he adds.

Case study: Andrew Schwier, Nether Hall Farm, Moreton, Essex

Brothers Andrew (pictured left with Harlow ***Agricultural*** Merchants agronomist Ben Chapman) and Robert Schwier have been using Avadex for a number of years, spreading on 24m tramlines with a Kuhn Aero granular boom spreader.

So when they moved to 36m tramlines, they made the decision to mount a secondary hopper on their Horsch Sprinter drill rather than using a wider-boom spreader.

Driving this decision was a desire to reduce passes across the field and the challenge of finding a qualified applicator driver at such a busy time.

Accuracy was also a key factor when opting for the drill-mounted machine as the booms on the old spreader would sway and yaw, with wind knocking the granules from the 50cm target height.

Application is now more accurate and this combined with a pre-emergence stack is giving their crops the best chance. Problem areas may receive further treatments, thereby allowing good control, without relying on spring chemicals.

Trial shows better kill when applying herbicide on the same day as drilling winter wheat

Harlow ***Agricultural*** Merchants run yearly trials and last year focused on the effects of using tri-allate at different application dates after drilling land that has triple R resistant blackgrass.

Wheat was drilled on 5 October and Avadex applied directly after drilling on half of the area, with the herbicide being spread seven days after drilling on the rest, but before plant emergence.

The area where Avadex was applied the same day as drilling showed a 50% reduction in blackgrass numbers, whereas when the herbicide was applied on 12 October, there was only a 30% reduction in blackgrass.

This poorer control was due to weeds growing past the point where Avadex would have an effect.

JOURNAL : Farmers Weekly

I’ve never thought of myself as a human rights campaigner, and if I’m being honest, I’ve never really seen the need to have a gay pride.

However, after a number of recent events and a social media debates, my mind has been changed.

When I see some of the comments below social media posts about LGBT+ people – not just in the farming media but in general media too – I am truly angered by the utter bigotry that I see.

Most of the comments seem to be from the younger generation, tagging friends with a wink emoji, and while it may look like light-hearted fun to some, for someone who is struggling to come to terms with their true identity these are the type of comments that make them keep the door to the closet firmly closed.

Flippant homophobia cuts just as deep as blatant homophobia.

See also: More of Josh Wright's columns

The social media comment that angers me the most is: “Why do you need to shout about the fact you’re gay? Heterosexuals don’t have a ‘straight pride’.”

Well, maybe that’s because heterosexuals have never suffered the same discrimination as the LGBT+ community.

The fact that heterosexual people can walk down the street holding hands with the person they love, without risk of being verbally or even physically assaulted, is enough reason to dismiss this argument instantly.

Marching with Agrespect

With all that said, I decided to join Agrespect at Brighton Pride. With a lot of apprehension I set off on the long journey to the south coast.

I didn’t know a single person that I was going to be marching with, and this was only adding to the nerves.

All this anxiety soon faded away: the whole group gelled and were immediately friends.

There were people from all walks of life and all aspects of ***agriculture***, joined together for a common cause: to show ***agriculture*** to the general public as the inclusive, progressive, forward-looking industry that I know it is.

Walking through the streets of Brighton with half a million people cheering, clapping, high-fiving you and shouting “we love farmers” was unreservedly the best experience of my life.

It proved to me that for every one hater, there are 10,000 supporters.

Making progress

This year being the 50th anniversary of the Stonewall riots, where the foundations for the modern gay pride were established, gave an extra sense of gratification to the fact that for the first time an organised group of 50 people – all associated with ***agriculture*** – were walking in the parade at Brighton.

Hopefully, in the not too distant future, those who question why we need a Pride won’t need to ask, because we won't need to hold marches or have organisations like Agrespect; people will just be accepted for who they truly are without hate or discrimination.

I have seen first-hand the effect that Agrespect is having in helping people realise that they don’t have to hide who they are and that you can be your true self and work in ***agriculture***.

They’re showing that ***agriculture*** isn’t an old-fashioned, backward-looking industry but a modern and progressive one.

JOURNAL : Farmers Weekly

The world’s first floating dairy farm has begun producing more than 600 litres of milk a day from the centre of Rotterdam in the Netherlands.

The aim

The company’s aim was to demonstrate how an environmentally sustainable farm could be sited within a large urban population to exploit the market for its produce and minimise emissions associated with product transport.

It is also designed to show how a farm can operate with less exposure to the effects of climate change that have raised concerns over flooding, particularly among Dutch farmers.

See also: Photos: Underground farm secures its first retail deal

The structure

The 1,200sq m farm floats in part of the world’s busiest port and was the brainchild of Peter and Minke van Wingerden of Beladon, a company that specialises in water-borne architecture.

See also: Plans unveiled for high-tech floating dairy farm

After a lengthy construction phase, the multi-tiered farm is now home to a herd of 32 Meusse Rhine Issel cows, which can wander back on to dry land to a neighbouring field using gangplanks.

Within the building, the cows are housed in stalls on the top tier beneath a roof designed to collect rain for the farm’s fresh water.

The construction also generates all of its own electricity from an array of floating solar panels.

The tiers below the cow stalls are used to process milk into bottles or make yoghurt, mix feed, store water and handle muck.

Feed

The cows are fed on a mixture of spent grains from the city’s breweries and cut grass from nearby parkland and golf courses.

Mr van Wingerden explained that the feed sources provide 80% of the farm’s needs, with the remainder provided via a collaboration with a Dutch food-supply specialist.

The forage is collected from sites across the city using electrical vehicles with our own boxes, he told Farmers Weekly.

On farm, the forage is distributed from the boxes via a feedbelt, directly to the cow fences.

Originally, the venture included a tier devoted to growing forage under LED lighting.

However, it was ditched in favour of the waste grass and feed option because space was too tight to grow the amount of forage needed.

“We calculated that with the available space we have inside our floating farm, we could only produce a maximum of 15-20 % of the grass required,” said Mr van Wingerden.

Slurry

One of the big concerns raised when the project was first suggested was the potential for pollution of the river water below.

But the challenge has been overcome using a processor on the site that reduces the slurry to dry fertiliser, minerals and clean water.

“We collect the manure with a manure robot, which dumps it into a funnel," said Mr van Wingerden.

“At the end of the funnel, we compact the manure into raw solids and urine,” he added. The solids are dried and go back to the city as fertiliser for the grassland areas.

The urine portion undergoes treatment to remove the minerals, which are converted to fertiliser, while the remaining liquid is purified into clean water, which pours into the river.

Milk

The MRI cattle are milked by robot and are currently giving 20 litres a cow/day. The milk is pasteurised for bottling or homogenised and turned into yoghurt.

“All of the output is sold within Rotterdam, either directly at our shop, in restaurants or at supermarkets.

The milk retails at 1 (90p) for 250ml or 1.50 (£1.35) for a 750ml bottle.

The future

As well as the yoghurt and milk, Mr van Wingerden hopes to begin cheese production at the farm in the future. Beyond that, further dairy farms are planned.

“We are also working on a floating egg laying unit and a vegetable farm. We hope to launch these in the Netherlands next year,” he said.

JOURNAL : Farmers Weekly

There are certain sacrifices to be made if you want a sparkling new car on the cheap and they usually involve slack performance, low-grade interiors and unremarkable looks.

The lure of a reasonable warranty is often enough to convince penny-pinching buyers to fork out, but Dacia has decided to deal with a few of the other negatives in the process of redesigning its latest 4x4s.

Audi, BMW and Volvo owners may scoff, but these cars cost less than many second-handers and low expectations provide the perfect opportunity to overdeliver.

For the Romanian-built Duster, it has meant a lurch up-market – prospective owners can now expect stacks of toys, half-decent interior materials and a pretty comfortable drive if they decide to stretch to something with a reasonable specification.

See also: On test: Suzuki Jimny SZ5 Allgrip

But don’t despair. If you’re a devoted coin counter, the firm still offers utilitarian models with the bare necessities, steel wheels, wind-up rear windows and standard-issue white paint that start at just £9,995 – almost half the near-£20,000 asking price of our test model.

Dacia Duster Blue dCi 115 4x4

Engine size (cc) 1.5-litre dCi four-cyl diesel

Transmission Six-speed manual

Four-wheel drive Auto switching or fully locked 4x4

Maximum power 115hp at 3,750rpm

Maximum torque 260Nm at 2,000rpm

Claimed combined mpg 48.7mpg

Actual mpg (as tested) 56.1mpg

Max speed 108mph

Acceleration 0-62mph 12.1sec

Fuel tank 50 litres

Turning circle 10.14m

Wading depth 350mm

Suspension MacPherson-type with rectangular lower arm and anti roller bar (front), multi-link (rear)

Ground clearance 210mm

Kerb weight 1,405kg

Max braked towing weight 1,500kg

Warranty Three-year (60,000 mile) standard

Base model price (OTR inc VAT) £9,995

Price as tested (OTR inc VAT) £19,445

Engine and transmission

As the Romanian subsidiary of Renault, the Dacia has access to a shedload of old components used to build previous-generation Clios and the like – an efficient recycling process that plays its part in keeping costs down.

The Duster comes with a trio of engines to pick from, including a 115hp, 1.6-litre petrol unit and a 1.3-litre version that can provide 130hp or 150hp. We had the pick of the bunch – a 1.5-litre diesel that serves up 115hp.

It brings more torque to the party and, surprisingly, economical fuel use, too. We achieved 56.1mpg during our mixed 100-mile driving route, which comfortably trumps the combined figure provided by Dacia (48.7mpg).

It was particularly frugal on the motorway section, where it hit 57.3mpg at a near-70mph average.

Admittedly, speed is not its forte – 62mph comes in a pedestrian 12.1secs – but it’s fast enough. If you want a quicker Duster then the two-wheel driver is your kiddie – it’ll hit the same speed in 10.5secs.

Hard driving reveals another minor shortcoming in the form of turbo lag, though it is all but eliminated if engine revs are kept north of 2,000rpm.

Things stay reasonably calm in the cabin, though the road can cause a bit of noise at higher speeds and the engine is audible.

The better-spec models all come with the same uncomplicated six-speed manual gearbox. First gear is short, which is handy for towing, but makes gear shifts more frequent than usual.

Pulling away in second is usually fine and drivers will also find themselves mooching around in sixth gear at just 40mph. If you prefer an automatic, you’ll have to look elsewhere – sadly it doesn’t feature on Dacia’s menu.

Likes and gripes

Likes

Comfortable driving position

Pokey engine

Pretty economical

Spacious interior

Gripes

Very little left leg space

Turbo lag when pushed hard

Plenty of road noise

Poor safety rating

Off-road

All of the engine variants can be paired to a four-wheel-drive outfit, which is controlled by a dial near the handbrake.

For the most part, it can be left in two-wheel power for peak fuel consumption, but there is an auto mode that might be handy for occasionally greasy surfaces.

This automatically engages the other wheels when necessary, but drivers can twizzle the rotary knob to "lock" for permanent power to all four.

The soft suspension is tuned to a decent middle ground that limits too much sway around fast corners but has the cushioning to soak up bumps and potholes.

It means that the ride is generally unfussy and the electric power steering provides seriously-light wheel turning for in-town manoeuvres. If anything, it could do with a little more weight at higher speeds.

More expensive specs also include hill start assist and a descent control system. A tow bar isn’t part of the package, but you can have one fitted for £250.

Interior

One might expect the interior to be Lada Niva standard, but Dacia has improved mightily on the roughly finished first generation launched in 2012.

It now carries features previously alien to this price bracket – we’re talking camera systems front and back, blind spot warning, auto climate control and keyless entry/ignition.

That sort of tech chat might send buyers looking for outright simplicity into a hot flush, so the firm offers four spec levels – Access, Essential, Comfort and Prestige.

The most basic gets steel wheels, five seats and little else. Climb one rung and body coloured bumpers and air-con are involved – this, we reckon, is probably the best balance of price and kit.

Comfort-grade models get a rear parking camera and sensors, electric windows all round and a 7in touchscreen with satnav that can run Apple Car Play and Android Auto.

We had the Prestige model, which aims to seduce buyers of the Duster’s premium rivals with everything you could need (and probably some things you don’t) – multi-view camera, climate control, keyless entry and blindspot warning, to name a few.

The interior finish is generally solid and refuses to squeak when bashed around off-road, with slightly rough textures that are plenty tough enough. Of course, anyone looking for faults will find them, but they’re not particularly obvious.

Farmers Weekly verdict

Dacia has demonstrated enviable ***discipline*** in keeping costs down and managing the expectations of would-be customers.

The upshot is that the car wholly overdelivers and is easily a match for vehicles costing 50% more.

It’s no longer a second-string transport option, though the obvious (and significant) reason to sway towards a premium brand is the safety rating – the Duster scored a disappointing three out of five in the European New Car Assessment Programme’s scoring system.

Low-priced versions come with a pretty barren spec sheet, but for many looking for a basic runaround, they will suffice. Four-wheel-drive versions tend to add about £2,000 to the list price.

If you’re planning to put a few miles on the clock, then we’d opt for the Efficient spec.

JOURNAL : Farmers Weekly

Suzuki has breathed new life into its long-in-the-tooth Jimny with a new model that it hopes will emulate its predecessors’ sales figures and pass the million-unit sold mark in the process.

The first iteration of the Jimny hit the roads way back in 1970 as a no-frills, go-anywhere 4x4.

The fourth-generation model has a lot more technology and a few extra home comforts but it still retains the iconic shape and modest dimensions that have made it so popular.

See also: Pickup test: 6 farm trucks compared

Suzuki Jimny SZ5 Allgrip

Engine 1.5-litre four-cylinder petrol

Transmission Five-speed manual

Four-wheel drive Selectable two- and four-wheel drive with low-range

Maximum power 101hp at 6,000rpm

Maximum torque 130Nm at 4,000rpm

Claimed combined mpg 41.5mpg

Actual mpg (as tested) 41.8mpg

Max speed 90mph

Acceleration 0-62mph TBC

Fuel tank 40 litres

Turning circle 9.8m

Wading depth Middle of rear hubs

Suspension Ladder chassis with three-link rigid-axle coils

Ground clearance 210mm

Kerb weight 1,135kg

Max braked towing capacity 1,300kg

Warranty Three years (60,000 miles)

Base model (SZ4) (OTR inc VAT) £15,499

Price as tested (OTR inc VAT) £18,649

Engine and transmission

The Jimny has been boosted in the engine department, with a new 1.5-litre petrol that replaces the old 1.3-litre unit.

Suzuki says it offers more torque at lower revs to help with off-roading and it undoubtedly delivers that, which is fortunate, given it's the only engine on offer.

However, pop the bonnet and you’ll be forgiven for failing to spot any signs of the increased capacity – it's physically 15% smaller than its predecessor, which has been achieved by strengthening and slimming existing parts to shed weight.

On the road, it’s a peppy little performer for pootling around the local villages, but take it over 4,000rpm and it feels strained. Its happy place is more trot than canter.

The five-speed shifter has short throws and easy-to-find gates that make gear switches swift, but for speeds above 50mph, it needs a sixth cog.

It often sends finger-tingling vibrations through the gear stick on the motorway, but the other option is a four-speed automatic and we’re not sure this would quite cut the mustard at speed either.

Interior

The upright seating position doesn’t lend itself to hours spent at the wheel.

The front seats lack any up-and-down adjustment and taller drivers will find themselves hunched down to see out of the near-vertical windscreen, particularly when the sun visor is employed.

It's also a bit of a sardine tin with the rear two seats in use – legroom is very tight and the 85-litre boot is not much larger than a glove box.

However, when they are folded down, it feels much roomier, despite being 30mm shorter than the old model.

Spec options are kept simple, with the SZ4 base model offering a DAB radio and Bluetooth and the SZ5 (the model tested) adding a satnav, heated front seats and Apple Car Play.

The central 7in touchscreen is easy to use, though features such as lane departure warning and speed sign recognition are probably unnecessary, given the Jimny's target audience.

Plus points include hard-wearing interior materials and handy floor mats with raised edges to keep stones and muck off the carpet.

Likes and gripes

Likes

Bold, iconic styling

Ladder chassis and low-range box

Lightweight for nipping along wet fields

High-sided rubber floor mats

Gripes

Loud engine when worked hard

Missing a sixth gear

Body roll on roundabouts

Vibration felt through gearstick

Off-road

It can be fidgety to drive and suffers from major body roll on sharp bends – a result of the super-squidgy three-link coil suspension – but the ladder chassis and rigid axles front and rear should make it simple to fix.

The upshot of the latter is that weight ***transfer*** is automatic, so when one wheel rises on a bump, the other gets the weight of the car shifted onto it to help with traction.

A low range on the gearbox also comes in handy and it's engaged by a simple mechanical lever, avoiding any potential electrical gremlins.

An approach angle of 37deg and departure of 40deg offer almost unrivalled statistics in the climbing department.

Farmers Weekly verdict

There's little to beat the Jimny for short journeys and beating around the farm, but it's as much Series 1 Land Rover as it is crossover SUV, and long slogs become tiresome without a sixth gear.

Its quirky looks demand attention and the simple, mechanical feel undoubtedly add appeal, but if you're planning to drive outside of the county regularly, we'd look elsewhere.

JOURNAL : Farmers Weekly

Britain, I am fond of saying, is a cultural landscape. Farming created it, pushing back the primeval woodland to grow crops and keep livestock.

By Roman times most of Britain was sparsely wooded, save for some areas like the Weald.

Farming maintains this landscape, from the Essex wheat fields to the Scottish Highlands.

Take away the plough or the cow, and where trees will grow it all goes back to woodland. Nice, but nothing like as diverse or valuable for wildlife.

See also: Farmers must weigh up rewilding risk and reward

Much of what we do for conservation as farmers and countryside managers is battling this process of ecological succession.

People with animals, mowers and billhooks try gamely to keep areas of the Kent Downs open for wildflowers and butterflies.

Turns out I’m wrong, and so are they. The 3,500 acre Knepp estate in Sussex has turned back succession, by “wilding” – abandoning its farmland and allowing it to be managed solely by grazing animals, in big groups – cattle, deer, horses, pigs.

Grazing, browsing and trampling by these animals keep Knepp in a state of permanent post-ice age vegetation.

Then, the new theory goes, there was not dense wildwood, but more a mix of groups of trees, scrub, open areas and other habitat like wetland.

But we humans turned up, and hunted like a fox in a hen run, until the large herbivores were extinct or reduced to relict populations.

Their descendents died out or became “rare breeds”. Without them, the woodland closed in.

So the micro-management of isolated sites, the Knepp philosophy suggests, is hopeless. To turn back succession we need big areas, where natural processes are simply allowed to happen. Then you will get your wildlife back.

Knepp isn’t a wilderness. Judicial choices are made for livestock breeds on the basis of what a Sussex footpath walker might cope with.

There is human intervention in animal numbers, for welfare and meat consumption. And big fences.

But it’s challenging stuff – to both the conservationist and the farmer in me. Indeed, the Knepp project battled the incomprehension, not only of its farmer neighbours, but of many in Natural England, rooted in traditional approaches.

Tidiness is not next to godliness when it comes to wildlife conservation, and Knepp is massive untidiness.

The species that benefit are those that love scruffy countryside. Some are rarities like the turtledove and nightingale that we are failing to conserve in our present agri-environment schemes.

The problem with these schemes is that everything has to tick the box. Field margins and hedges are an exact width; a field is grass or woodland, not both.

This is the basis of both the Stewardship and Basic Payment Schemes – define, limit and keep under control. You risk your payments if you don’t.

Knepp has been lucky in getting Stewardship support, making some timely decisions, and having the resources of a large, diversified estate to back it up. Nor is it an invitation to abandon arable cropping.

We can’t all become hunter-gatherers again, turning the British landscape over to free-range, shoot-it-yourself livestock production. But Knepp shows big wilding projects scattered across the landscape could make a difference.

And it teaches us that we often not only fail to understand that nature has evolved in complex ways, but actively try to work against it.

JOURNAL : Farmers Weekly

In August 2017 my inaugural column was published in Farmers Weekly – 'First and foremost, farming is about food'. It all seemed so simple, and we had time.

It was 14 months since the Brexit referendum; prime minister Theresa May had just bungled her snap election; Michael Gove was the shock new appointment to Defra; and an idealistic young farmer from Leicestershire helpfully penned an article pointing out that, snappy as “public goods” sounded in a government press release, voters might struggle to eat them.

See also: First and foremost, farming is about food

Sadly, I didn’t change the world in 600 words. I’m no Luther or Lenin. Instead, the last two years saw Mr Gove seize the opportunity for political rehabilitation with both hands, and forge ahead with an agenda to convert European ***agricultural*** policy into a British environmental policy.

But now, in August 2019, he has been promoted – where do we stand?

Remarkably, five months after we were scheduled to leave the European Union, things have seemingly progressed no further.

In her first public remarks since succeeding Mr Gove at Defra, Theresa Villiers declared: “I want to see our farmers released from the appalling complexity, rigidity and bureaucracy of the CAP.” This is, frankly, pitiful stuff; no more than the insubstantial rhetoric of the 2016 referendum.

With farmers on their fourth Defra secretary since that fateful vote, it’s well past time that a functioning, detailed framework for what comes after our exit should be complete in order for businesses to plan.

But Ms Villiers has made her priority clear; supporting Boris Johnson in delivering Brexit – deal or no deal – despite her predecessor’s frequent warnings of the catastrophic consequences of “no-deal” for all British farmers. A ministerial reshuffle has come at the worst possible time.

In 2017, I believed that the self-evident logic – learned through hard national experience – of the importance of maintaining a basic level of self-sufficiency in food production would inevitably win through with policymakers on national security grounds.

Yet, despite rising geopolitical tensions, widening trade wars, disruption of global ***agriculture*** due to climate change, and the possibility that the world will be short of 214 trillion calories by 2027, our government shows no concern for food security.

In fact, Professor Dieter Helm, chairman of the Natural Capital Committee and central to the formulation of future policy, dismisses it as “the empty slogan of lobbyists, which should not be taken seriously”.

Two years ago I wrote that ***agricultural*** policy had become a sop to the urban vote; a means for politicians to virtue signal about their environmentalism.

Yet this presents us with an opportunity. We’re proud of our standards – on welfare, quality and the environment – and the public are receptive to that positivity.

The biggest battle we must fight will be with our own government on the issue of trade standards in a post-Brexit, no-deal marketplace.

We must rally public opinion behind British standards, to hold the line against imported food that it would be illegal to produce here. In so doing, perhaps we will also win the food security argument, before it’s too late.

The date of 11 August was, notionally, when the UK would have run out of food if imports were disrupted. As I wrote in 2017, I’ve never heard of a riot caused by a lack of nectar flower mix.

JOURNAL : Farmers Weekly

New legislation committing the UK to zero carbon emission targets by 2050 means the government needs to find the most proven, sustainable and commercially viable routes to achieving its objectives.

The decarbonisation of heat, particularly in rural areas, needs a clear, effective strategy so that those living, working and operating businesses in off-gas grid communities aren’t left behind their urban counterparts.

See also: Planting more trees can help the environment and your bottom line

Many leading European countries have seen huge success supporting their biomass industries. We, as a fast-growing sector with a well-established supply chain serving rural areas, need the same from our own government.

That’s why the UK Pellet Council and Wood Heat Association is calling on ministers to take heed of recent reports and recognise biomass as the most fit-for-purpose solution to deliver rural heat decarbonisation when the Renewable Heat Incentive ends in 2021.

With support and investment, biomass could massively uplift the rural economy and create new jobs across all areas, including forestry and farming.

The benefits are manifold, from effective woodland management to encouraging sustained year-long work for ***agricultural*** contractors (with increased trade during the winter heating season), while farm businesses will be able to rival international competition with lower energy costs.

At the moment, less than half of the UK’s forestry is managed and that’s partly due to its perceived low value.

However, by demonstrating a clear need for wood for biomass – only using the low-value tree parts – we can create a highly sustainable rural economy, good employment opportunities and business growth, better woodland management and ultimately, contribute to 2050 carbon reduction targets.

We can develop a workable circular economy for the UK’s rural sectors, which stems from the fact that a boiler needs biomass fuel for approximately 20 years.

Our “Biomass Heat Work” campaign is therefore asking farmers, residents, businesses, communities and anyone using or associated with the biomass industry to get on board and support our call to action.

Biomass heat is the best way forward to meet government targets and the preferred, most proven and commercially viable option to deliver future savings.

More often than not, it is also the lowest carbon option available to rural homes and businesses, particularly farmers who have been early adopters of the technology.

We could see consumer demand for bioenergy increase from 5.5% in 2020 to 15% in 2032 of total requirements, and create more than 100,000 jobs in predominantly rural areas. Biomass heating should therefore be at the centre of rural economic and energy initiatives.

In the context of a climate emergency, ministers cannot afford to rely on as-yet unproven technologies that are years away from commercialisation.

Biomass is a well-established energy resource in the UK and, while we aren’t clear as to future decarbonisation strategies, now is the time for it to be recognised.

Mark Lebus is chairman of the UK Pellet Council

JOURNAL : Farmers Weekly

Starlings can be a pest to livestock farmers, especially during autumn months, when wintering flocks arrive in the UK.

The birds' consumption of maize in cattle feed can reduce milk output, contaminate feed and buildings, and deplete expensive feed stocks.

Starlings are protected by the Wildlife and Countryside Act 1981 and the provision to control starlings under a general licence was removed from the Act in 2005.

So, what should you do if your farm comes under siege at housing this autumn?

David Ball, AHDB Dairy technical manager for dairy farm buildings recommends dissuading them before they establish a base early in the season.

Farmers should implement preventative measures before and during the migration period in October/November.

Once starlings have settled on their winter-feeding preferences, control measures will have limited success.

See also: Starlings ‘steal up to £40,000 of cattle feed a farm’

We take a look at the options for starling control and ask Mr Balls' opinion on the effectiveness of each one.

1. Netting

What is it?

Mesh netting designed specifically to keep starlings out of buildings.

How does it work?

Netting comes with 28mm holes (just over an inch), which is small enough to prevent starlings wriggling through.

Effectiveness

Netting can be highly effective if the building is suitable, but it is only totally effective if every possible gap is covered – for instance, even the gap in the roof of buildings with an open-vented ridge.

Space boarding must be covered too, as starlings will fly through the gaps.

If you are using netting, you have to cover the gable ends, the entrances, and underneath the gates.

If you have a sheeted gate, but there is a hole where you slide the bolt across, that gap is big enough for a starling to get through, so it can be difficult to cover everything, says Mr Ball.

For obvious reasons, it is only suitable to protect feed passages when they are located inside a building, and netting can disrupt airflow, so more ventilation – such as fans – might be needed.

Costs are not high compared with the benefits, although attention to detail is required to maintain a good starling deterrent.

Cost

Most suppliers offer a cut-to-size service to the nearest metre. Expect to pay about £1.26/sq m (including VAT) .

Netting is also available in sheets, with prices ranging from £21.76 (including VAT) for 5sq m to £347.87 for 20sq m.

It will probably be necessary to replace the netting every year to ensure effective exclusion.

2. Handheld laser

These lasers have been developed with the sole purpose of deterring birds. They produce a beam that starlings perceive as an approaching danger, so they fly away in search of safety.

How it works

It unsettles starlings – they dislike the moving beam and see it as a physical danger, so they move away from an area.

Effectiveness

It has excellent results when dispersing starlings from the inside of buildings because the light levels are lower here.

Be aware that lasers work well in dull conditions, but are not very effective when it is bright and sunny. A wide, green beam is regarded as the most effective.

Range varies according to the model, but the more expensive ones have a reach of 2,500m.

Manufacturers claim that birds don’t get used to the laser beam, but there is some evidence that this isn’t necessarily the case.

It is labour intensive because an operator is always needed.

Once a dense population has overwhelmed buildings, it can be difficult to move birds on.

Cost

Prices start from about £370 (including VAT) for a model with a 1,000m range, rising to just under £1,000 (including VAT) for a device with a range of 2,500m.

3. Scaring device

What is it

Pre-recorded distress and alarm calls, bangers and rockets specifically developed for this purpose, all using some form of noise to frighten off starlings.

How it works

A banger can be set to go off at different times of the day or an electronic device set to play the distress call of the starling.

Effectiveness

Potential effectiveness low because birds soon get used to consistent audio sounds. Therefore, the noise needs to be changed frequently and the device moved, Mr Ball recommends.

Frequent changes in device location and adjustments to the sounds are essential to reduce habituation.

If using bird mimicry audio, there could be benefits to switching it from the distress call of the target species to a predator. The more variety, the better.

Audio devices can provide an effective secondary mitigation method – they have not been found to work on their own for an extended period.

Cost

A decent sonic bird scaring device can cost upwards of £400 (including VAT); gas-operated bangers with an electronic timer are about £300 (including VAT).

4. Altering feeding times

Changing feed times from traditional morning feeding is a logical approach to reducing starling invasions, because the birds naturally eat at the start of the day.

If there is no feed available, they will move on to a site where there is.

How it works

A low volume of feed availability is less attractive than lots of fresh feed, so if the starlings arrive in the morning when cows are only cleaning up what is left over from the night before, they aren’t going to hang around for long.

This system has the potential to reduce the amount of faecal contamination by starlings on the cows’ feed, as cows can have long periods of feeding time on fresh total mixed ration before any bird contamination occurs.

Effectiveness

A levy body-funded study found that feed losses can be reduced by 14-22%.

That study also found that cows rapidly adapt to the change, but this approach needs to be discussed with a nutritionist to ensure cow performance and health is not compromised.

Routine change should be started early in the autumn, before starlings arrive and earmark good winter feeding sites.

Cost

Mostly involves no extra cost.

Tops tips for keeping starlings out of buildings

Use of several methods of mitigation simultaneously or sequentially will give a greater guarantee of success.

Individual control measures have varying levels of effectiveness if used on their own, so an integrated approach using a variety of techniques is likely to be more effective and reduce habituation rates.

Most methods will not apply to all situations and need to be selected for their appropriateness for the farm system, building design and the farm staff's acceptance of change.

The bottom edges of doors are best protected by the fitting of rubber flaps.

Use foam material to fill awkward spaces in buildings.

JOURNAL : Farmers Weekly

Four-wheel drive pickups remain the vehicle of choice for many farmers and contractors – as well as lifestyle vehicles for many others.

Our buyers guide shows prices and models for all the trucks on sale in the UK, including those from Mitsubishi, Ford, Isuzu and Toyota.

Poor sales and new emissions laws have contributed to the loss of the short-lived Fiat Fullback – the Mitsubishi-based pickup introduced just a couple of years ago – and the Great Wall Steed, so there are fewer basic designs to choose from in this year's buyers guide.

See also: 14 top retrofit kit options for farm pickups

However, there are more individual models thanks to additions to the Ford Ranger, Isuzu D-Max, Mitsubishi L200 and Toyota Hilux families.

And Land Rover could return to our listings in 2020 – if the expected pickup version of the modern Defender is part of the launch line-up due to be revealed later this year.

For now, though, it’s the established names in the traditional pickup field that continue to provide vehicles destined to transport toolboxes, fuel cans, machinery parts, straw bales and the occasional sheep and calf on farms up and down the country.

Pickup guide 2019-20

Download a PDF of the 2019 pickup guide here.

Ford

The Ford Ranger line-up has almost entirely switched to a new family of 2-litre, four-cylinder diesel engines, with only the Wildtrak still powered by the elderly 3.2-litre developing 200hp.

The base two-wheel-drive XL has a 130hp version but in four-wheel-drive form it gets the 170hp upgrade, as do the extended-cab and double-cab versions of the XL, XLT and Limited.

A 213hp twin-turbo alternative with 500Nm torque is also available with the Limited trim, as well as the latest Wildtrak equipped with a new 10-speed auto ’box said to deliver slicker performance than the outgoing six-speeder.

This powertrain is standard in the new Raptor performance model that heads the Ford range, with power-adjustable, suede-upholstered seats among the upgrades inside the double cab, as well as even bolder “in your face” front-end styling.

Hardware upgrades include a reinforced chassis and aluminium front skid plate, coil instead of leaf spring rear suspension with Fox Pro variable-rate dampers, aluminium front wishbones giving 150mm wider front and rear track, 33in craggy off-road tyres, and six drive modes for the auto transmission and four-wheel-drive installation.

So, just the thing for an afternoon’s crop walking or outdoor lambing checks

Isuzu

Within the Isuzu D-Max range, the down-to-earth Workman+ adds practical features such as a tow bar and 13-pin electrical socket to the more basic Utility model’s spec, although it comes only in double cab form, not the single- and extended-cab options.

The XTR bridges the gap between the Blade and the Arctic Trucks AT35, which is itself available as a new Safir limited edition with extra body styling and cab interior bling.

Also part of the XTR package are uprated suspension from Australian specialist Pedders, 32in tyres in place of the Blade’s standard boots, a body kit including a bonnet shield and bulbous wheel arch extensions, and interior equipment enhancements.

It is offered only as a double-cab with a choice of six-speed manual or six-speed auto transmissions. The Nav+ version adds a sound system upgrade and satellite navigation.

Mercedes-Benz

The Mercedes-Benz X-Class range has been revamped to a degree – by dropping the base Pure spec and adding a six-speed manual variant of the Progressive version with the 190hp engine.

The new Element limited-edition spec also uses this engine, along with the simpler of two seven-speed auto transmissions. It packs in as standard equipment load anchoring rails and a load bay liner, leather/fabric upholstery and auto air-con.

The range-leading V6-engined Power model, meanwhile, retains the seven-speed auto with torque converter lock-up in all gears and full-time four-wheel-drive.

Mitsubishi

The most significant change of the year so far is from Mitsubishi with its sixth-generation L200 range, which gets fresh styling, a new  2,268cc, 148hp turbo diesel and a six-speed automatic transmission option. Payload and gross train weights have both increased.

The fifth generation will continue for a while in double-cab Challenger spec, with the 2.4-litre 181hp engine and either six-speed manual or five-speed auto transmission.

Nissan

Apart from dropping the Off-Roader AT32 flagship, changes among the familiar Nissan Navara extended- and double-cab pickups are pretty much limited to the introduction of the N-Guard model.

This comes with the 190hp, 2.3-litre engine coupled to a six-speed manual or seven-speed auto gearbox and essentially adds a sunroof and distinctive exterior styling plus interior upgrades over the Tekna.

Toyota

Toyota has taken up the Arctic Trucks mantle, adding the Invincible AT35 to the top end of its Hilux range.

It builds on the high level of standard equipment provided by the Invincible X model with 35in knobbly tyres and extended wheel arches, performance suspension upgrades and 25% more ground clearance.

Buyers start with a regular Hilux and choose either a standard AT35 package or from a menu of practical upgrades and styling accessories.

Volkswagen

While the base 163hp Trendline and mid-range 224hp Highline models have been dropped from Volkswagen’s Amarok range, the Aventura has been introduced to replace the Dark Label as the flagship.

This uses the latest powertrain: a 2.97-litre V6 diesel with eight-speed auto and full-time four-wheel-drive. The engine is tuned for 258hp in the more powerful of the two Highline models.

The Aventura comes with additional equipment including 20in rather than 18in alloy wheels, upgraded lighting, power-fold heated wing mirrors, more advanced satnav, and front seats with greater adjustment range, upholstered in leather.

It gets a protective coating for the load bay – a £700 option on other versions – but still requires the £310 tow bar and electrics option to handle any towing work.

JOURNAL : Farmers Weekly

Bigger and taller masts could be built in the countryside as part of government plans to boost mobile phone coverage in rural areas.

Planning rules allow masts of up to 25m (82ft) to be built on public land. But the government is proposing to relax the rules to allow operators to build taller phone masts in the countryside to widen mobile data coverage and increase speeds.

The plans are included in a consultation launched by the government on Tuesday (27 August), which includes changing the permitted height of masts, and promoting mast sharing.

See also: Ofcom opens up airwaves to improve rural connectivity

The government has also launched a £30m Rural Connected Communities competition for 10 rural areas to test 5G masts as part of a £200m investment in 5G technology.

Successful applicants could build on existing projects, including the 5G RuralFirst initiative, which has tested the technology on ***agricultural*** and energy trials in Orkney, Shropshire and Somerset.

(function(d,s,id){var js,fjs=d.getElementsByTagName(s)[0];if(d.getElementById(id))return;js=d.createElement(s);js.id=id;js.src='[*https://embed.playbuzz.com/sdk.js*](https://embed.playbuzz.com/sdk.js)';fjs.parentNode.insertBefore(js,fjs);}(document,'script','playbuzz-sdk'));

Digital secretary Nicky Morgan said: “The British countryside has always been a hotbed of pioneering industries and we’re making sure our rural communities aren’t left behind in the digital age.

“We’re investing millions of pounds so the whole country can grasp the opportunities and economic benefits of next-generation 5G technology.

“In modern Britain, people expect to be connected wherever they are. And so we’re committed to securing widespread mobile coverage and must make sure we have the best infrastructure to stay ahead.”

Writing in the Telegraph, Ms Morgan stressed the need “to get the balance right” between preserving the “sacrosanct” countryside and improving connectivity.

CLA support

The Country, Land and Business Association (CLA) has welcomed the government’s 5G proposals.

“The vast potential of the rural economy will only be fulfilled when everyone in the countryside has full mobile connectivity, and we welcome DCMS’s [Department for Culture, Media and Sport] intent to deliver the prime minister's promise of internet access for all," said CLA deputy president Mark Bridgeman.

According to Ofcom, the UK’s telecoms regulator, 57% of the UK’s geographic area is completely covered by 4G, with 7% uncovered by any operator at all. Rural areas are renowned for having some of the worst mobile phone connectivity.

JOURNAL : Farmers Weekly

Concerns that consumers are switching from drinking cow’s milk to plant-based alternatives appear to be unfounded, according to a report by AHDB Dairy.

The report highlights that even though demand for plant-based drinks is growing, the volume of cow’s milk sold remains stable.

AHDB trainee analyst Hannah Clarke said the figures suggested shoppers were not necessarily switching away from cow’s milk but trying the alternatives as something new.

See also: Alternative proteins pose fresh challenge to meat and dairy

Ms Clarke’s report quoted figures collated by market analysts Kantar.

“Despite the noise around plant-based beverages, the Kantar data showed consumer spend on cow’s milk in the year to 16 June 2019 grew by 2.2%,” Ms Clarke said.

The increase was largely driven by price rises as volumes remained relatively flat at 0.4%, down on the previous year, Ms Clarke added.

Within the cow’s milk figures, semi-skimmed milk still occupies the largest share of volume sales at 60.5%.

But sales of whole and modified milk – such as Arla Protein – have grown.

Organic milk

Organic milk has also seen gradual growth over the period, with the sector accounting for 2.8% volume share of the total cow’s milk market, Ms Clarke pointed out.

But the increase in sales was not down to new customers – it was due to existing shoppers buying more per trip, she explained.

This meant that despite relatively flat prices, the total sales value of organic milk had risen by 2.6% in the 12-month period.

In contrast to the stable volume of cow’s milk sold, plant-based beverages saw sales values increase by 18% to a total of £269.4m.

“The growth is testament to innovative branding and marketing, increasing shopper penetration by 9.1% on the year to 28.9% of GB households.

Rise of nut milk

“New entrants such as nut and oat drinks are also widening the reach and appeal of the sector,” Ms Clarke suggested.

These new entrants are not taking market share from cow’s milk but from long-established plant-based drinks such as soya, she said.

The market share of nut-based beverages overtook soya in the 12-month period to June 2019, with sales of £8m.

Likewise, oat-based drinks saw substantial growth and now account for a market share equivalent to more than half that of soya beverages.

The growth in oat drinks may be starting to address consumer concerns over the potential environmental footprint of other plant-based drinks, especially in terms of water use, Ms Clarke said.

JOURNAL : Farmers Weekly

Dairy farmers will have to comply with more stringent health and welfare rules after Red Tractor Assurance announced a long list of changes to its standards.

The changes will come into effect on 1 October this year and have been drawn up after a consultation on Red Tractor’s policies.

A statement by the assurance body said the changes were needed to ensure practices met veterinary advice and consumer expectations on how food is produced.

See also: How to avoid drone insurance and licensing pitfalls

The list includes changes to:

Health plans

Pain relief

Animal husbandry

Disease control

Colostrum management

Antibiotic use

Medicine administration

Documentation

Milk production

Health plans

Livestock Health Plans must be carried out with a vet who will sign off the final version. A template and further details will be available on the Red Tractor website soon.

Pain relief

Part of the health plan covers pain relief such as anaesthetic, analgesic and non-steroids. Along with noting details in the plan, all administration must be entered in the medicine records.

Animal husbandry

Cauterising paste for disbudding will only be permitted on stock under seven days old. Animals must also receive pain relief.

Disease control

All scheme members outside Northern Ireland must complete a Johne's Action Plan, signed by a British Cattle Veterinary Association accredited Johne's adviser.

Members must also demonstrate their efforts to eradicate BVD through testing or national scheme membership.

Colostrum management

Farms must no longer feed milk or colostrum from Johne's-positive cows to youngstock which may potentially enter the breeding herd.

Antibiotics and medicines

Vet reviews on antimicrobials use will be more stringent and focus on off-label use of medicines plus alternative disease prevention strategies.

Vets must be informed of any failings in antibiotic administration.

Medicine administration

One person who administers medicines must have completed a training course on the safe use of medicines since 1 October 2016.

Documents

A written plan should be displayed for all farm staff, outlining what action should be taken if emergencies occur affecting food safety, animal welfare and environmental protection.

Milk production

Parlour cleanliness rules have been tightened. Farms must have a protocol for parlour wash phases to take account of Maximum Residue Levels of chlorates in milk.

Further information

Full details of the changes on the Red Tractor website.

Register for a webinar on the changes Thursday 12 September at 7pm

JOURNAL : Farmers Weekly

Scottish meat wholesalers want farmers to be guaranteed a return of more than £3.60/kg dw for all properly finished and marketed cattle, to stabilise production and restore confidence in the sector.

In an unusual move, the Scottish Association of Meat Wholesalers (SAMW) has written to the Cabinet secretary for the rural economy, Fergus Ewing, urging him to put measures in place to top up farmers’ market returns to the £3.60/kg level.

The association wants to see beef cattle retained at least at current numbers on Scottish farms.

However, in its letter, the SAMW also states that with world wholesale prices currently being so low, and competition so high, the processing sector is simply unable to pay any more for livestock.

“When, as now, the market is depressed, we would contend that the convergence funding promised by the prime minister should be used by the Scottish Government to fund a short-term support scheme to top up farmers’ market returns,” said the letter.

This would be subject to cattle hitting the correct specification, which is within 280kg-360kg dw and grades O+4L, R3, R4L, U3 or U4L.

See also: Business Clinic: Your questions answered by our expert panel

“This would allow cattle finishers to be able to buy store cattle, knowing they have a guaranteed finished price for all cattle that are in the right specification to what the consumer wants.

"Compliance with these parameters could be monitored via the Bovine EID database.”

The letter also says that the current food safety regime places an unnecessary cost burden on red and white meat processing that other protein sectors do not have to bear.

NFU wants answers on cause of low beef price

British farmgate beef prices are unsustainable, having fallen for 12 weeks to sit 22p/kg below the five-year average.

“Farmers are getting £200-£300 per animal less than they were few months ago,” said NFU livestock board chairman Richard Findlay.

Clarity is needed on what market factors are driving this low farmgate price, he said.

“Without understanding what’s causing a market movement, we can’t respond to it, and for us to understand it, we need greater transparency throughout the whole supply chain.

“This includes clearer pricing structures, terms and conditions with notice of any changes and a wholesale review of processor deductions.

“This is not just about a few financial losses but the long-term sustainability of the British beef sector.

"If we don’t get to the bottom of what’s driving the low price, we will start to see farmers leaving the sector.”

“It is clear that there is a market for British beef, so it’s difficult to understand where this low price has come from and why it’s not picking up.

Protests resume in Ireland

Irish farmers have resumed protests at meat plants, drawing threats of legal action from the meat processors.

Representing the abattoirs, Meat Industry Ireland (MII) said that blockades were putting Irish jobs at risk, putting exports to existing customers at risk and damaging its members’ ability to win new markets for Irish beef.

The blockading activity was stopping cattle entering and meat consignments leaving an increasing number of beef processing facilities, leaving companies with no alternative but to seek legal protection for the business from the court, said MII.

The recent beef Irish crisis talks were held on condition that price was not discussed.

“Price is determined by conditions in the market at present, which are acknowledged by all as being extremely challenging.

"There simply isn’t more in the marketplace right now,” said an MII statement.

“Furthermore, the week ahead sees the commencement of a round of important processing plant inspections by a Chinese official delegation with a view to approving more beef plants for export to China.

"This is a positive for the entire sector, and any plant disruptions should not be turned into an own goal.”

JOURNAL : Farmers Weekly

Vets have warned sheep producers to protect store lambs against pasteurellosis, which sees a spike in the number of cases during the autumn.

University of Nottingham veterinary pathologist student Katie Waine explained that five-year disease diagnostic data showed both pneumonic and septicaemic pasteurellosis rose sharply in the autumn months.

“Last autumn, pasteurellosis was the most common cause of death in lambs,” said Dr Waine, who is working on a project jointly funded by the AHDB and MSD Animal Health.

See also: How to protect your flock from clostridial diseases and pasteurella

“As part of the project, I collate the information from Farm Post Mortems Ltd on diseases that have been seen over the previous three months and produce quarterly reports.

“We also talk to vets and farmers who have submitted dead stock  to try to establish why losses have occurred,” she added.

Farmer feedback suggested lambs had not been vaccinated at all or had not been given the second dose four to six weeks later, which is needed to prime effective immunity.

Post-mortems also pointed to additional factors that may have contributed, such as high worm burdens and trace element deficiencies.

What is pasteurellosis?

Pasteurellosis is a devastating condition affecting sheep of all ages. It is one of the most common causes of mortality in sheep. It is most often associated with stress. The disease is of considerable economic significance and incurs substantial treatment costs.

Many factors, including stress and management, play a role in the development of the disease. The most important infectious agents involved are bacteria including Mannheimia haemolytica, Bibersteinia trehalosi and Pasteurella multocida.

Vet Ben Strugnell from Farm Post Mortems explained that pasteurellosis was an opportunistic disease.

It can be triggered by many factors, such as worm burdens, change of diet, border disease, trace element deficiency, adverse weather or overstocking, Mr Strugnell suggested.

“Autumn has always been a significant risk period for this disease because of the abundance of these different triggers during the season,” he said.

Mr Strugnell described the peak as concerning and suggested that producers who kept store lambs during this period should talk to their vet or animal health provider about vaccinating them correctly.

“The key message is that it is almost impossible to control the multiple, varied stress-related triggers for pasteurellosis so the best advice is to vaccinate lambs for the whole time they are on the farm.”

He said in many cases this would mean giving store lambs a third booster dose in August/September, so that they were fully immunised in advance of the autumn risk period.

“For those buying store lambs, it is advisable to try to establish that the incomers have had an initial vaccination course (two doses) and then give them a third one on arrival,” he said.

Where outbreaks of pasteurellosis had occurred Mr Strugnell said blood sampling of lambs for trace element status and border disease antibodies should be considered to protect the flock the following year.

He also advised egg counting for fluke and worms should be carried out along with tests on grazing, forage and feed to assess the quality of nutrition.

How to recognise a pasteurellosis infection?

There are two distinct syndromes of pasteurellosis:

1. Septicaemia Generally caused by Bibersteinia trehalosi, this condition is most commonly characterised by sudden death or the finding of moribund sheep. Treatment of affected cases is rarely successful. Outbreaks can be sizeable and result in significant mortality.

2. Pneumonia During an outbreak of pneumonia, mortality in a flock can be as high as 25%. The disease is responsible for the majority of pneumonia in sheep and is a threat to all ages of sheep. Death and treatment costs can easily attain 8% of production costs. To this must be added the costs of reduced stock performance, sub-clinical illness and higher personnel costs. Clinical signs are influenced by the age of the animal, and mortality in young lambs can be very high.

Symptoms

Fever (as high as 42C)

Depression, laboured breathing and increased respiratory rate

Loss of appetite and cough

Reddening of the mucous membranes

Nasal discharge - initially watery and later may become purulent

Conjunctivitis - runny eyes

Source: MSD

JOURNAL : Farmers Weekly

A basic dental examination can reveal important information about any dental problems sheep may have that could hold back performance.

Poor teeth can reduce dry matter intake; lead to a loss of body condition, poor scanning rates or infertility; and potentially lead to incidence of twin lamb disease as a result of nutritional problems.

Spending just a few minutes examining dentition can reveal issues that could warrant stock being fattened, rather than being kept for breeding.

Veterinary surgeon Sam Fielding of Swale Vets, North Yorkshire, reminds shepherds how to check dentition before tupping.

Telltale signs of dental problems

Excessive salivation

Body condition – is the sheep below a body condition score of 3 as a result of not being able eat?

Eyes wincing during chewing or when pressing the side of the mouth, or restlessness as a result of pain.

Foul smell from the mouth due to trapped food in worn tooth etc.

Feel for lumps, spurs or sharp point which could be broken or damaged teeth or cysts

Dental caries (rotten teeth) can be more common in younger sheep, especially when being fed fodder beet or molasses.

1. Check teeth and jaw alignment

Restrain the sheep in a comfortable position with the head clearly visible.

Part the top and bottom lips to reveal teeth and dental pad.

Run an index finger along the dental pad with the sheep’s jaw closed to reveal any teeth projecting forward or behind the dental pad

Forward is overshot and behind is undershot (picture 1). Either can result in pressure on the teeth, teeth breaking and difficulties in nursing properly, eating creep feed or grazing. These animals should not be kept for breeding.

Picture 2 shows a good mouth with eight milk teeth meeting the dental pad.

2. Assess teeth quality and age

Restrain sheep and part the top and bottom lips.

Assess yearling sheep and ewe lambs for good jaws and teeth.

Check older ewes for long, gappy teeth and any broken teeth.

What to look for:

E Yearlings: First incisors should be inspected and considered as part of culling considerations. The example (picture 3) shows an ideal mouth, with two wide incisors and all teeth straight, evenly proportioned and coming into contact with the dental pad.

E Mature sheep: At five or six years of age teeth can appear long, worn and gappy and start to break. This ewe (picture 4) is in its fifth year and could be drafted out of the flock, sold or put on to easier ground and supplemented to maintain condition and productivity, as the teeth aren’t actually broken yet. Alternatively, she could be culled, depending on individual flock situations.

3. Assess premolars and molars

Restrain the sheep in a comfortable position with the head clearly visible.

Run your index and middle fingers along the side of the sheep’s head, slowly moving across the face 1-3cm above the lower jaw below the line of the mouth (see picture 5).

Repeat this process several times on each side of the sheep’s head.

If the sheep is still enough or can be sufficiently restrained, run your hands down each side of the sheep’s head, feeling for any lumps or bumps. The teeth should feel symmetrical.

Using all four fingers, feel along the upper cheek teeth on the upper jaw.

Focus on the area directly behind the mouth and work back until you are below the eye (picture 6).

Feel for lumps and bumps or any sign that the cheek teeth molars aren’t symmetrical, using one hand on each side if possible. (see “Telltale signs of dental problems” above).

Video

Watch our video for more information and advice on mouthing sheep and dental examinations.

The video covers:

The importance of good dentition to flock performance

How to do a molar exam as part of a pre-tupping check

How to age sheep according to incisors

JOURNAL : Farmers Weekly

Improving soil health has now been included in Agrovista’s long-term blackgrass trial, as the company continues to refine its blackgrass management advice for growers on heavy land.

The project’s tried-and-tested cover crops/spring wheat system was established to help growers with severe blackgrass infestations.

It previously identified the best species for the autumn-sown cover crop and the best way to establish the following spring wheat crop.

Having succeeded in bringing grassweeds under control with this combined approach (see "Project Lamport update"), the next phase of the project is to evaluate and measure any effect the system has on soil health.

See also: How to get effective weed control when using flufenacet

Project Lamport update

Latest findings from year six of the project

The cover crop species do matter – where black oats aren’t included, there are insufficient roots to hold the soil together and blackgrass starts to come through

Early cover crop destruction works best – there’s always a benefit from spraying them off by Christmas

Don’t always follow oilseed rape with winter wheat – consider a spring crop where there is still blackgrass to control

There is no yield benefit from including a cover crop – but there is always a benefit in terms of blackgrass control

Spring barley and spring oats are being assessed as alternatives to spring wheat

Roots and iron

As a result, various combinations of roots and metal are being investigated for their contribution to soil structure, subsequent spring crop growth and weed control, so growers can eliminate unnecessary passes and keep costs low while also staying on top of blackgrass.

Early indications are that shallow, low-disturbance cultivations ahead of the cover crop give better results than either deeper passes or leaving the land undisturbed and fallow.

This suggests that using some metal along with soil-conditioning cover crops in the early years is important to get the right results.

The ultimate aim is to get the cover crop roots to do as much of the work as possible, but research has shown that their introduction on heavy, more unforgiving land often requires some help.

Without cover crops, the heavy soils on the Northamptonshire site have a tendency to slump as they get wetter.

Cultivation

Both wet and dry autumn conditions have been tested, with the lighter approach involving loosening to 15cm rather than 25cm, giving better results in both years.

As blackgrass control remains the main objective at the Northamptonshire site, the reason for extending the work is that a healthy, free-draining soil is a central component of success, says trials co-ordinator Niall Atkinson.

“Given our blackgrass focus, what we want is for crops to be competitive,” he explains. “If we get the spring wheat to establish well and grow strongly to develop a good canopy, there is less opportunity for blackgrass to germinate.

“That’s far more likely to happen in a well-structured soil where there are no impediments to root growth.”

While some of the trial plots were shallow cultivated to a few centimetres, others were loosened to either 15cm or 25cm, both with low-disturbance legs and with and without discs. Another plot was left undisturbed and fallow.

Different cover crop drilling techniques were also assessed, with the black/oats phacelia mix being either broadcast, combi-drilled or separated so that the black oats were sown behind the loosening legs and the phacelia was broadcast.

Cover crop benefit

“What we have learned from this year is that cover crops are making an important contribution, both to the growth of the following spring wheat crop and to blackgrass control,” says Mr Atkinson. “Even a poor cover crop does something.”

He adds that as the priority is blackgrass control, it’s important to be careful with loosening legs, or there’s a risk that dormant blackgrass seed will be given a second opportunity to germinate.

His advice is that less is more when it comes to cultivations.

“We want the cover crop roots to do most of the work. Although the following spring crop is direct drilled into bare ground, the cover crop roots are still holding the soil together and preventing it from slumping.”

Work will continue on the effect of cover crops, cultivations and compaction, he adds. “We need to know what the best combination is for soil structure and building soil health, while also managing blackgrass control in a spring cropping system.”

What is the most successful system?

Spring wheat following an autumn-sown cover/trap crop consisting of black oats and phacelia has been the most successful trial across Project Lamport.

The cover or trap crop has to be open enough early on to allow as much blackgrass as possible to grow through, before it is sprayed off in the winter, some weeks ahead of drilling.

Once blackgrass has established and been trapped, the cover crop then has to generate enough biomass to condition the soil, remove moisture and allow timely spring drilling.

The spring crop is then direct drilled to minimise soil disturbance and avoid a further blackgrass chit. Yields of 8.3-10.6t/ha have been achieved, while blackgrass has been virtually eliminated.

**Load-Date:** September 6, 2019

**End of Document**



[***Federal Register: Air Plan Approval; Ohio; Redesignation of the Columbus, Ohio Area to Attainment of the 2015 Ozone Standard Pages 31814 - 31826 [FR DOC #2019-14154]***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5WGW-J0J1-F0YC-N0FY-00000-00&context=1516831)

Impact News Service

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**Body**

Washington: Office of the Federal Register has issued the following notice:

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Parts 52 and 81 [EPA-R05-OAR-2019-0239; FRL-9995-66-Region 5] Air Plan Approval; Ohio; Redesignation of the Columbus, Ohio Area to Attainment of the 2015 Ozone Standard AGENCY: Environmental Protection Agency (EPA). ACTION: Proposed rule. ----------------------------------------------------------------------- SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Columbus, Ohio area is attaining the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) and to act in accordance with a request from the Ohio Environmental Protection Agency (Ohio EPA) to redesignate the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Columbus area includes Delaware, Fairfield, Franklin, and Licking Counties. Ohio EPA submitted this request on April 23, 2019. EPA is also proposing to approve, as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2030 in the Columbus area. Finally, EPA finds adequate and is proposing to approve Ohio's 2023 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NOX) Motor Vehicle Emission Budgets (MVEBs) for the Columbus area. DATES: Comments must be received on or before August 2, 2019. ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05- OAR-2019-0239 at [*http://www.regulations.gov*](http://www.regulations.gov) or via email to [*aburano.douglas@epa.gov*](mailto:aburano.douglas@epa.gov) For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov For either manner of submission, 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, please contact the person identified in the For Further Information Contact section. For 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*](http://www2.epa.gov/dockets/commenting-epa-dockets). FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [*dagostino.kathleen@epa.gov*](mailto:dagostino.kathleen@epa.gov) SUPPLEMENTARY INFORMATION: Throughout this document whenever ``we,'' ``us,'' or ``our'' is used, we mean EPA. This supplementary information section is arranged as follows: I. What is EPA proposing? II. What is the background for these actions? III. What are the criteria for redesignation? IV. What is EPA's analysis of Ohio's redesignation request? A. Has the Columbus area attained the 2015 8-hour ozone NAAQS? B. Has Ohio met all applicable requirements of section 110 and part D of the CAA for the Columbus area, and does Ohio have a fully approved SIP for the area under section 110(k) of the CAA? C. Are the air quality improvements in the Columbus area due to permanent and enforceable emission reductions? D. Does Ohio have a fully approvable ozone maintenance plan for the Columbus area? V. Has the state adopted approvable motor vehicle emission budgets? A. Motor Vehicle Emission Budgets B. What is the status of EPA's adequacy determination for the proposed VOC and NOX MVEBs for the Columbus area? C. What is a safety margin? VI. Proposed Actions VII. Statutory and Executive Order Reviews I. What is EPA proposing? EPA is proposing to take several related actions. EPA is proposing to determine that the Columbus nonattainment area is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2016-2018 and that this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Columbus area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also proposing to approve, as a revision to the Ohio SIP, the state's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2015 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly- established 2023 and 2030 MVEBs for the Columbus area. The comment period for the adequacy of the MVEBs began on May 2, 2019, with EPA's posting of the availability of the submittal on EPA's Adequacy website (at   [*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*](https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa)). The comment period ended on June 1, 2019. EPA did not receive any requests for this submittal, or adverse comments on this adequacy submittal. In a letter dated June 5, 2019, EPA informed Ohio EPA that we found the 2023 and 2030 MVEBs to be adequate for use in transportation conformity analyses. Please see section V. B. of this rulemaking, ``What is the status of EPA's adequacy determination for the proposed VOC and NOX MVEBs for the Columbus area,'' for further explanation of this process. Based on the above, we find adequate, and are proposing to approve, the State's 2023 and 2030 MVEBs for transportation conformity purposes. II. What is the background for these actions? EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50. Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent 3 years of quality assured ozone monitoring data. The Columbus area was designated as a marginal nonattainment area for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018). III. What are the criteria for redesignation? Section 107(d)(3)(E) of the CAA allows redesignation of an area to [[Page 31815]] attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA. On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents: 1. ``Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990; 2. ``Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992; 3. ``Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992; 4. ``Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ``Calcagni Memorandum''); 5. ``State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; 6. ``Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993; 7. ``State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993; 8. ``Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993; 9. ``Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and 10. ``Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995. IV. What is EPA's analysis of Ohio's redesignation request? A. Has the Columbus area attained the 2015 ozone NAAQS? For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix U of part 50, based on 3 complete, consecutive ***calendar*** years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3- year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.070 ppm. The air quality data must be collected and quality- assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3- year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,\1\ on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix U to 40 CFR part 50. --------------------------------------------------------------------------- \1\ The ozone season is defined by state in 40 CFR 58 appendix D. The ozone season for Ohio is March-October. See, 80 FR 65292, 65466-67 (October 26, 2015). --------------------------------------------------------------------------- EPA has reviewed the available ozone monitoring data from monitoring sites in the Columbus area for the 2016-2018 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Columbus area is attaining the 2015 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1. Table 1--Annual Fourth High Daily Maximum 8-Hour Ozone Concentrations and 3-Year Average of the Fourth High Daily Maximum 8-Hour Ozone Concentrations for the Columbus Area ---------------------------------------------------------------------------------------------------------------- Fourth high 2016-2018 County Monitor Year % Observed (ppm) average (ppm) ---------------------------------------------------------------------------------------------------------------- Delaware........................ 39-041-0002 2016 98 0.067 0.064 2017 99 0.060 2018 99 0.066 Franklin........................ 39-049-0029 2016 99 0.072 0.069 2017 100 0.070 2018 100 0.066 [[Page 31816]] 39-049-0037 2016 97 0.067 N/A 2017 99 0.066 2018 \* .............. 39-049-0081 2016 100 0.071 0.066 2017 99 0.064 2018 100 0.063 Licking......................... 39-089-0005 2016 99 0.067 0.064 2017 100 0.065 2018 99 0.061 39-089-0008 2016 .............. .............. N/A .............. 2017 \*\* .............. .............. 2018 99 0.064 ---------------------------------------------------------------------------------------------------------------- \* Site terminated effective 12/31/17. The 2014-2016 and 2015-2017 design values at the site were 0.066 and 0.065, respectively. \*\* Site began operation 3/1/18. The Columbus area's 3-year ozone design value for 2016-2018 is 0.069 ppm,\2\ which meets the 2015 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the Columbus area is attaining the 2015 ozone NAAQS. --------------------------------------------------------------------------- \2\ The monitor ozone design value for the monitor with the highest 3-year averaged concentration. --------------------------------------------------------------------------- EPA will not take final action to determine that the Columbus area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2019 data to date indicate that this area continues to attain the 2015 ozone NAAQS. As discussed in section IV.D.3 below, Ohio EPA has committed to continue monitoring ozone in this area to verify maintenance of the 2015 ozone NAAQS. B. Has Ohio met all applicable requirements of section 110 and part D of the CAA for the Columbus area, and does Ohio have a fully approved SIP for the area under section 110(k) of the CAA? As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (see section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (see section 107(d)(3)(E)(ii) of the CAA). EPA finds that Ohio has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2015 ozone NAAQS). Additionally, EPA finds that all applicable requirements of the Ohio SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Columbus area and the Ohio SIP and, if applicable, whether the required Ohio SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA. The September 4, 1992 Calcagni memorandum (see ``Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465-66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. Sierra Club v. EPA, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS). 1. Ohio has met all applicable requirements of section 110 and part D of the CAA applicable to the Columbus area for purposes of redesignation. a. Section 110 General Requirements for Implementation Plans Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development. Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain [[Page 31817]] air pollutants, e.g , NOX SIP call.\3\ However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. See 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426-27 (May 13, 2003). --------------------------------------------------------------------------- \3\ On October 27, 1992 (63 FR 57356), EPA issued a NOX SIP call requiring the District of Columbia and 22 states to reduce emissions of NOX in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NOX SIP call, Ohio developed rules governing the control of NOX emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers and turbines, and major cement kilns. EPA approved Ohio's rules as fulfilling Phase I of the NOX SIP Call on August 5, 2003 (68 FR 46089) and June 27, 2005 (70 FR 36845), and as meeting Phase II of the NOX SIP Call on February 4, 2008 (73 FR 6427). --------------------------------------------------------------------------- In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e , for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174- 53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland- Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). See also the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001). We have reviewed Ohio's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.\4\ --------------------------------------------------------------------------- \4\ EPA has previously approved provisions of the Ohio SIP addressing section 110 elements under the 2008 ozone NAAQS (79 FR 62019, October 16, 2014 and 83 FR 21719 May 10, 2018). In addition, on September 28, 2018, Ohio EPA submitted a SIP to meet the requirements of section 110 for the 2015 ozone NAAQS. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the 2015 ozone NAAQS nonattainment status of the Columbus area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the state's 2015 ozone NAAQS redesignation request. --------------------------------------------------------------------------- b. Part D Requirements Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications. The Columbus area was classified as marginal under subpart 2 for the 2015 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a) (marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498). i. Subpart 1 Section 172 Requirements CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than 3 years from the date of the nonattainment designation. For the Columbus nonattainment area, SIPs required under CAA section 172 are due August 3, 2021. No requirements applicable for purposes of redesignation under part D became due prior to Ohio EPA's submission of the complete redesignation request, and, therefore, none are applicable to the area for purposes of redesignation. EPA has previously approved Ohio's NSR program on January 10, 2003 (68 FR 1366) and February 25, 2010 (75 FR 8496). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ``Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Ohio has demonstrated that the Columbus area will be able to maintain the 2015 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. See rulemakings for Detroit, Michigan (60 FR 12467-12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469-20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834-31837, June 21, 1996). Ohio's PSD program will become effective in the Columbus area upon redesignation to attainment. EPA approved Ohio's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496). ii. Section 176 Conformity Requirements Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C ) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA. EPA interprets the conformity SIP requirements \5\ as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been [[Page 31818]] approved. See Wall v. EPA, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Ohio has an approved conformity SIP for the Columbus area. See 80 FR 11133 (March 2, 2015). --------------------------------------------------------------------------- \5\ CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans. --------------------------------------------------------------------------- iii. Section 182(a) Requirements Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NOX emitted within the boundaries of the ozone nonattainment area within two years of designation. For the Columbus area, this submission is due August 3, 2020. Because it will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation. Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Columbus area is not subject to the section 182(a)(2) RACT ``fix up'' requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Ohio complied with this requirement for the Columbus area under the prior 1-hour ozone NAAQS. See 59 FR 23796 (May 9, 1994) and 60 FR 15235 (March 23, 1995). Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2015 ozone NAAQS and the consideration of Ohio's redesignation request for this standard, the Columbus area is not subject to the section 182(a)(2)(B) requirement because the Columbus area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments. Section 182(a)(2)(C), under the heading ``Corrections to the State implementation plans--Permit programs'' contains a requirement for states to submit NSR SIP revisions to meet the requirements of CAA sections 172(c)(5) and 173 within 2 years after the date of enactment of the 1990 CAA Amendments. For the purposes of the 2015 ozone NAAQS and the consideration of Ohio's redesignation request for this standard, the Columbus area is not subject to the section 182(a)(2)(C) requirement because the Columbus area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments. Section 182(a)(4) specifies the emission offset ratio for marginal areas but does not establish a SIP submission deadline. EPA's December 6, 2018 implementation rule for the 2015 ozone NAAQS clarifies that nonattainment NSR permit program requirements applicable to the 2015 NAAQS are due 3 years from the effective date of the nonattainment designation, i.e , August 3, 2021. See 83 FR 62998, 63001. This approach is based on the provision in CAA section 172(b) requiring the submission of plans or plan revisions ``no later than 3 years from the date of the nonattainment designation.'' Because this requirement will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation. While Ohio has not submitted a nonattainment NSR SIP revision to address the 2015 ozone NAAQS, Ohio currently has a fully-approved part D NSR program in place. In addition, EPA approved Ohio's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496). As discussed above, Ohio has demonstrated that the Columbus area will be able to maintain the 2015 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Columbus area upon redesignation to attainment. Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NOX emissions. As discussed below in section IV.D.4 of this proposed rule, Ohio will continue to update its emissions inventory at least once every 3 years. With regard to stationary source emission statements, this submission is due August 3, 2020. Because it will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation. Therefore, EPA finds that the Columbus area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA. 2. The Columbus area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA. At various times, Ohio has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, EPA has fully approved the Ohio SIP for the Columbus area under section 110(k) for all requirements applicable for purposes of redesignation under the 2015 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (see the Calcagni memorandum at page 3; Southwestern Pennsylvania Growth Alliance v. Browner, 144 F.3d 984, 989-990 (6th Cir. 1998); Wall v. EPA, 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (see 68 FR 25426 (May 12, 2003) and citations therein). C. Are the air quality improvements in the Columbus area due to permanent and enforceable emission reductions? To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Ohio has demonstrated that that the observed ozone air quality improvement in the Columbus area is due to permanent and enforceable reductions in VOC and NOX emissions resulting from state measures adopted into the SIP and Federal measures. In making this demonstration, the state has calculated the change in emissions between 2014 and 2016. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Columbus area and upwind areas have implemented in recent years. In addition, Ohio EPA provided an analysis to demonstrate the [[Page 31819]] improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. 1. Permanent and enforceable emission controls implemented. a. Regional NOX Controls Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO2) and NOX emissions in 27 eastern states, including Ohio, that contributed to downwind nonattainment and maintenance of the 1997 ozone NAAQS and the 1997 fine particulate matter (PM2.5) NAAQS. See 70 FR 25162 (May 12, 2005). EPA approved Ohio's CAIR regulations into the Ohio SIP on February 1, 2008 (73 FR 6034), and September 25, 2009 (74 FR 48857). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C Circuit) initially vacated CAIR, North Carolina v. EPA, 531 F.3d 896 (D.C Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, North Carolina v. EPA, 550 F.3d 1176, 1178 (D.C Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus addressed the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 PM2.5 NAAQS. CSAPR requires substantial reductions of SO2 and NOX emissions from electric generating units (EGUs) in 28 states in the Eastern United States. The D.C Circuit's initial vacatur of CSAPR \6\ was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C Circuit to resolve remaining issues in accordance with the high court's ruling. EPA v. EME Homer City Generation, L.P , 134 S. Ct. 1584 (2014). On remand, the D.C Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. EME Homer City Generation, L.P v. EPA, 795 F.3d 118 (D.C Cir. 2015). The remanded budgets include the Phase 2 NOX ozone season emissions budgets for Ohio. On September 7, 2016, in response to the remand, EPA finalized an update to CSAPR requiring further reductions in NOX emissions from EGUs beginning in May 2017. This final rule was projected to result in a 20% reduction in ozone season NOX emissions from EGUs in the eastern United States, a reduction of 800,000 tons in 2017 compared to 2015 levels. --------------------------------------------------------------------------- \6\ EME Homer City Generation, L.P v. EPA, 696 F.3d 7, 38 (D.C Cir. 2012). --------------------------------------------------------------------------- There are no EGUs in the Columbus area. However, the reduction in NOX emissions from the implementation of CSAPR results in lower concentration of transported ozone entering the Columbus area upon implementation of the phase 2 budgets in 2017 and throughout the maintenance period. b. Federal Emission Control Measures Reductions in VOC and NOX emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following. Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NOX emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NOX and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28%, respectively. NOX and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, much of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years. Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduces both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule will be phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NOX and for particulate matter. The VOC and NOX tailpipe standards for light-duty vehicles represent approximately an 80% reduction from today's fleet average and a 70% reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average VOC and NOX and per- vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from current standards and apply to all light-duty and onroad gasoline-powered heavy-duty vehicles. Finally, the rule lowers the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years. Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for onroad heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NOX, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NOX and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NOX and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NOX and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years. Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur [[Page 31820]] reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, ***agricultural***, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO2 limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NOX emissions from these nonroad diesel engines by approximately 90%. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period. Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off- highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards are phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72% reduction in VOC emissions from these engines and an 80% reduction in NOX emissions. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period. Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896) EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25% reduction in NOX emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NOX from these engines. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period. 2. Emission reductions. Ohio is using a 2014 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the area as nonattainment. Ohio is using 2016 as the attainment year, which is appropriate because it is one of the years in the 2016-2018 period used to demonstrate attainment. Area and nonroad mobile emissions were collected from data available on EPA's Air Emissions Modeling website.\7\ Using Emissions Modeling platform 2011v6.3, Ohio EPA collected data for the 2011 National Emissions Inventory (NEI) year, version 2011el, and the 2017 projected inventory, version 2017ek. Tons per summer day (TPSD) emissions were then derived by dividing July emissions by the number of days in July. 2014 emissions were derived by interpolating between 2011 and 2017 (2011el and 2017ek). 2016 emissions were assumed to be equivalent to the 2017 projected emissions (2017ek). --------------------------------------------------------------------------- \7\   [*https://www.epa.gov/air-emissions-modeling/2011-version-63-platform*](https://www.epa.gov/air-emissions-modeling/2011-version-63-platform). --------------------------------------------------------------------------- Ohio EPA compiled 2014 and 2016 actual point source emissions from state inventory databases. TPSD emissions were then derived by applying a conversion factor to the annual emissions. The conversion factor was derived from the emissions modeling platform 2011v6.3 as the ratio of the average July day to annual emissions for the non-EGU sector. Onroad mobile source emissions were developed in conjunction with the Ohio EPA, the Ohio Department of Transportation, the Mid-Ohio Regional Planning Commission (MORPC), and the Licking County Area Transportation Study (LCATS) and were calculated from emission factors produced by EPA's Motor Vehicle Emission Simulator model, MOVES2014a, and data extracted from the region's travel-demand model. Using the inventories described above, Ohio's submittal documents changes in VOC and NOX emissions from 2014 to 2016 for the Columbus area. Emissions data are shown in Tables 2 through 6. Table 2--Columbus Area NOX Emissions for Nonattainment Year 2014 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.07 2.45 3.30 7.01 12.83 Fairfield....................... 4.05 0.54 2.08 4.96 11.63 Franklin........................ 1.48 9.04 11.53 45.89 67.94 Licking......................... 0.95 0.69 2.00 7.34 10.98 ------------------------------------------------------------------------------- Area Totals................. 6.55 12.72 18.91 65.20 103.38 ---------------------------------------------------------------------------------------------------------------- Table 3--Columbus Area VOC Emissions for Nonattainment Year 2014 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.36 4.30 4.14 4.72 13.52 Fairfield....................... 0.59 4.61 1.44 3.84 10.48 Franklin........................ 2.27 28.24 13.29 31.26 75.06 Licking......................... 0.70 6.46 2.59 4.80 14.55 ------------------------------------------------------------------------------- Area Totals................. 3.92 43.61 21.46 44.62 113.61 ---------------------------------------------------------------------------------------------------------------- Table 4--Columbus Area NOX Emissions for Attainment Year 2016 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.10 2.30 2.49 5.59 10.48 [[Page 31821]] Fairfield....................... 3.85 0.55 1.56 3.94 9.90 Franklin........................ 1.34 8.90 8.37 36.51 55.12 Licking......................... 0.89 0.71 1.53 5.86 8.99 ------------------------------------------------------------------------------- Area Totals................. 6.18 12.46 13.95 51.90 84.49 ---------------------------------------------------------------------------------------------------------------- Table 5--Columbus Area VOC Emissions for Attainment Year 2016 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.27 4.16 3.40 4.02 11.85 Fairfield....................... 0.55 4.53 1.19 2.84 9.11 Franklin........................ 2.24 27.52 11.16 26.55 67.47 Licking......................... 0.62 6.36 2.11 4.09 13.18 ------------------------------------------------------------------------------- Area Totals................. 3.68 42.57 17.86 37.50 101.61 ---------------------------------------------------------------------------------------------------------------- Table 6--Change in NOX and VOC Emissions in the Columbus Area Between 2014 and 2016 (TPSD) -------------------------------------------------------------------------------------------------------------------------------------------------------- NOX VOC ----------------------------------------------------------------------------------------------- Net change Net Change 2014 2016 (2014-2016) 2014 2016 (2014-2016) -------------------------------------------------------------------------------------------------------------------------------------------------------- Point................................................... 6.55 6.18 -0.37 3.92 3.68 -0.24 Area.................................................... 12.72 12.46 -0.26 43.61 42.57 -1.04 Nonroad................................................. 18.91 13.95 -4.96 21.46 17.86 -3.60 Onroad.................................................. 65.20 51.90 -13.30 44.62 37.50 -7.12 ----------------------------------------------------------------------------------------------- Total............................................... 103.38 84.49 -18.89 113.61 101.61 -12.00 -------------------------------------------------------------------------------------------------------------------------------------------------------- As shown in Table 6, NOX and VOC emissions in the Columbus area declined by 18.89 TPSD and 12.00 TPSD, respectively, between 2014 and 2016. 3. Meteorology. To further support Ohio's demonstration that the improvement in air quality between the year violations occurred and the year attainment was achieved, is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by Ohio EPA. Ohio analyzed the maximum fourth-high 8-hour ozone values for May, June, July, August, and September, for years 2000 to 2017. First, the maximum 8-hour ozone concentration at each monitor in the Columbus area was compared to the number of days where the maximum temperature was greater than or equal to 80 [deg]F. While there is a clear trend in decreasing ozone concentrations at all monitors, there is no such trend in the temperature data. Ohio EPA also examined the relationship between the average summer temperature for each year of the 2000-2017 period and the fourth-high 8-hour ozone concentration. Given the similarity of ozone concentrations observed at each monitor and the regional nature of ozone formation, Ohio EPA conducted this analysis using the average fourth-high 8-hour ozone concentration from all monitors in the Columbus, OH area. While there is some correlation between average summer temperatures and ozone concentrations, this correlation does not exist over the study period. The linear regression lines for each data set demonstrate that the average summer temperatures have increased over the 2000 to 2017 period, while average ozone concentrations have decreased. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the Columbus area, and not unusually favorable summer temperatures. Finally, Ohio EPA analyzed the relationship between average summertime relative humidity and average fourth-high 8-hour ozone concentrations. The data did not show a correlation between relative humidity and ozone concentrations. As discussed above, Ohio identified numerous Federal rules that resulted in the reduction of VOC and NOX emissions from 2014 to 2016. In addition, Ohio EPA's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the Columbus area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Ohio has shown that the air quality improvements in the Columbus area are due to permanent and enforceable emissions reductions. D. Does Ohio have a fully approvable ozone maintenance plan for the Columbus area? As one of the criteria for redesignation to attainment section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the [[Page 31822]] initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Columbus area to attainment for the 2015 ozone NAAQS, Ohio EPA submitted a SIP revision to provide for maintenance of the 2015 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Ohio's ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision of the Ohio SIP. 1. Attainment inventory. EPA is proposing to determine that the Columbus area has attained the 2015 ozone NAAQS based on monitoring data for the period of 2016- 2018. Ohio EPA selected 2016 as the attainment emissions inventory year to establish attainment emission levels for VOC and NOX. The attainment emissions inventory identifies the levels of emissions in the Columbus area that are sufficient to attain the 2015 ozone NAAQS. The derivation of the attainment year emissions was discussed above in section IV.C.2 of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 4 and 5 above. 2. Has the state documented maintenance of the ozone standard in the Columbus area? Ohio has demonstrated maintenance of the 2015 ozone NAAQS through 2030 by assuring that current and future emissions of VOC and NOX for the Columbus area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. See Wall v. EPA, 265 F.3d 426 (6th Cir. 2001), Sierra Club v. EPA, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099-53100 (October 19, 2001), 68 FR 25413, 25430-25432 (May 12, 2003). Ohio is using emissions inventories for the years 2023 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment and 2023 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below. Point, area and nonroad mobile emissions were collected from data available on EPA's Air Emissions Modeling website.\3\ Using Emissions Modeling platform 2011v6.3, Ohio EPA collected data for the 2023 and 2028 projected inventories. Tons per summer day (TPSD) emissions were then derived by dividing July emissions by the number of days in July. For interim year 2023, version 2023el was used without modification except for adjustments to emissions for ten point sources, based on more recent source specific information. 2030 emissions were derived by extrapolating from version 2028el. As with the 2023 inventory, adjustments were made to the emissions for ten point sources based on more recent source specific information. Onroad mobile source emissions were developed through the combined effort of Ohio EPA, the Ohio Department of Transportation, MORPC, and LCAT and were calculated from emission factors produced by EPA's MOVES2014a model and data extracted from the region's travel-demand model. Emissions data are shown in Tables 7 through 11 below. Table 7--Columbus Area NOX Emissions for Interim Maintenance Year 2023 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.08 1.97 1.73 2.80 6.58 Fairfield....................... 3.55 0.54 1.06 1.94 7.09 Franklin........................ 1.08 8.88 5.96 17.84 33.76 Licking......................... 0.75 0.73 1.07 2.88 5.43 ------------------------------------------------------------------------------- Area Totals................. 5.46 12.12 9.82 25.46 52.86 ---------------------------------------------------------------------------------------------------------------- Table 8--Columbus Area VOC Emissions for Interim Maintenance Year 2023 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.33 4.19 3.00 2.73 10.25 Fairfield....................... 0.53 4.37 1.14 1.90 7.94 Franklin........................ 1.52 27.61 11.26 17.60 57.99 Licking......................... 0.41 5.94 1.84 2.70 10.89 ------------------------------------------------------------------------------- Area Totals................. 2.79 42.11 17.24 24.93 87.07 ---------------------------------------------------------------------------------------------------------------- Table 9--Columbus Area NOX Emissions for Maintenance Year 2030 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.08 1.56 1.46 1.92 5.02 Fairfield....................... 3.55 0.53 0.85 2.70 7.63 Franklin........................ 1.08 8.34 5.42 11.70 26.54 Licking......................... 0.75 0.73 0.87 1.92 4.27 ------------------------------------------------------------------------------- Area Totals................. 5.46 11.16 8.60 18.24 43.46 ---------------------------------------------------------------------------------------------------------------- [[Page 31823]] Table 10--Columbus Area VOC Emissions for Maintenance Year 2030 (TPSD) ---------------------------------------------------------------------------------------------------------------- County Point Area Nonroad Onroad Total ---------------------------------------------------------------------------------------------------------------- Delaware........................ 0.33 4.18 3.00 2.14 9.65 Fairfield....................... 0.53 4.37 1.20 1.78 7.88 Franklin........................ 1.52 27.62 12.17 13.20 54.51 Licking......................... 0.41 5.95 1.84 2.04 10.24 ------------------------------------------------------------------------------- Area Totals................. 2.79 42.12 18.21 19.16 82.28 ---------------------------------------------------------------------------------------------------------------- Table 11--Change in NOX and VOC Emissions in the Columbus Area Between 2016 and 2030 (TPSD) -------------------------------------------------------------------------------------------------------------------------------------------------------- NOX VOC ------------------------------------------------------------------------------------------------------- Net change Net change 2016 2023 2030 (2016-2030) 2016 2023 2030 (2016-2030) -------------------------------------------------------------------------------------------------------------------------------------------------------- Point........................................... 6.18 5.46 5.46 -0.72 3.68 2.79 2.79 -0.89 Area............................................ 12.46 12.12 11.16 -1.30 42.57 42.11 42.12 -0.45 Nonroad......................................... 13.95 9.82 8.60 -5.35 17.86 17.24 18.21 0.35 Onroad.......................................... 51.90 25.46 18.24 -33.66 37.50 24.93 19.16 -18.34 ------------------------------------------------------------------------------------------------------- Total....................................... 84.49 52.86 43.46 -41.03 101.61 87.07 82.28 -19.33 -------------------------------------------------------------------------------------------------------------------------------------------------------- In summary, Ohio's maintenance demonstration for the Columbus area shows maintenance of the 2015 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NOX and VOC will remain at or below 2016 emission levels when taking into account both future source growth and implementation of future controls. Table 11 shows NOX and VOC emissions in the Columbus area are projected to decrease by 41.03 TPSD and 19.33 TPSD, respectively, between 2016 and 2030. 3. Continued air quality monitoring. Ohio EPA has committed to continue to operate the ozone monitors listed in Table 1 above. Ohio EPA has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Ohio remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines. 4. Verification of continued attainment. The State of Ohio has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Columbus area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems. Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Ohio EPA will continue to operate the current ozone monitors located in the Columbus area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA. In addition, to track future levels of emissions, Ohio EPA will continue to develop and submit to EPA updated emission inventories for all source categories at least once every 3 years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122 The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Ohio was compiled for 2014. Point source facilities covered by Ohio's emission statement rule, Ohio Administrative Code Chapter 3745-24, will continue to submit VOC and NOX emissions on an annual basis. 5. What is the contingency plan for the Columbus area? Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA. As required by section 175A of the CAA, Ohio has adopted a contingency plan for the Columbus area to address possible future ozone air quality problems. The contingency plan adopted by Ohio has two levels of response, a warning level response and an action level response. In Ohio's plan, a warning level response will be triggered when an annual fourth high monitored value of 0.074 ppm or higher is monitored within the maintenance area. A warning level response will consist of Ohio EPA conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the [[Page 31824]] conclusion of the most recent ozone season. In Ohio's plan, an action level response is triggered when a two- year average fourth high value of 0.071 ppm or greater is monitored within the maintenance area. A violation of the 2015 ozone NAAQS within the maintenance area also triggers an action level response. When an action level response is triggered, Ohio EPA, in conjunction with the metropolitan planning organization or regional council of governments, will determine what additional control measures are needed to assure future attainment of the 2015 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Ohio EPA may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response. Ohio EPA included the following list of potential contingency measures in its maintenance plan: 1. Adopt VOC RACT on existing sources covered by EPA Control Technique Guidelines issued after the 1990 CAA. 2. Apply VOC RACT to smaller existing sources. 3. One or more transportation control measures sufficient to achieve at least half a percent reduction in actual area wide VOC emissions. Transportation measures will be selected from the following, based upon the factors listed above after consultation with affected local governments: a. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area wide rideshare programs, work schedule changes, and telecommuting; b. traffic flow and transit improvements; and c. other new or innovative transportation measures not yet in widespread use that affected local governments deem appropriate. 4. Alternative fuel and diesel retrofit programs for fleet vehicle operations. 5. Require VOC or NOX emission offsets for new and modified major sources. 6. Increase the ratio of emission offsets required for new sources. 7. Require VOC or NOX controls on new minor sources (less than 100 tons). 8. Adopt NOX RACT for existing combustion sources. 9. High volume, low pressure coating application requirements for autobody facilities. 10. Requirements for cold cleaner degreaser operations (low vapor pressure solvents). To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. EPA has concluded that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Ohio EPA has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Columbus area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Ohio EPA for the Columbus area meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Ohio SIP. V. Has the state adopted approvable motor vehicle emission budgets? A. Motor Vehicle Emission Budgets Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must ``conform'' to (i.e , be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS. Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. See the SIP requirements for the 2015 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NOX for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. See 40 CFR 93.101 Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ***ceiling*** on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP. B. What is the status of EPA's adequacy determination for the proposed VOC and NOX MVEBs for the Columbus area? When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public ***notification*** of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, ``Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ``New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule [[Page 31825]] Amendments--Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, ``Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003). As discussed earlier, Ohio's maintenance plan includes NOX and VOC MVEBs for the Columbus area for 2030 and 2023, the last year of the maintenance period and an interim year. EPA reviewed the VOC and NOX MVEBs through the adequacy process. Ohio's April 23, 2019 maintenance plan SIP submission, including the VOC and NOX MVEBs for the Columbus area was open for public comment on EPA's adequacy website on May 2, 2019, found at:   [*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*](https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa). The EPA public comment period on adequacy of the 2020 and 2030 MVEBs for the Columbus area closed on June 1, 2019. No comments on the adequacy submittal were received during the comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor's designee and was subject to a state public hearing. The MVEBS were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBS were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2015 ozone NAAQS. Table 12--MVEBs for the Columbus area (TPSD) -------------------------------------------------------------------------------------------------------------------------------------------------------- Attainment year 2016 2023 estimated 2023 mobile 2030 estimated 2030 mobile onroad onroad safety margin 2023 MVEBs onroad safety margin 2030 MVEBs emissions emissions allocation emissions allocation -------------------------------------------------------------------------------------------------------------------------------------------------------- VOC..................................... 37.50 24.93 3.74 28.67 19.16 2.87 22.03 NOX..................................... 51.90 25.46 3.82 29.28 18.24 2.74 20.98 -------------------------------------------------------------------------------------------------------------------------------------------------------- As shown in Table 12, the 2023 and 2030 MVEBs exceed the estimated 2023 and 2030 onroad sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, Ohio EPA allocated a portion of the safety margin (described further below) to the mobile sector. Ohio has demonstrated that the Columbus area can maintain the 2015 ozone NAAQS with mobile source emissions at or below 28.67 TPSD and 22.03 TPSD of VOC and 29.28 TPSD and 20.98 TPSD of NOX in 2023 and 2030, respectively, since despite partial allocation of the safety margin, emissions will remain under attainment year emission levels. EPA finds adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the Columbus area, because EPA has determined that the area can maintain attainment of the 2015 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs. C. What is a safety margin? A ``safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 11, the emissions in the Columbus area are projected to have safety margins of 41.03 TPSD for NOX and 19.33 TPSD for VOC in 2030 (the difference between the attainment year, 2016, emissions and the projected 2030 emissions for all sources in the Columbus area). Similarly, there is a safety margin of 31.63 TPSD for NOX and 14.54 TPSD for VOC in 2023. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year. As shown in Table 12 above, Ohio is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2023, Ohio is allocating 3.74 TPSD and 3.82 TPSD of the VOC and NOX safety margins, respectively. In 2030, Ohio is allocating 2.87 TPSD and 2.74 TPSD of the VOC and NOX safety margins, respectively. Ohio EPA is not requesting allocation to the MVEBs of the entire available safety margins reflected in the demonstration of maintenance. In fact, the amount allocated to the MVEBs represents only a small portion of the 2023 and 2030 safety margins. Therefore, even though the State is requesting MVEBs that exceed the projected onroad mobile source emissions for 2023 and 2030 contained in the demonstration of maintenance, the permissible level of onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources. VI. Proposed Actions EPA is proposing to determine that the Columbus nonattainment is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2016-2018 and the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Columbus area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also proposing to approve, as a revision to the Ohio SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2015 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly- established 2023 and 2030 MVEBs for the Columbus area. VII. Statutory and Executive Order Reviews Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, [[Page 31826]] provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action: Is not a significant regulatory action subject to reviewby the Office of Management and Budget under Executive Orders 12866 (58FR 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 underExecutive Order 12866; Does not impose an information collection burden under theprovisions of the Paperwork Reduction Act (44 U.S.C 3501 et seq.); Is certified as not having a significant economic impacton a substantial number of small entities under the RegulatoryFlexibility Act (5 U.S.C 601 et seq.); Does not contain any unfunded mandate or significantly oruniquely affect small governments, as described in the UnfundedMandates Reform Act of 1995 (Pub. L. 104-4); Does not have Federalism implications as specified inExecutive Order 13132 (64 FR 43255, August 10, 1999); Is not an economically significant regulatory action basedon health or safety risks subject to Executive Order 13045 (62 FR19885, April 23, 1997); Is not a significant regulatory action subject toExecutive Order 13211 (66 FR 28355, May 22, 2001); Is not subject to requirements of section 12(d) of theNational Technology ***Transfer*** and Advancement Act of 1995 (15 U.S.C 272note) because application of those requirements would be inconsistentwith the CAA; and Does not provide EPA with the discretionary authority toaddress, as appropriate, disproportionate human health or environmentaleffects, using practicable and legally permissible methods, underExecutive Order 12898 (59 FR 7629, February 16, 1994). In addition, the SIP is not approved to apply on any Indianreservation land or in any other area where EPA or an Indian tribe hasdemonstrated that a tribe has jurisdiction. In those areas of Indiancountry, this rule does not have tribal implications as specified byExecutive Order 13175 (65 FR 67249, November 9, 2000), becauseredesignation is an action that affects the status of a geographicalarea and does not impose any new regulatory requirements on tribes,impact any existing sources of air pollution on tribal lands, norimpair the maintenance of ozone national ambient air quality standardsin tribal lands.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: June 13, 2019.Cathy Stepp,Regional Administrator, Region 5.[FR Doc. 2019-14154 Filed 7-2-19; 8:45 am]BILLING CODE 6560-50-P

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**End of Document**



[***Federal Register: Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Requests and Maintenance Plans for Delaware County and Lebanon County 2012 Fine Particulate Matter Areas Pages 33886 - 33903 [FR DOC #2019-15091]***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5WKF-MR91-JDG9-Y53D-00000-00&context=1516831)

Impact News Service

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**Body**

Washington: Office of the Federal Register has issued the following notice:

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Parts 52 and 81 [EPA-R03-OAR-2019-0262; FRL-9996-73-Region 3] Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Requests and Maintenance Plans for Delaware County and Lebanon County 2012 Fine Particulate Matter Areas AGENCY: Environmental Protection Agency (EPA). ACTION: Proposed rule. ----------------------------------------------------------------------- SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. On January 23, 2019 and February 11, 2019, respectively, the Pennsylvania Department of Environmental Protection (PADEP) submitted requests for EPA to redesignate to attainment of the 2012 annual fine particulate matter (PM2.5) national ambient air quality standards (NAAQS) the Delaware County and Lebanon County nonattainment areas (the Delaware and Lebanon Areas or the Areas). EPA is proposing to grant PADEP's requests and to determine that the Delaware and Lebanon Areas meet the 2012 annual PM2.5 NAAQS, based on the most recent three years of certified air quality data. The effect of this proposed action, if finalized, would be to change the designation status of the Delaware and Lebanon Areas from nonattainment to attainment for the 2012 annual PM2.5 NAAQS, thereby removing the requirement for a nonattainment new source review (NNSR) permitting program and stopping the sanctions clock associated with a finding of failure to submit NNSR updates for the 2012 annual PM2.5 NAAQS. EPA is also proposing to approve PADEP's plans to ensure that the Delaware and Lebanon Areas continue to meet the 2012 PM2.5 NAAQS through 2030 (maintenance plans) as revisions to the Pennsylvania SIP. The maintenance plans for the Delaware and Lebanon Areas include 2014, 2022, and 2030 motor vehicle emissions budgets (MVEBs) for mobile sources of PM2.5 and nitrogen oxides (NOX). Finally, EPA is proposing to find these 2014, 2022, and 2030 MVEBs for PM2.5 and NOX adequate and to approve these MVEBs into the Pennsylvania SIP for transportation conformity purposes. This action is being taken under the Clean Air Act (CAA). DATES: Written comments must be received on or before August 15, 2019. ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03- OAR-2019-0262 at [*https://www.regulations.gov*](https://www.regulations.gov), or via email to [*spielberger.susan@epa.gov*](mailto:spielberger.susan@epa.gov) For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov For either manner of submission, 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, please contact the person identified in the FOR FURTHER INFORMATION CONTACT section. For 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*](http://www2.epa.gov/dockets/commenting-epa-dockets). [[Page 33887]] FOR FURTHER INFORMATION CONTACT: Maria A. Pino, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814- 2181. Ms. Pino can also be reached via electronic mail at [*pino.maria@epa.gov*](mailto:pino.maria@epa.gov) SUPPLEMENTARY INFORMATION: I. What are the actions EPA is proposing? II. What is the background for these actions? III. What are the criteria for redesignation to attainment? IV. What is EPA's analysis of Pennsylvania's redesignation request for the Delaware and Lebanon Areas? A. Have the Delaware and Lebanon Areas attained the 2012 annual PM2.5 NAAQS? B. Has Pennsylvania met all applicable requirements of section 110 and part D of the CAA for the Delaware and Lebanon Areas and do the Delaware and Lebanon Areas have a fully approved SIP under section 110(k) of the CAA? C. Are the air quality improvements in the Delaware and Lebanon Areas due to permanent and enforceable emission reductions? D. Does Pennsylvania have fully approvable maintenance plans for the Delaware and Lebanon Areas? V. Has Pennsylvania adopted approvable motor vehicle emission budgets? A. What are the Motor Vehicle Emissions Budgets (MVEB)? B. What is a safety margin? C. Why are the MVEBs approvable? D. What is the adequacy and approval process for the MVEBs in the Delaware and Lebanon areas maintenance plans? VI. Proposed Action VII. Statutory and Executive Order Reviews I. What are the actions EPA is proposing? EPA is taking several actions related to the redesignation of the Delaware and Lebanon Areas to attainment of the 2012 annual PM2.5 NAAQS. EPA is proposing that the Delaware and Lebanon moderate nonattainment areas are attaining the 2012 annual PM2.5 NAAQS. EPA is also proposing to approve Pennsylvania's 2012 annual PM2.5 maintenance plans for the Delaware and Lebanon Areas as revisions to the Pennsylvania SIP. These maintenance plans include MVEBs for PM2.5 and NOX for the years 2014, 2022, and 2030. Further, EPA is also proposing to find that Pennsylvania meets the requirements for redesignation of the Delaware and Lebanon Areas to attainment of the 2012 annual PM2.5 NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to grant Pennsylvania's request to change the designation of the Delaware and Lebanon Areas from nonattainment to attainment of the 2012 annual PM2.5 NAAQS. Finally, EPA is proposing to find the 2014, 2022, and 2030 MVEBs for PM2.5 and NOX adequate and is proposing to approve these MVEBs into the Pennsylvania SIP for transportation conformity purposes. The adequacy comment period for these MVEBs will begin upon publication of this Notice of Proposed Rulemaking (NPRM) with EPA's posting of the availability of Pennsylvania's maintenance plan submittal for the Delaware and Lebanon Areas on EPA's Adequacy website which can be found at   [*https://www.epa.gov/state-and-local-transportation*](https://www.epa.gov/state-and-local-transportation). Please see section V of today's rulemaking for further explanation of the MVEBs and the adequacy process. II. What is the background for these actions? Particulate matter (PM) is the term for a mixture of solid particles and liquid droplets found in the air. Some particles, such as dust, dirt, soot, or smoke, are large or dark enough to be seen with the naked eye. Others are so small they can only be detected using an electron microscope. PM2.5 is made of fine inhalable particles with diameters that are 2.5 micrometers and smaller. PM2.5 can be emitted directly from a source, such as construction sites, unpaved roads, fields, smokestacks or fires. However, most PM2.5 is formed in the atmosphere as a result of complex reactions. The chemicals that form this ``secondary'' PM2.5, known as ``precursors'' are sulfur dioxide (SO2), NOX, volatile organic compounds (VOCs), and ammonia (NH3). PM2.5 precursors are pollutants emitted by a wide range of sources, such as power plants, industrial processes, and automobiles. On December 14, 2012, EPA promulgated a revised primary annual PM2.5 NAAQS to provide increased protection of public health from fine particle pollution. 78 FR 3086 (January 15, 2013). In that action, EPA strengthened the primary annual PM2.5 standard from 15.0 micrograms per cubic meter ([mu]g/m\3\) to 12.0 [mu]g/m\3\. An area is considered to be attainment for that NAAQS when the 3-year average of the annual arithmetic mean of the ambient air quality monitoring data collected at each monitor in the area does not exceed 12.0 [mu]g/m\3\. On December 18, 2014, the EPA Administrator signed a final action promulgating initial designations for the 2012 primary PM2.5 NAAQS based on 2011-2013 air quality monitoring data for the majority of the United States. 80 FR 2206 (January 15, 2015). In that action, the Delaware Area, which consists of Delaware County, Pennsylvania, and the Lebanon Area, which consists of Lebanon County, Pennsylvania, were designated as moderate nonattainment areas for the 2012 annual PM2.5 NAAQS. See 40 CFR 81.339 On April 6, 2018, EPA published a ``finding of failure to submit'' required SIP elements for the 2012 annual PM2.5 NAAQS for several nonattainment areas nationwide, including the Delaware and Lebanon Areas. See 83 FR 14759. EPA's finding of failure to submit, effective May 7, 2018, included a determination that Pennsylvania had not met its obligations for the NNSR permit program because Pennsylvania did not regulate emissions of VOCs and NH3 as PM2.5 precursors. Sanctions associated with this finding for the Delaware and Lebanon Areas will take effect on November 7, 2019, unless EPA fully approves the Pennsylvania's redesignation requests by November 7, 2019. As NNSR is not required in attainment areas, upon final redesignation of the Delaware and Lebanon Areas to attainment, the NNSR updates will no longer be required for the Areas, thus nullifying the findings of failure to submit and stopping the sanctions clock. III. What are the criteria for redesignation to attainment? Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of title I of the CAA. On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has [[Page 33888]] provided further guidance on processing redesignation requests in the following documents: 1. ``Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum); 2. ``State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; 3. ``Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (Nichols memorandum); and 4. ``State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation memorandum, September 17, 1993 (Shapiro memorandum). These memoranda are available in the docket for this rulemaking action, available online at   [*https://www.regulations.gov*](https://www.regulations.gov), Docket ID: EPA-R03- OAR-2019-0262. IV. What is EPA's analysis of Pennsylvania's redesignation request for the Delaware and Lebanon Areas? EPA is proposing to redesignate the Delaware and Lebanon Areas to attainment for the 2012 annual PM2.5 NAAQS and to approve Pennsylvania's related maintenance plans. The basis for EPA's actions is as follows: A. Have the Delaware and Lebanon Areas attained the 2012 annual PM[bdi2].[bdi5] NAAQS? To redesignate an area from nonattainment to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For PM2.5, an area is attaining the 2012 annual PM2.5 NAAQS if it meets the standard, as determined in accordance with 40 CFR 50.13 and appendix N of 40 CFR part 50, based on three complete, consecutive ***calendar*** years of quality-assured air quality monitoring data. To attain the 2012 annual PM2.5 NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, must be less than or equal to 12.0 [mu]g/m\3\ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. On December 13, 2016, EPA determined that the Delaware Area first attained the 2012 annual PM2.5 NAAQS based on 2013-2015 ambient air quality monitoring data. See 81 FR 89868 and 82 FR 8499. On March 6, 2018, EPA determined that the Lebanon Area first attained the 2012 annual PM2.5 NAAQS based on 2014-2016 ambient air quality monitoring data. See 83 FR 9435. These determinations of attainment, or ``clean data determinations'' suspended certain planning requirements for the Areas, including the requirement to submit an attainment demonstration and associated reasonably available control measures (RACM), including reasonable available control technology (RACT), a reasonable further progress (RFP) plan, and contingency measures for failure to attain or meet RFP. These requirements are suspended for as long as the Areas continue to meet the 2012 annual PM2.5 NAAQS. When the Areas are redesignated to attainment, the requirements are permanently discharged. There are two ambient air quality monitors in the Delaware Area and one in the Lebanon Area. EPA reviewed the certified, quality assured/ quality controlled PM2.5 monitoring data for 2015-2017 from the monitors in the Delaware and Lebanon Areas and determined that the design values are less than or equal to 12.0 [mu]g/m\3\, and therefore the areas continue to meet the 2012 annual PM2.5 NAAQS. In addition, EPA evaluated preliminary 2016-2018 monitoring data for all three monitors, which also shows continued attainment of the 2012 annual PM2.5 NAAQS. Therefore, EPA is proposing to determine that the Delaware and Lebanon Areas are attaining the 2012 annual PM2.5 NAAQS. This proposed determination is based on the most recent three years of complete, certified and quality-assured data, which is for the 2015-2017 monitoring period. The monitoring data is summarized in Tables 1 and 2 and is also available in the docket for this rulemaking action available online at   [*https://www.regulations.gov*](https://www.regulations.gov), Docket ID: EPA-R03-OAR-2019-0262. Table 1--2013 to 2018 Annual Means at Delaware County and Lebanon County Monitors -------------------------------------------------------------------------------------------------------------------------------------------------------- Annual means in [mu]g/m\3\ ----------------------------------------------------------------------------------------------- Area/county Monitor ID Preliminary 2013 2014 2015 2016 2017 2018 -------------------------------------------------------------------------------------------------------------------------------------------------------- Delaware................................ 42-045-0002 11.5 12.6 10.7 11.0 9.1 12.1 Delaware................................ 42-045-0109 (\*) (\*) 10.6 9.3 8.3 10.8 Lebanon................................. 42-075-0100 11.2 12.7 11.2 9.7 9.3 8.8 -------------------------------------------------------------------------------------------------------------------------------------------------------- \* Monitor 42-045-0109 started operation on 1/1/2015. Therefore, it did not record data in 2013 and 2014. Table 2--2015 to 2018 Annual Design Values at Delaware County and Lebanon County Monitors ---------------------------------------------------------------------------------------------------------------- Annual design values in [mu]g/m\3\ --------------------------------------------------------------- Area/county Monitor ID Preliminary 2013-2015 2014-2016 2015-2017 2016-2018 ---------------------------------------------------------------------------------------------------------------- Delaware........................ 42-045-0002 11.6 11.5 10.3 10.7 Delaware........................ 42-045-0109 (\*) (\*) 9.4 9.4 Lebanon......................... 42-075-0100 \*\* 11.7 11.2 10.1 9.3 ---------------------------------------------------------------------------------------------------------------- \* Monitor 42-045-0109 started operation on 1/1/2015. Therefore, the 2013-2015 and 2014-2016 design values at this monitor are not valid because they do not meet EPA's completeness criteria in appendix N to 40 CFR part 50. \*\* The 2013-2015 design value at monitor 42-075-0100 is not valid because the 2015 data at that monitor does not meet EPA's completeness criteria in appendix N to 40 CFR part 50. [[Page 33889]] EPA has reviewed the ambient air quality monitoring data in the Delaware and Lebanon Areas, consistent with the requirements contained at 40 CFR part 50. EPA's review focused on data recorded in the EPA AQS database, for the Delaware and Lebanon Areas for PM2.5 nonattainment area from 2015 to 2017. EPA also considered preliminary data for 2018, which have not been certified, but which are consistent with the area's continued attainment. All monitors in the Delaware and Lebanon Areas recorded complete data in accordance with criteria set forth by EPA in 40 CFR part 50, appendix N, where a complete year of air quality data comprises four ***calendar*** quarters, with each quarter containing data from at least 75 percent (%) capture of the scheduled sampling days. Available data are sufficient for comparison to the NAAQS. B. Has Pennsylvania met all applicable requirements of section 110 and part D of the CAA for the Delaware and Lebanon Areas and do the Delaware and Lebanon Areas have a fully approved SIP under section 110(k) of the CAA? In accordance with section 107(d)(3)(E)(v) of the CAA, Pennsylvania must meet all the requirements applicable to the Areas under section 110 of the CAA (general SIP requirements) and part D of Title I of the CAA (SIP requirements for nonattainment areas). Under section 107(d)(3)(E)(ii) of the CAA, Pennsylvania's SIP revisions for the 2012 annual PM2.5 NAAQS for the Delaware and Lebanon Areas must be fully approved under section 110(k) of the CAA. Section 110(k) of the CAA sets out the requirements for EPA's actions on SIP revision submittals. The September 4, 1992 Calcagni memorandum describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. See also Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465-12466, (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved but are not required as a prerequisite to redesignation. See CAA section 175A(c). Sierra Club v. EPA, 375 F .3d 537 (7th Cir. 2004). See also 68 FR 25418, 25424 and 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS). In the case of the Delaware and Lebanon Areas, the base year emissions inventory was due prior to Pennsylvania's submittal of the complete redesignation requests for the Areas. Therefore, the base year inventories are applicable requirements. The attainment plans, including RACM/RACT, and contingency measures for failure to attain or meet RFP, were also due prior to Pennsylvania's submittal of complete redesignation requests for the Areas. However, as described in detail later in this rulemaking, clean data determinations for the Areas suspended these requirements for as long as the Areas continues to meet the 2012 annual PM2.5 NAAQS. When the Areas are redesignated to attainment, these requirements are permanently discharged. Pennsylvania Has Met the Section 110 General Sip Requirements Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) of the CAA include, but are not limited to the following: (1) Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3) implementation of a minor source permit program; (4) provisions for the implementation of part C requirements (referred to as ``prevention of significant deterioration'' or ``PSD''); (5) provisions for the implementation of part D requirements for nonattainment new source review (referred to as ``part D NNSR,'' ``NNSR,'' ``nonattainment NSR,'' or ``NSR'') permit programs; (6) provisions for air pollution modeling; and (7) provisions for public and local agency participation in planning and emission control rule development. EPA believes that the section 110(a)(2) elements of the CAA not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Areas will still be subject to these requirements after it is redesignated. EPA concludes that section 110(a)(2) of the CAA and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that section 110(a)(2) elements of the CAA not linked in the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with EPA's existing policy on applicability of conformity (i.e , for redesignations) and oxygenated fuels requirement. See Reading, Pennsylvania, proposed and final rulemakings 61 FR 53174 (October 10, 1996); 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking 60 FR 62748 (December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio redesignation 65 FR 37879, 37890 (June 19, 2000) and in the Pittsburgh, Pennsylvania redesignation 66 FR 53099 (October 19, 2001). EPA has previously approved provisions of Pennsylvania's SIP addressing section 110(a)(2) requirements under section 110(k) of the CAA, including provisions addressing PM2.5 See 80 FR 26461 (May 8, 2015). These requirements are, however, statewide requirements that are not linked to the PM2.5 nonattainment status of the Areas. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of Pennsylvania's PM2.5 redesignation request. Since PSD requirements will apply after redesignation, areas being redesignated must have an approved PSD program. Once the Delaware and Lebanon Areas are redesignated to attainment, Pennsylvania's PSD program, and not NNSR, will become effective in the Areas. Pennsylvania's PSD program, at 25 Pa. Code 127.81-127.83, is approved into the Pennsylvania SIP under CCA section 110(k). See 49 FR 33127 (August 21, 1984). Areas seeking redesignation need not comply with the requirement that a NNSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this is described in the Nichols memorandum. Nevertheless, Pennsylvania's NNSR program, codified in the Commonwealth's regulations at 25 Pa. Code 127.201 et seq., is approved into the Pennsylvania SIP. See 77 FR 41276 (July 13, 2012). Section 110(a)(2)(D) of the CAA requires that SIPs contain certain [[Page 33890]] measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants in accordance with the NOX SIP Call,\1\ amendments to the NOX SIP Call, May 14, 1999 (64 FR 26298), and March 2, 2000 (65 FR 11222), and the Cross-State Air Pollution Rule (CSAPR) \2\ Update, 81 FR 74504 (October 26, 2016). However, a state's requirements under section 110(a)(2)(D) of the CAA are not linked to a particular nonattainment area's designation and classification in that state. The interstate transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable requirements for purposes of redesignation. See 65 FR 37890 (June 19, 2000), 66 FR 53094, 53099 (October 19, 2001), and 68 FR 25418, 25426-25427 (May 13, 2003). --------------------------------------------------------------------------- \1\ On October 27, 1998 (63 FR 57356), EPA finalized the ``Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone''--commonly called the NOX SIP Call. The NOX SIP call requires the District of Columbia and 22 states to reduce emissions of NOX in order to reduce the transport of ozone and ozone precursors. EPA developed the NOX Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NOX SIP Call. The NOX Budget Trading Program allowed electric generating units (EGUs) greater than 25 megawatts and industrial non-electric generating units, such as boilers and turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr), referred to as ``large non-EGUs,'' to participate in a regional NOX cap and trade program. The NOX SIP call also established reduction requirements for other non-EGUs, including cement kilns and stationary internal combustion (IC) engines. NOX is a PM2.5 precursor. \2\ On July 6, 2011, EPA finalized CSAPR, limiting the interstate transport of emissions of nitrogen oxides NOX and SO2 that contribute to harmful levels of PM2.5 and ozone in downwind states. 76 FR 48208. CSAPR requires 28 states in the eastern United States to reduce SO2, annual NOX and ozone season NOX emissions from fossil fuel-fired power plants that affect the ability of downwind states to attain and maintain compliance with the 1997 and 2006 PM2.5 NAAQS and the 1997 ozone NAAQS. The CSAPR achieves these reductions through emissions trading programs. For more information on CSAPR, please see the ``Permanent and Enforceable Controls Implemented'' discussion of in section of IV.C of this rulemaking. --------------------------------------------------------------------------- EPA has reviewed the Pennsylvania SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation, namely a SIP-approved PSD program. Pennsylvania Has Met the Requirements of Subpart 1 of Part D Subpart 1 of part D of the CAA sets forth the basic nonattainment plan requirements applicable to PM2.5 nonattainment areas. Under section 172 of the CAA, states with nonattainment areas must submit plans providing for timely attainment and meet a variety of other requirements. EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ``applicable'' for purposes of section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. See 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ``have no meaning'' for an area that has already attained the standard. Id. This interpretation was also set forth in the Calcagni memorandum. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to PM2.5 in 40 CFR 51.1015 and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9).\3\ Courts have upheld EPA's interpretation of section 172(c)(1)'s ``reasonably available'' control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. NRDC v. EPA, 571 F.3d 1245, 1252 (D.C Cir. 2009); Sierra Club v. EPA, 294 F.3d 155, 162 (D.C Cir. 2002); Sierra Club v. EPA, 314 F.3d 735, 744 (5th Cir. 2002). --------------------------------------------------------------------------- \3\ This regulation was promulgated as part of the 1997 PM2.5 NAAQS implementation rule that was subsequently challenged and remanded in NRDC v. EPA, 706 F.3d 428 (D.C Cir. 2013), as discussed in Section IV.B of this notice. However, the Clean Data Policy portion of the implementation rule was not at issue in that case. --------------------------------------------------------------------------- As stated previously, EPA determined that the Delaware and Lebanon Areas have attained the 2012 PM2.5 NAAQS in ``clean data determinations.'' See 81 FR 89868 (December 13, 2016), 82 FR 8499 (January 26, 2017), and 83 FR 9435 (March 6, 2018). Furthermore, as shown in section IV.A of this rulemaking notice, the Areas continue to attain the 2012 annual PM2.5 NAAQS. Therefore, because attainment has been reached in the Delaware and Lebanon Areas, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the Areas continues to attain the standard until redesignation. Section 172(c)(2)'s requirement that nonattainment plans contain provisions promoting reasonable further progress toward attainment is also not relevant for purposes of redesignation because EPA has determined that the Delaware and Lebanon Areas have monitored attainment of the 2012 annual PM2.5 NAAQS. In addition, because the Delaware and Lebanon Areas have attained the 2012 annual PM2.5 NAAQS and are no longer subject to RFP requirements, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. The requirement under section 172(c)(3) was not suspended by EPA's clean data determination for the 2012 annual PM2.5 NAAQS and is the only remaining requirement under section 172 of the CAA to be considered for purposes of redesignation of the Delaware and Lebanon Areas. Pennsylvania submitted 2011 base year emissions inventories for the Delaware and Lebanon Areas for the 2012 annual PM2.5 NAAQS to EPA as SIP revisions on May 5, 2017 and September 25, 2017, respectively. The inventories cover the general source categories of point sources, nonroad mobile sources, area sources and on-road mobile sources and include emissions of PM2.5 and its precursors, NOX, SO2, VOC, and NH3. The inventories also included emissions of coarse particulate matter (PM10). EPA approved them as revisions to the Pennsylvania SIP, under section 110(k) of the CAA, on July 3, 2018 (83 FR 31064). Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified sources in an area, and section [[Page 33891]] 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. As stated previously in this rulemaking action, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NNSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this view is described in the Nichols memorandum. Nevertheless, Pennsylvania's SIP-approved NNSR program is codified in the Commonwealth's regulations at 25 Pa. Code 127.201 et seq. See 77 FR 41276 (July 13, 2012) (approving NNSR program into the SIP). Pennsylvania's PSD program, at 25 Pa. Code 127.81-127.83, is also approved into the Pennsylvania SIP. See 49 FR 33127 (August 21, 1984). Once the Delaware and Lebanon Areas are redesignated to attainment, Pennsylvania's PSD program, and not NNSR, will become effective in the Areas. Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2) of the CAA. As noted previously, Pennsylvania SIP revisions meet the requirements of section 110(a)(2) of the CAA that are applicable for purposes of redesignation. Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ``for at least 10 years after the redesignation.'' In conjunction with its requests to redesignate the Areas to attainment, Pennsylvania submitted SIP revisions to provide for maintenance of the 2012 annual PM2.5 NAAQS in the Delaware and Lebanon Area for at least 10 years after redesignation, through 2030. Pennsylvania is requesting that EPA approve these SIP revisions as meeting the requirement of section 175A of the CAA. Once approved, the maintenance plan for the Areas will ensure that the SIP for Pennsylvania meets the requirements of the CAA regarding maintenance of the 2012 annual PM2.5 NAAQS for the Areas. EPA's analysis of the maintenance plan is provided in Section IV.D of this proposed rulemaking action. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 of the United States Code (U.S.C ) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability, which EPA promulgated pursuant to its authority under the CAA. EPA interprets the conformity SIP requirements \4\ as not applicable for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. See Wall v. EPA, 265 F .3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Regardless, EPA approved Pennsylvania's transportation conformity SIP requirements on April 29, 2009 (74 FR 19541). --------------------------------------------------------------------------- \4\ CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of MVEBs, such as control strategy SIPs and maintenance plans. --------------------------------------------------------------------------- EPA concludes that Pennsylvania has met the requirements of subpart 1 of part D relevant for redesignation. Specifically, pursuant to section 110(k) of the CAA, EPA has approved Pennsylvania's base year inventories for the Areas into the Pennsylvania SIP. Pennsylvania Has Met the Requirements of Subpart 4 of Part D A January 4, 2013, U.S Court of Appeals for the District of Columbia Circuit decision \5\ stated that EPA must implement PM2.5 NAAQS pursuant to subpart 4 of part D of the CAA, which contains provisions specifically concerning PM10 nonattainment areas. Section 189 in subpart 4 sets out the requirements for PM10 and PM2.5 nonattainment areas. Section 189(a) contains the SIP revision requirements for moderate PM10 and PM2.5 nonattainment areas, including the requirements for the state to submit an attainment demonstration, RACM (including (RACT) for stationary sources). Section 189(c) contains requirements for RFP, quantitative milestones and quantitative milestone reports. --------------------------------------------------------------------------- \5\ Natural Resources Defense Council v. EPA, 706 F. 3d 428 (D.C Cir. 2013). --------------------------------------------------------------------------- As with the requirements of section 172(c), explained previously in this proposed rulemaking notice, the requirements of sections 189(a) and 189(c) are no longer considered to be applicable for purposes of redesignation as long as the Areas continue to attain the standard. Because attainment has been reached, no additional measures are needed to provide for attainment. EPA's clean data determinations for the Delaware and Lebanon Areas suspended the requirements for the state to submit an attainment demonstration, RACM and RACT, RFP, quantitative milestones, and quantitative milestone reports until such time as the Areas are redesignated to attainment, after which such requirements are permanently discharged. See 81 FR 89868 (December 13, 2016), 82 FR 8499 (January 26, 2017, and 83 FR 9435 (March 6, 2018). EPA concludes that Pennsylvania has met the requirements of subpart 4 of part D relevant for redesignation. Specifically, pursuant to section 110(k) of the CAA, EPA has approved Pennsylvania's base year inventories for the Areas into the Pennsylvania SIP. Pennsylvania Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA At various times, Pennsylvania adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the PM2.5 NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (see the Calcagni memorandum at page 3; Southwestern Pennsylvania Growth Alliance v. Browner, 144 F.3d 984, 989-990 (6th Cir. 1998); Wall v. EPA, 265 F.3d 426 (6th Cir. 2001)), plus any additional measures it may approve in conjunction with a redesignation action (see 68 FR 25418, 25426 (May 12, 2003) and citations therein). As discussed previously, EPA has fully approved Pennsylvania's SIP for the Delaware and Lebanon Areas under section 110(k) for all requirements applicable under section 110 general SIP requirements, and subparts 1 and 4 of part D for purposes of redesignation under the 2012 annual PM2.5 NAAQS. EPA has previously approved Pennsylvania's 2011 emissions inventories for the Delaware and Lebanon Areas as meeting the requirement of section 172(c)(3) of the CAA. See 83 FR 31064 (July 3, 2018). EPA also previously approved Pennsylvania's PSD program required under section 110 of the CAA. See 49 FR 33127 (August 21, 1984). No Delaware and Lebanon Areas SIP provisions are currently disapproved, [[Page 33892]] conditionally approved, or partially approved. Therefore, the Administrator has fully approved the applicable requirements for the Delaware and Lebanon Areas under section 110(k) in accordance with section 107(d)(3)(E)(ii). C. Are the air quality improvements in the Delaware and Lebanon Areas due to permanent and enforceable emission reductions? For redesignating a nonattainment area to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions. In making this demonstration for the Delaware and Lebanon Areas, Pennsylvania has calculated the change in emissions of PM2.5 and its precursors between 2011, which is a year used to designate the Areas as nonattainment (i.e , the base year), and 2014, which is one of the years the Areas monitored attainment (i.e , the attainment year), as shown in Tables 3 and 4. The reduction in emissions in tons per year (tpy), and the corresponding improvement in air quality from 2011 to 2014 in the Areas can be attributed to a number of regulatory control measures that have been implemented in the Areas and contributing areas in recent years. Table 3--2011 to 2014 Emission Reductions in Delaware County [tpy] ---------------------------------------------------------------------------------------------------------------- 2014 Sector 2011 Base year Attainment Difference year 2011-2014 ---------------------------------------------------------------------------------------------------------------- PM ---------------------------------------------------------------------------------------------------------------- Point........................................................... 1,497 624 873 Area............................................................ 999 999 0 Onroad.......................................................... 179 136 43 Nonroad......................................................... 122 97 25 ----------------------------------------------- Total....................................................... 2,797 1,856 941 ---------------------------------------------------------------------------------------------------------------- SO ---------------------------------------------------------------------------------------------------------------- Point........................................................... 4,976 1,924 3,052 Area............................................................ 2,055 708 1,347 Onroad.......................................................... 31 31 0 Nonroad......................................................... 3 2 1 ----------------------------------------------- Total....................................................... 7,065 2,665 4,400 ---------------------------------------------------------------------------------------------------------------- NO ---------------------------------------------------------------------------------------------------------------- Point........................................................... 7,642 5,181 2,461 Area............................................................ 2,876 2,385 491 Onroad.......................................................... 5,643 4,652 991 Nonroad......................................................... 1,124 783 341 ----------------------------------------------- Total....................................................... 17,285 13,001 4,284 ---------------------------------------------------------------------------------------------------------------- VOC ---------------------------------------------------------------------------------------------------------------- Point........................................................... 1,393 1,410 -17 Area............................................................ 6,779 7,396 -617 Onroad.......................................................... 3,000 2,534 466 Nonroad......................................................... 1,788 1,145 643 ----------------------------------------------- Total....................................................... 12,960 12,485 475 ---------------------------------------------------------------------------------------------------------------- NH ---------------------------------------------------------------------------------------------------------------- Point........................................................... 218 201 17 Area............................................................ 206 179 27 Onroad.......................................................... 130 118 12 Nonroad......................................................... 2 2 0 ----------------------------------------------- Total....................................................... 556 500 56 ---------------------------------------------------------------------------------------------------------------- [[Page 33893]] Table 4--2011 to 2014 Emission Reductions in Lebanon County [tpy] ---------------------------------------------------------------------------------------------------------------- 2014 Sector 2011 Base year Attainment Difference year 2011-2014 ---------------------------------------------------------------------------------------------------------------- PM ---------------------------------------------------------------------------------------------------------------- Point........................................................... 81 120 -39 Area............................................................ 1,287 1,088 199 Onroad.......................................................... 92 87 5 Nonroad......................................................... 62 47 15 ----------------------------------------------- Total....................................................... 1,522 1,342 180 ---------------------------------------------------------------------------------------------------------------- SO ---------------------------------------------------------------------------------------------------------------- Point........................................................... 278 229 49 Area............................................................ 374 368 6 Onroad.......................................................... 11 11 0 Nonroad......................................................... 2 1 1 ----------------------------------------------- Total....................................................... 665 609 56 ---------------------------------------------------------------------------------------------------------------- NO ---------------------------------------------------------------------------------------------------------------- Point........................................................... 690 549 141 Area............................................................ 869 1,258 -389 Onroad.......................................................... 2,937 3,131 -194 Nonroad......................................................... 616 505 111 ----------------------------------------------- Total....................................................... 5,112 5,443 -331 ---------------------------------------------------------------------------------------------------------------- VOC ---------------------------------------------------------------------------------------------------------------- Point........................................................... 182 220 -38 Area............................................................ 5,924 6,657 -733 Onroad.......................................................... 1,332 1,183 149 Nonroad......................................................... 668 316 352 ----------------------------------------------- Total....................................................... 8,106 8,376 -270 ---------------------------------------------------------------------------------------------------------------- NH ---------------------------------------------------------------------------------------------------------------- Point........................................................... 17 22 -5 Area............................................................ 3,843 2,251 1,592 Onroad.......................................................... 49 44 5 Nonroad......................................................... 1 1 0 ----------------------------------------------- Total....................................................... 3,910 2,318 1,592 ---------------------------------------------------------------------------------------------------------------- In Delaware County, emissions of PM2.5 and all precursors decreased from 2011 to 2014. In Lebanon County, while emissions of PM2.5, SO2, and NH3 decreased, emissions of NOX and VOC increased from the 2011 base year to the 2014 attainment years. However, in Lebanon County, despite the modest increases in NOX and VOC emissions, total emissions of PM2.5 and its precursors have decreased by over 1200 tpy. Emissions in Delaware County have decreased by over 10,000 tpy in the same time period. The reduction in emissions and the corresponding improvement in air quality over this period can be attributed to a number of regulatory control measures that the Delaware and Lebanon Areas and contributing areas have implemented in recent years, which are described further below. Permanent and Enforceable Controls Implemented Reductions in directly emitted fine particles and fine particle precursor emissions have occurred statewide and in upwind areas because of state and Federal emission control measures, with additional emission reductions expected to occur in the future. This section contains a discussion of permanent and enforceable measures that have been implemented in the Delaware and Lebanon Areas. Stationary Source Measures NOX SIP Call: On October 27, 1998 (63 FR 57356), EPA issued the NOX SIP Call requiring the District of Columbia and 22 states to reduce emissions of NOX, a precursor to ozone pollution.\6\ Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NOX SIP Call are permanent and enforceable. By imposing an emissions cap regionally, the NOX SIP Call reduced NOX emissions from large EGUs and large non-EGUs such as industrial boilers, internal combustion engines, and cement kilns. In response to the NOX SIP Call, Pennsylvania [[Page 33894]] adopted its NOX Budget Trading Program regulations for EGUs and large industrial boilers, with emission reductions starting in May 2003. Pennsylvania's NOX Budget Trading Program regulation was approved into the Pennsylvania SIP on August 21, 2001 (66 FR 43795). To meet other requirements of the NOX SIP Call, Pennsylvania adopted NOX control regulations for cement plants and internal combustion engines, with emission reductions starting in May 2005. These regulations were approved into the Pennsylvania SIP on September 29, 2006 (71 FR 57428). --------------------------------------------------------------------------- \6\ Although the NOX SIP Call was issued in order to address ozone pollution, reductions of NOX as a result of that program have also impacted PM2.5 pollution, for which NOX is also a precursor emission. --------------------------------------------------------------------------- Clean Air Interstate Rule (CAIR) and Cross State Air Pollution Rule (CSPAR): CAIR, which was promulgated on May 12, 2005 (70 FR 25162), and subsequently revised on April 28, 2006, and December 13, 2006, created regional cap-and-trade programs to reduce SO2 and NOX emissions in 28 eastern states, including Pennsylvania. In 2009, the CAIR ozone season NOX trading program superseded the NOX Budget Trading Program, although the emission reduction obligations of the NOX SIP Call were not rescinded. See 40 CFR 51.121(r) and 51.123(aa). On May 23, 2008, Pennsylvania submitted a full CAIR SIP revision to meet the requirements of CAIR. Pennsylvania's CAIR SIP revision addressed all the requirements of CAIR rulemaking and also modified other requirements in Pennsylvania's SIP that interact with CAIR. EPA approved the Commonwealth's CAIR regulation, codified in 25 Pa. Code Chapter 145, Subchapter D, into the Pennsylvania SIP on December 10, 2009 (74 FR 65446). In Pennsylvania's CAIR SIP revision, Pennsylvania terminated its NOX Budget Trading Program and transitioned to the Federal CAIR for large electric generating units (EGU). On July 6, 2011, EPA finalized CSAPR as a replacement for CAIR. CSAPR became effective on January 1, 2015, for SO2 and annual NOX, and May 1, 2015, for ozone season NOX. 76 FR 48208. EPA estimated CSAPR will reduce EGU SO2 emissions by 73% and NOX emissions by 54% from 2005 levels in the CSAPR region, which includes Pennsylvania. On September 7, 2016, EPA finalized the CSAPR Update, which reduced Pennsylvania's ozone season NOX trading budget from 51,912 tons to 17,952 tons of ozone season allowances, reduced Pennsylvania's ozone season NOX emissions variability limit from 10,902 tons to 3,770 tons, and reduced Pennsylvania's NOX ozone season new unit set-aside from 1,038 tons to 541 tons. 81 FR 74504 (October 26, 2016). Because CSAPR is a Federal implementation plan (FIP), states are not required to develop their own CSAPR rules. EPA sets an emissions budget for each of the states covered by CSAPR, including Pennsylvania. Allowances to emit pollution are allocated to affected sources based on each state's emissions budget. The rule provides flexibility to affected sources, allowing sources in each state to determine their own compliance path. This includes adding or operating control technologies, upgrading or improving controls, switching fuels, and using allowances. Sources can buy and sell allowances and bank allowances for future use as long as each source holds enough allowances to account for its emissions by the end of the compliance period. NOX Budget Trading Program Limits on Non-EGUs: Pennsylvania's CAIR SIP revision also established emission limits for the non-EGUs and other units that were subject to the Commonwealth's NOX Budget Trading Program but are not subject to the CAIR NOX Ozone Season Trading Program. These units must continue monitoring NOX emissions and must meet an emissions cap. Pennsylvania's regulation, codified in 25 Pa. Code Sec. 145.8(d), was approved by EPA as a SIP revision on December 10, 2009, and codified at 40 CFR 52.2020(c)(1). Cement Kilns and Large Stationary Internal Combustion Engines: Pennsylvania's CAIR SIP revision also included regulations updating the cement manufacturing and large stationary internal combustion engine regulations that were adopted pursuant to the NOX SIP Call. Until 2009, cement kilns and large stationary internal combustion engines that were subject to the NOX SIP Call were required to surrender NOX SIP Call allowances if they exceeded their NOX emission limits set forth in Pennsylvania's regulations. Because Pennsylvania discontinued the NOX Budget Trading Program beginning 2009, at which point NOX SIP Call allowances were replaced by CAIR NOX ozone season allowances, Pennsylvania modified the regulations to require surrender of CAIR NOX ozone season and CAIR NOX annual allowances for emission limit exceedances. Pennsylvania's regulations for large stationary internal combustion engines and cement kilns, codified in 25 Pa. Code Chapter 145, Subchapters B and C, respectively, were approved by EPA as a SIP revision on December 10, 2009, and codified at 40 CFR 51.2020(c)(1). An amendment to Pennsylvania's regulation for cement kilns to reduce NOX emissions effective April 15, 2011, codified in 25 Pa. Code Chapter 145, Subchapter C, was subsequently approved by EPA as a SIP revision on July 19, 2011, and codified at 40 CFR 51.2020(c)(1). Federal Standards for Hazardous Air Pollutants: As required by the CAA, EPA developed Maximum Available Control Technology (MACT) Standards to regulate emissions of hazardous air pollutants from a published list of industrial sources referred to as ``source categories.'' The MACT standards have been adopted and incorporated by reference in Section 6.6 of Pennsylvania's Air Pollution Control Act and implementing regulations in 25 Pa. Code Sec. 127.35 and are also included in Federally enforceable permits issued by PADEP for affected sources. NNSR: Major facilities proposed in Pennsylvania are subject to NNSR requirements in nonattainment areas and PSD requirements in areas of the Commonwealth designated attainment for NAAQS including carbon monoxide (CO), PM, lead, SO2, ozone and nitrogen dioxide (NO2). Generally, NSR permit requirements are applicable to a facility located in a nonattainment area for a particular pollutant with a potential to emit 50 tpy or more of VOCs or 100 tpy or more of NOX, SO2, PM or CO. It should be noted that the entire Commonwealth is included in the Ozone Transport Region pursuant to section 184 of the CAA, and is treated as a moderate ozone nonattainment area, irrespective of the area's attainment status. Any major stationary source or major modification subject to the NSR requirements must receive a plan approval, which requires the source to, among other things, offset its potential to emit air contaminants including NOX, PM and VOCs by securing emission reduction credits at the specified offset ratio, employ the ``lowest achievable emission rate'' (LAER) for each regulated pollutant and conduct an alternative analysis. The nonattainment NSR requirements are codified in 25 Pa. Code chapter 127, subchapter E and approved by EPA as a revision to the Commonwealth's SIP on December 9, 1997 (62 FR 64722), and May 14, 2012 (77 FR 28261). See 40 CFR 52.2020(e)(1). PSD: The PSD program is a pre-construction review and permitting program applicable to new or modified major stationary sources subject to title I, parts C of the CAA. The PSD requirements are applicable to major sources in areas attaining the NAAQS. The Federal PSD regulations codified in 40 CFR part 52 are incorporated by reference in their entirety in 25 Pa. Code Sec. 127.83 Pennsylvania's PSD [[Page 33895]] regulations, codified in 25 Pa. Code Chapter 127, subchapter D, were approved by EPA on August 21, 1984, and codified at 40 CFR 52.2058 (49 FR 33127). PSD permit requirements may apply to a facility located in an attainment with the potential to emit 100 tpy or 250 tpy of the six criteria pollutants including lead, CO, NO2, ozone, PM and SO2 depending on the source category. Any major stationary source or major modification subject to the PSD requirements must establish the best available control technology (BACT). In addition, the owner or operator of a facility needs to conduct an ambient air quality analysis, analyze the impacts to soils, vegetation and visibility and make sure that the project will not adversely impact mandatory Federal Class I areas including national parks greater than 6,000 acres and national wilderness areas and national memorial parks greater than 5,000 acres. In addition, pursuant to 25 Pa. Code Sec. 127.1, the emissions of air pollutants from new sources in Pennsylvania must be controlled to the maximum extent, consistent with Best Available Technology (BAT), as determined by the Department as of the date of issuance of the plan approval for the new source. PADEP determines BAT requirements on a case-by-case basis for both major and minor stationary sources considering energy, environmental benefits and costs. Under 25 Pa. Code Sec. 127.12(a)(5), an application for a plan approval must show that the emissions from a new source will be the minimum attainable through the use of BAT. Pennsylvania regulations define ``best available technology'' in 25 Pa. Code Sec. 121.1 as, ``Equipment, devices, methods or techniques as determined by the Department which will prevent, reduce or control emissions of air contaminants to the maximum degree possible and which are available or may be made available.'' PADEP's BAT regulations, codified in 25 Pa. Code Sec. Sec. 127.1 and 127.12(a)(5), were approved by EPA on July 30, 1996 (61 FR 39594). Sunoco Marcus Hook Shutdown--Delaware County Only In addition to the stationary, mobile, nonroad, and area emissions control measures list in this section, emissions in Delaware County were reduced as a result of the permanent shutdown of the largest emitting point source in the county. The Sunoco, Inc. Marcus Hook Refinery facility, located three miles southwest of the Chester monitoring site, shut down and permanently ceased all crude petroleum refining operations, effective December 31, 2011. In the Delaware County redesignation request, Pennsylvania reports that, due to this permanent shutdown of the refining operations, emissions from the facility were reduced by more than 4,500 tons (2,044 tpy oxides of sulfur, 1,490 oxides of nitrogen, 674 tpy PM2.5, 320 tpy VOC, and 3 tpy NH3) from the 2011 base year. Mobile Sources Federal Motor Vehicle Control Programs (FMVCP) and Pennsylvania Clean Vehicles Program for Passenger Vehicles and Light-Duty Trucks and Cleaner Gasoline: Tier 1 tailpipe standards established by the CAA Amendments of 1990, under section 202(g) of the CAA, include NOX and VOC limits for light-duty gasoline vehicles and light-duty gasoline trucks. In 1994, these standards began to be phased in. Evaporative VOC emissions were reduced in gasoline-powered cars starting with Model Year (MY) 1998. In 1998, Pennsylvania adopted the Pennsylvania Clean Vehicles Program, which incorporates by reference certain California Low Emission Vehicle (CA LEV) emission standards for passenger cars and light-duty trucks. As required under section 177 of the CAA, these provisions are identical to the low emission standards adopted by California. The Pennsylvania Clean Vehicles Program does not incorporate by reference the California zero emissions vehicle (ZEV) or emissions control warranty systems statement provisions. In the same rulemaking, Pennsylvania adopted the National Low Emission Vehicle (NLEV) program as a compliance alternative to the Pennsylvania Clean Vehicles Program. The NLEV program became effective in the Ozone Transport Region (OTR) in 1999. Pennsylvania's New Motor Vehicle Emissions Control Program regulations allowed automobile manufacturers to comply with NLEV instead of the CA LEV program through MY 2005. These regulations affected vehicles 6,000 pounds and less. Pennsylvania's New Motor Vehicle Emissions Control Program regulations, which include the Pennsylvania Clean Vehicles Program, are codified in 25 Pa. Code Sec. Sec. 126.401-126.441, and are approved into the Pennsylvania SIP. See 77 FR 3386 (January 24, 2012). In 1999, EPA promulgated regulations more stringent than NLEV (Tier 2), starting with model year (MY) 2004. The NLEV program was replaced for MY 2004 and later by the more stringent Federal Tier 2 vehicle emissions regulations (65 FR 6698, February 10, 2000), and vehicle manufacturers operating under the NLEV program became subject to the Tier 2 requirements. Pennsylvania amended the former New Motor Vehicle Emissions Control Program in 2006. The Clean Vehicles Program continues to incorporate the CA LEV program by reference. As amended, the program affects MY 2008 and newer passenger cars and light-duty trucks. EPA approved Pennsylvania's Clean Vehicles Program as a revision to the Commonwealth's SIP on January 24, 2012 (77 FR 3386). Heavy-Duty Diesel Control Programs: On January 18, 2001, EPA promulgated regulations for heavy-duty engines and vehicles (over 14,000 pounds) starting with MY 2004. 66 FR 5002. In 2002, Pennsylvania adopted the Heavy-Duty Diesel Emissions Control Program for model years starting after May 2004. The program incorporates California standards by reference and requires MY 2005 and subsequent new heavy-duty diesel highway engines to be those certified by California. On October 6, 2000, EPA adopted new emission standards for heavy-duty engines and vehicles for MY 2007 and subsequent years. 65 FR 59896. For diesel engines, the standards were phased in from 2007 to 2010 for NOX and VOCs. For gasoline engines, the standards were phased in during MY 2008 and 2009. Federal and California standards are virtually identical for MY 2007. For MY 2008, California adopted requirements for idling restriction engine programming and an optional ``clean NOX idle'' standard. Because the new engine standards are adversely affected by sulfur in fuel, EPA also required most highway diesel fuel to contain no more than 15 parts per million (ppm) of sulfur, beginning in the fall of 2006. In addition, Federal heavy-duty greenhouse gas standards (76 FR 57106, September 15, 2011), which began phasing in with the MY 2014, will result in decreased energy consumption rates and decreased refueling emissions. Vehicle Emission Inspection/Maintenance Program: In early 2004, Pennsylvania expanded its Vehicle Emission Inspection/Maintenance (I/M) Program. Delaware County falls under Pennsylvania's ``Philadelphia'' program (which also includes Bucks, Chester, Montgomery and Philadelphia Counties), while Lebanon County falls under Pennsylvania's ``South Central Region'' program (which also includes Berks, Cumberland, Dauphin, Lancaster, Lehigh, Northampton, and York Counties). Both programs apply to gasoline-powered vehicles 9,000 pounds and under, MY 1975 and newer. For vehicles MY 1996 and newer, the programs consist of an annual on-board diagnostic test and a gas cap pressure [[Page 33896]] test. For subject vehicles MY 1995 and older, the programs consist of an annual visual inspection of pollution control devices to ensure they are present, connected and the proper type for the vehicle, as well as a gas cap pressure test. In addition, the Philadelphia area program requires dynamometer testing on certain MY 1995 and older vehicles. However, the dynamometer testing is being phased out, with the vehicles dropping out each year. By 2021, the dynamometer testing will be completely phased out for all vehicles MY 1995 and older, and these vehicles will receive the same tests as in the South Central Region program. These regulations can be found in 67 Pa. Code Chapter 177. Pennsylvania submitted the expanded emissions program to EPA as a SIP revision on December 1, 2003. EPA approved the SIP revision on October 6, 2005 (70 FR 58313). Low Sulfur Gasoline: The 1999 Federal Tier 2 regulations (65 FR 6698, February 10, 2000) reduced the sulfur content of gasoline by up to 90 percent, enabling the use of new emission control technologies in cars and trucks that reduce harmful air pollution. Requirements for use of low-sulfur gasoline enabled use of advanced emission control systems in light-duty vehicles beginning in MY 2004. Vehicles meeting Tier 2 emission standards are 77 to 95 percent cleaner than earlier models. On April 28, 2014, EPA promulgated a regulation adopting more stringent vehicle standards and reducing sulfur limits in gasoline further with the Tier 3 Motor Vehicle Emission and Fuel Standards program (79 FR 23414). The rule was effective on June 27, 2014. The Tier 3 program requires the annual average content of sulfur in gasoline to be reduced to 10 ppm, effective January 1, 2017. By 2030, when fully implemented, this program will increase the effectiveness of vehicle emission controls even further and reduce onroad emissions of NOX by 25 percent, direct particulate matter by 10 percent and VOCs by 16 percent. The rule will also significantly reduce emissions of carbon monoxide and hazardous air pollutants including acrolein, benzene, formaldehyde and acetaldehyde. Nonroad Sources EPA has adopted a series of regulations affecting new diesel- powered (compression ignition) and gasoline-powered (spark ignition) nonroad engines of various sizes and applications. On June 29, 2004, EPA adopted a rule establishing a comprehensive national program to reduce emissions from nonroad diesel engines (69 FR 38958). The rule phased in requirements for reducing the sulfur content of diesel used in nonroad diesel engines. The reduction in fuel sulfur content prevents damage to the more advanced emission control systems needed to meet the engine standards; it will also reduce fine particulate emissions from diesel engines. In 2007, fuel sulfur levels were limited to 500 ppm for nonroad applications other than ocean-going marine vessels. In 2010, fuel sulfur levels were reduced to the same sulfur concentration as in highway fuel, 15 ppm; effective in 2012 to locomotive and marine diesel fuel. See 70 FR 70498 (November 22, 2015) and 71 FR 25706 (May 1, 2006). On April 30, 2010, EPA adopted changes to the nonroad diesel fuel program to allow for the production and sale of diesel fuel with up to 1,000 ppm sulfur for use in Category 3 marine vessels. 75 FR 22896 Area Sources Low Sulfur Fuel Oil: Pennsylvania's low sulfur fuel rule limits the sulfur content of No. 2 fuel oil to 500 ppm, No. 4 fuel oil to 2,500 ppm and Nos. 5 and 6 fuel oils to 5,000 ppm. Compliance with the lower sulfur content limits began on July 1, 2016. Pennsylvania estimated statewide SO2 emission reductions of approximately 21,000 tons per year from this rule. These emission reductions will allow the Commonwealth to attain and maintain the PM2.5 standards and improve visibility. The final-form regulation was submitted to EPA for approval as a SIP revision on February 26, 2013. EPA approved this rule into Pennsylvania's SIP on July 10, 2014 (79 FR 39330). Consumer Products: Pennsylvania's statewide regulation applies to any person who sells, supplies, offers for sale, or manufactures certain consumer products on or after January 1, 2005, for use in the Commonwealth. The Consumer Products program is codified in 25 Pa. Code Chapter 130, Subchapter B. It was submitted to EPA as a SIP revision on March 26, 2003 and approved on December 8, 2004 (69 FR 70895). Amendments to the Consumer Products regulations were adopted on October 11, 2008, submitted to EPA as a SIP revision on March 11, 2009, and approved on October 18, 2010 (75 FR 63717). Adhesives, Sealants, Primers and Solvents: Pennsylvania adopted a regulation in 2010 to control VOC emissions from adhesives, sealants, primers and solvents. EPA approved this regulation as a SIP revision on September 26, 2012 (77 FR 59090). Conclusion: EPA has reviewed this suite of measures and the emission reductions achieved in the Delaware and Lebanon Areas between 2011 and 2014 (summarized in Table 3 and 4) and determined that the Areas did attain the 2012 annual PM2.5 NAAQS due to permanent and enforceable measures. D. Does Pennsylvania have fully approvable maintenance plans for the Delaware and Lebanon Areas? In conjunction with Pennsylvania's requests to redesignate the Delaware and Lebanon Areas to attainment, Pennsylvania submitted SIP revisions to provide for maintenance of the 2012 annual PM2.5 NAAQS in the Areas through 2030. EPA is proposing to approve Pennsylvania's maintenance plans in this rulemaking action. If this proposed action is finalized, the Areas will have approved maintenance plans. Maintenance Plan Requirements Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future PM2.5 NAAQS violations. The Calcagni memorandum provides additional guidance on the content of a maintenance plan. It states that a maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the 10 years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS. As discussed in detail in the following section, Pennsylvania's maintenance plan submissions document that the Delaware and Lebanon Areas' emissions inventories show that the areas will remain below the attainment year inventories through 2030, more than ten years after redesignation. [[Page 33897]] Attainment Inventory The Calcagni memorandum indicates that states requesting redesignation to attainment should develop an attainment emissions inventory in order to identify the level of emissions in the area that is sufficient to attain the NAAQS. The attainment inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include the emissions during the time period associated with monitoring data showing attainment. Pennsylvania developed attainment year emissions inventories for the Delaware and Lebanon Areas for 2014, one of the years in the period during which the Areas first monitored attainment of the 2012 annual PM2.5 NAAQS. The attainment year inventories include emissions of PM2.5, NOX, SO2, VOC, NH3, and PM10. The attainment levels of emissions are summarized in Tables 5 and 6, along with future maintenance projections. Note that these tables do not include emissions of PM10, as it is not a precursor to PM2.5 Table 5--Delaware County Emissions Inventory Maintenance Demonstration [tpy] ---------------------------------------------------------------------------------------------------------------- 2014 2030 Difference Difference Sector Attainment 2022 Interim Maintenance 2014-2022 2014-2030 ---------------------------------------------------------------------------------------------------------------- PM ---------------------------------------------------------------------------------------------------------------- Point........................... 624 635 684 -11 -60 Area............................ 999 1,030 1,050 -31 -51 Onroad.......................... 136 79 53 57 83 Nonroad......................... 97 74 66 23 31 ------------------------------------------------------------------------------- Total....................... 1,856 1,818 1,853 38 3 ---------------------------------------------------------------------------------------------------------------- SO ---------------------------------------------------------------------------------------------------------------- Point........................... 1,924 1,896 1,896 28 28 Area............................ 708 194 164 514 544 Onroad.......................... 31 11 10 20 21 Nonroad......................... 2 1 1 1 1 ------------------------------------------------------------------------------- Total....................... 2,665 2,102 2,071 563 594 ---------------------------------------------------------------------------------------------------------------- NO ---------------------------------------------------------------------------------------------------------------- Point........................... 5,181 5,690 5,784 -509 -603 Area............................ 2,385 2,110 2,008 275 377 Onroad.......................... 4,652 2,016 956 2,636 3,696 Nonroad......................... 783 524 459 259 324 ------------------------------------------------------------------------------- Total....................... 13,001 10,340 9,207 2,661 3,794 ---------------------------------------------------------------------------------------------------------------- VOC ---------------------------------------------------------------------------------------------------------------- Point........................... 1,410 1,501 1,508 -91 -98 Area............................ 7,396 7,393 7,421 3 -25 Onroad.......................... 2,534 1,354 816 1,180 1,718 Nonroad......................... 1,145 953 943 192 202 ------------------------------------------------------------------------------- Total....................... 12,485 11,201 10,688 1,284 1,797 ---------------------------------------------------------------------------------------------------------------- NH ---------------------------------------------------------------------------------------------------------------- Point........................... 201 165 171 36 30 Area............................ 179 157 153 22 26 Onroad.......................... 118 89 88 29 30 Nonroad......................... 2 2 2 0 0 ------------------------------------------------------------------------------- Total....................... 500 413 414 87 86 ---------------------------------------------------------------------------------------------------------------- Table 6--Lebanon County Emissions Inventory Maintenance Demonstration [tpy] ---------------------------------------------------------------------------------------------------------------- 2014 2030 Difference Difference Sector Attainment 2022 Interim Maintenance 2014-2022 2014-2030 ---------------------------------------------------------------------------------------------------------------- PM ---------------------------------------------------------------------------------------------------------------- Point........................... 120 154 178 -34 -58 Area............................ 1,088 1,016 1,024 72 64 Onroad.......................... 87 50 31 37 56 Nonroad......................... 47 29 19 18 28 ------------------------------------------------------------------------------- [[Page 33898]] Total....................... 1,342 1,249 1,252 93 90 ---------------------------------------------------------------------------------------------------------------- SO ---------------------------------------------------------------------------------------------------------------- Point........................... 229 235 238 -6 -9 Area............................ 368 80 69 288 299 Onroad.......................... 11 6 6 5 5 Nonroad......................... 1 1 1 0 0 ------------------------------------------------------------------------------- Total....................... 609 322 314 287 295 ---------------------------------------------------------------------------------------------------------------- NO ---------------------------------------------------------------------------------------------------------------- Point........................... 549 637 718 -88 -169 Area............................ 1,258 1,132 1,057 126 201 Onroad.......................... 3,131 1,867 1,374 1,264 1,757 Nonroad......................... 505 305 214 200 291 ------------------------------------------------------------------------------- Total....................... 5,443 3,941 3,363 1,502 2,080 ---------------------------------------------------------------------------------------------------------------- VOC ---------------------------------------------------------------------------------------------------------------- Point........................... 220 226 229 -6 -9 Area............................ 6,657 6,660 6,681 -3 -24 Onroad.......................... 1,183 644 411 539 772 Nonroad......................... 316 238 226 78 90 ------------------------------------------------------------------------------- Total....................... 8,376 7,768 7,547 608 829 ---------------------------------------------------------------------------------------------------------------- NH ---------------------------------------------------------------------------------------------------------------- Point........................... 22 29 33 -7 -11 Area............................ 2,251 2,336 2,334 -85 -83 Onroad.......................... 44 35 35 9 9 Nonroad......................... 1 1 1 0 0 ------------------------------------------------------------------------------- Total....................... 2,318 2,401 2,403 -83 -85 ---------------------------------------------------------------------------------------------------------------- Maintenance Demonstration As discussed previously in this notice, EPA has determined that the Delaware and Lebanon Areas are attaining the 2012 annual PM2.5 NAAQS based on monitoring data for the 3-year period from 2015-2017. In its maintenance plans, Pennsylvania demonstrates maintenance by showing that emissions projected over the maintenance period for the Areas will not exceed emissions levels that were present when the Areas came into attainment of the 2012 annual PM2.5 NAAQS. Pennsylvania selected 2014 as the attainment emission inventory year for the Delaware and Lebanon Areas. The attainment inventories identify the level of emissions in the Delaware and Lebanon Areas that is sufficient to attain the 2012 annual PM2.5 NAAQS. Pennsylvania has previously submitted 2011 base year emission inventories for the Delaware and Lebanon Areas, which EPA approved into the Pennsylvania SIP. See 83 FR 31064. In its maintenance demonstrations for the Delaware and Lebanon Areas, Pennsylvania projected emissions forward to 2022 and 2030, which satisfies the 10- year interval required in section 175(A) of the CAA. The emissions inventories address four major types of sources: Point, area, on-road mobile, and non-road mobile. The future year emissions inventories have been estimated using projected rates of growth in population, traffic, economic activity, expected control programs, and other parameters. Non-road mobile emissions estimates, with the exception of the railroad locomotives, commercial marine, and aircraft emissions, were developed using EPA's NONROAD component of EPA's Motor Vehicle Emissions Simulator (MOVES) model version 2014b. On-road mobile source emissions were calculated using EPA's MOVES2014a on-road mobile emission model. EPA has reviewed Pennsylvania's emissions inventories for the Delaware and Lebanon Areas and determined that Pennsylvania developed them consistent with EPA guidance. EPA's evaluation of the 2014 attainment inventories and 2020 and 2030 projected inventories can be found EPA's technical support documents (TSDs) prepared for the Delaware and Lebanon Areas, which are available online at   [*http://www.regulations.gov*](http://www.regulations.gov), Docket ID: EPA-R03-OAR-2019-0262. Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ``for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ``for a period of ten years following redesignation.'' (Calcagni memorandum, p. 9). Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. (Calcagni memorandum, pp. 9-10). Pennsylvania's maintenance plan [[Page 33899]] submissions expressly document that the Delaware and Lebanon Areas overall emissions inventories will remain well below the attainment year inventories through 2030. In addition, EPA believes that the Delaware and Lebanon Areas will continue to maintain the 2012 annual PM2.5 NAAQS through 2030. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plan, the approval will be based upon this showing, in accordance with section 175A, and EPA's analysis described herein, that the Delaware and Lebanon Areas' maintenance plans provide for maintenance for at least ten years after redesignation. The maintenance plans for the Delaware and Lebanon Areas for the 2012 annual PM2.5 NAAQS include a maintenance demonstration that: (1) Shows compliance with and maintenance of the annual PM2.5 NAAQS by providing information to support the demonstration that current and future emissions of PM2.5 and PM2.5 precursors remain at or below 2014 attainment year emissions levels. (2) Uses 2014 as the attainment year and includes future emission inventory projections for 2022 and 2030. (3) Identifies an ``out year'' at least 10 years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, PM2.5 and NOX MVEBs were established for the last year (2030) of the maintenance plan. (iv) Provides, as shown in Tables 5 and 6, the estimated and projected emissions inventories, in tons per year (tpy), for the Delaware and Lebanon Area, for PM2.5, NOX, SO2, VOC, and NH3. For maintenance of the 2012 PM2.5 NAAQS, Pennsylvania relies on the same suite of permanent and enforceable stationary, mobile, nonroad, and area source measures as set out in the redesignation requests for the Areas. As shown in Table 5, Pennsylvania projects that emissions of PM2.5 and all its precursors will be below the 2014 attainment year emissions through 2030 in Delaware County. Table 6 shows that PM2.5 and all its precursors except NH3 will below the 2014 attainment year emissions through 2030 in Lebanon County. Although there is a slight increase in the NH3 between 2014 and 2030 (85 tpy or 4%), NH3 emissions are significantly lower than they were in the 2011 base year (3,910 tpy). Furthermore, in Lebanon County emission reductions of PM2.5 and the other precursors far outweighs the slight increase in NH3 emissions. Monitoring Networks In the maintenance plans, Pennsylvania committed to continue to operate the air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the Delaware and Lebanon Areas for the 2012 annual PM2.5 NAAQS, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA. Verification of Continued Attainment Pennsylvania remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System in accordance with Federal guidelines. In the maintenance plans, Pennsylvania committed to track the attainment status of the 2012 annual PM2.5 NAAQS in the Delaware and Lebanon Areas by reviewing air quality and emissions data during the maintenance period. Pennsylvania will perform an annual evaluation of two key factors, vehicle miles traveled (VMT) data and emissions reported from stationary sources and compare them to the assumptions about these factors used in the maintenance plans. Pennsylvania will also evaluate the periodic (every three years) emission inventories prepared under EPA's Air Emission Reporting Requirements (40 CFR part 51, subpart A) to determine if they exceed the attainment year inventory (2014) by more than 10 percent. Based on these evaluations, Pennsylvania will consider whether any further emission control measures should be implemented. Contingency Plan Contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA. In the maintenance plans for the Delaware and Lebanon Areas, Pennsylvania commits to continue to implement all applicable requirements which were contained in the SIP for the Areas before redesignation, even after EPA approval of Pennsylvania's requests for the Areas to be redesignated to attainment. Additionally, Pennsylvania commits to adopt and expeditiously implement corrective actions, as necessary and appropriate, if contingency measures are triggered. Pennsylvania's contingency plans for Delaware and Lebanon Areas define warning level and action level responses. The maintenance plans for the Areas state that a first-level warning response will be triggered if the annual mean PM2.5 concentration exceeds 12.5 [mu]g/m\3\ in a single ***calendar*** year at any monitor within one of the Areas or if the periodic emissions inventory for one of the Areas exceeds the 2014 attainment year inventory by more than 10 percent. The first-level response will consist of a study to determine whether the triggers indicate a trend toward higher PM2.5 values in the affected area and whether emissions of PM2.5 and its precursors appear to be increasing. If there appears to be an increasing trend, the study will evaluate whether the trend is likely to continue and, if so, the necessary and appropriate control measures to reverse the trend. Implementation of necessary and appropriate controls would take place as expeditiously as possible. The maintenance plans for the Areas explain that a second-level warning response will be prompted if the 2-year average of the annual mean PM2.5 concentrations exceeds 12.0 [mu]g/m\3\ at any monitor within one of the Areas. If this occurs, Pennsylvania will evaluate the conditions leading to the PM2.5 levels and evaluate what measures might be most effective in correcting the PM2.5 levels. Pennsylvania will also analyze the potential emissions effects of Federal, state and local measures that have been adopted but not yet implemented at the time the second-level response is triggered. Pennsylvania will begin the process of adopting selected measures that are necessary and appropriate so that, in the event of a violation (action level trigger), the measures can be implemented as expeditiously as practicable. The maintenance plans for the Areas define an action level response as being triggered if a violation of the PM2.5 NAAQS occurs. If triggered, Pennsylvania will initiate the rulemaking process to adopt and [[Page 33900]] implement contingency measures to return the area to attainment of the 2012 annual PM2.5 NAAQS. The maintenance plans set out the following criteria for selecting contingency measures: Air quality analysis indicating the nature of the violation; emission reduction potential; timeliness of implementation; and costs, equity and cost- effectiveness. The maintenance plans set time frames for adoption and implementation of the contingency measures, which provides for full adoption of measures within approximately 24 months of a confirmed violation, considering all the steps in Pennsylvania's regulatory adoption process. The contingency measures Pennsylvania would consider promulgating if a violation of the 2012 annual PM2.5 NAAQS occurs in one of the Areas include the following regulatory and nonregulatory measures as listed in Table 7. Table 7--Contingency Measures for the Delaware and Lebanon Areas ------------------------------------------------------------------------ Measure type Contingency measure ------------------------------------------------------------------------ Regulatory measures......................... A regulation to reduce emissions on high- electric demand days (Delaware County only). A regulation to lower the sulfur content of No. 2 fuel oil from 500 to 15 ppm. Other regulatory measures identified based on the selection criteria set out in the contingency plans. Non-regulatory measures..................... Voluntary diesel projects: --Diesel retrofit (including replacement, repowering or alternative fuel use) for public or private local onroad or off- road fleets; -- Idling reduction technology for Class 2--yard locomotives; and -- Idling reduction technologies or strategies for truck stops, warehouses and other freight-handling facilities. Promotion of accelerated turnover of lawn and garden equipment, especially commercial equipment. Additional promotion of alternative fuels for fleets, home heating and ***agricultural*** use. ------------------------------------------------------------------------ Conclusion: EPA has reviewed Pennsylvania's maintenance plans for Delaware and Lebanon Areas and determined that they meet the requirements of CAA section 175A. The plans demonstrate continued attainment of the 2012 annual PM2.5 NAAQS for at least ten years after EPA approves a redesignation to attainment and they contain adequate contingency measures to address the possibility of future NAAQS violations. Therefore, EPA is proposing to approve the maintenance plans. V. Has Pennsylvania adopted approvable motor vehicle emission budgets? A. What are the motor vehicle emissions budgets (MVEB)? Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (i.e , RFP, SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan, the MVEBs are termed ``on road-mobile source emission budgets.'' Pursuant to 40 CFR part 93 and Sec. 51.112, MVEBs must be established in a PM2.5 maintenance plan. An MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. An MVEB serves as a ***ceiling*** on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993 Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs in control strategy SIPs and maintenance plans. Transportation conformity is required under section 176(c) of the CAA to ensure that Federally supported highway and transit projects, and other activities are consistent with (conform to) the purpose of the SIP. The CAA requires Federal actions in nonattainment and maintenance areas to ``conform to'' the goals of the SIP. This means that such actions will not cause or contribute to violations of a NAAQS; worsen the severity of an existing violation; or delay timely attainment of any NAAQS or any interim milestone. Actions involving the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the Transportation Conformity Rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, EPA, FHWA, and FTA to demonstrate that their metropolitan transportation plans and transportation improvement plans (TIPs) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the MVEBs contained in a SIP. When reviewing submitted ``control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEBs contained therein ``adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEBs are adequate for transportation conformity purposes, the MVEBs can be used by state and Federal agencies in determining whether proposed transportation projects ``conform'' to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining ``adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4). EPA's process for determining ``adequacy'' consists of three basic steps: Public ***notification*** of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ``Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ``New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments--Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA consults this guidance and follows this rulemaking in making its adequacy determinations. The maintenance plans submitted by PADEP for the Delaware and Lebanon Areas identify the NOX and PM2.5 MVEBs for transportation conformity purposes for the years 2014, 2022, and 2030. These MVEBs (including safety margins) are the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs (safety margin allocation for [[Page 33901]] 2022 and 2030 only). These emission budgets, when approved by EPA, must be used for transportation conformity determinations. The MVEBs for the Delaware and Lebanon Areas are displayed in Tables 8 and 9. Table 8--On-Road MVEBs Contained in the Delaware County, PA 2012 PM2.5 Nonattainment Area Maintenance Plan ------------------------------------------------------------------------ Mobile vehicle Motor vehicle emissions budget Delaware County, PA emissions budget for NOX on-road for PM2.5 on-road emissions (tpy) emissions (tpy) ------------------------------------------------------------------------ 2014............................ 136 4,652 2022 Predicted.................. 75 1,833 Safety Margin................... 4 183 2022 Budget..................... 79 2,016 2030 Predicted.................. 53 869 Safety Margin................... 0 87 2030 Budget..................... 53 956 ------------------------------------------------------------------------ Table 9--On-Road MVEBs Contained in the Lebanon County, PA 2012 PM2.5 Nonattainment Area Maintenance Plan ------------------------------------------------------------------------ Motor vehicle Mobile vehicle emissions emissions budget for budget for NOX Lebanon County, PA PM2.5 on-road on-road emissions emissions (tpy) (tpy) ------------------------------------------------------------------------ 2014.................................... 87 3,131 2022 Predicted.......................... 45 1,697 Safety Margin........................... 5 170 2022 Budget............................. 50 1,867 2030 Predicted.......................... 28 1,249 Safety Margin........................... 3 125 2030 Budget............................. 31 1,374 ------------------------------------------------------------------------ B. What is a safety margin? A ``safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The highway emission budgets include a safety margin, which was created by setting aside a portion of the difference between attainment year and maintenance year emissions of PM2.5 and NOX to accommodate unanticipated growth in highway vehicles. The safety margin is the extra emissions reduction below the attainment levels that can be allocated for emissions by various sources as long as the total emission levels are maintained at or below the attainment levels. Tables 10 and 11 show that the amount of emission reductions anticipated between 2014 and 2022 and between 2014 and 2030 that accommodates the safety margins granted for the Delaware and Lebanon Areas. Table 10--Comparison of Safety Margin to Total Anticipated Emission Reductions in 2022 and 2030 (Tons) for Delaware County ------------------------------------------------------------------------ Delaware County PM2.5 NOX ------------------------------------------------------------------------ 2014.................................... 1,856 13,001 2022.................................... 1,814 10,157 2030.................................... 1,853 9,120 2014-2022 Anticipated Emission 43 2,844 Reductions............................. Safety Margin Granted................... 4 183 2014-2030 Anticipated Emission 2 3,881 Reductions............................. Safety Margin Granted................... 0 87 ------------------------------------------------------------------------ Table 11--Comparison of Safety Margin to Total Anticipated Emission Reductions in 2022 and 2030 (Tons) for Lebanon County ------------------------------------------------------------------------ Lebanon County PM2.5 NOX ------------------------------------------------------------------------ 2014.................................... 1,343 5,443 2022.................................... 1,244 3,771 2030.................................... 1,249 3,238 2014-2022 Anticipated Emission 99 1,672 Reductions............................. [[Page 33902]] Safety Margin Granted................... 5 170 2014-2030 Anticipated Emission 94 2,205 Reductions............................. Safety Margin Granted................... 3 125 ------------------------------------------------------------------------ C. Why are the MVEBs approvable? The 2014, 2022, and 2030 MVEBs for the Delaware and Lebanon Areas are approvable because the MVEBs for NOX and PM2.5 continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations. D. What is the adequacy and approval process for the MVEBs in the Delaware and Lebanon Areas maintenance plans? In this case, EPA is concurrently processing the action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and also proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan update and associated MVEBs are approved in a final Federal Register notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period. If EPA receives adverse written comments with respect to the proposed approval of the Delaware and Lebanon Areas MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, EPA will respond to the comments on the MVEBs in the final rulemaking action or proceed with the adequacy process as a separate action. EPA's action on the Delaware and Lebanon Areas MVEBs will also be announced on EPA's conformity website:   [*https://www.epa.gov/state-and-local-transportation*](https://www.epa.gov/state-and-local-transportation).\7\ The public comment period will end at the same time as the public comment period for this proposed rule. EPA's analyses of the MVEBs for the Delaware and Lebanon Areas can be found in EPA's MVEB TSDs prepared for this action, available online at   [*https://www.regulations.gov*](https://www.regulations.gov), Docket ID: EPA-R03-OAR-2019-0262. --------------------------------------------------------------------------- \7\ Once there, click on ``Adequacy Review of SIP Submissions.'' --------------------------------------------------------------------------- VI. Proposed Action EPA's review of this material indicates that the Delaware and Lebanon Areas meet the requirements for redesignation to attainment for the 2012 annual PM2.5 EPA is proposing to grant PADEP's redesignation requests and to determine that the Delaware and Lebanon Areas meet the 2012 annual PM2.5 NAAQS, based on the most recent three years of certified air quality data. The effect of this proposed action, if finalized, would be to change the designation status of the Delaware and Lebanon Areas from nonattainment to attainment for the 2012 annual PM2.5 NAAQS, thereby removing the requirement for a nonattainment new source review permitting program and stopping the sanctions clock associated with a finding of failure to submit NNSR updates for the annual PM2.5 NAAQS. EPA is also proposing to approve PADEP's maintenance plans for the Delaware and Lebanon Areas as revisions to the Pennsylvania SIP. EPA is also proposing to find the 2014, 2022, and 2030 PM2.5 and NOX MVEBs contained in the maintenance plans for the Delaware and Lebanon Areas adequate and is also proposing to approve these MVEBs into the Pennsylvania SIP for transportation conformity purposes. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Although EPA is proposing approval of the redesignation requests and maintenance plans for the Delaware and Lebanon Areas in one rulemaking, EPA views each redesignation request as a separate request and each maintenance plan as a separable SIP revision. Thus, should EPA receive comment on one redesignation request or maintenance plan, but not the other, EPA will treat the comment as only pertaining to that specific redesignation request or maintenance plan and may take separate, final action on the remaining redesignation request or maintenance plan. VII. Statutory and Executive Order Reviews Under the CAA, the redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of the geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action: Is not a ``significant regulatory action'' subject toreview by the Office of Management and Budget under Executive Orders12866 (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 underExecutive Order 12866. Does not impose an information collection burden under theprovisions of the Paperwork Reduction Act (44 U.S.C 3501 et seq.); Is certified as not having a significant economic impacton a substantial number of small entities under the RegulatoryFlexibility Act (5 U.S.C 601 et seq.); Does not contain any unfunded mandate or significantly oruniquely affect small governments, as described in the UnfundedMandates Reform Act of 1995 (Pub. L. 104-4); Does not have Federalism implications as specified inExecutive Order 13132 (64 FR 43255, August 10, 1999); Is not an economically significant regulatory action basedon health or safety risks subject to Executive Order 13045 (62 FR19885, April 23, 1997); Is not a significant regulatory action subject toExecutive Order 13211 (66 FR 28355, May 22, 2001); Is not subject to requirements of Section 12(d) of theNational Technology ***Transfer*** and Advancement

[[Page 33903]]

Act of 1995 (15 U.S.C 272 note) because application of thoserequirements would be inconsistent with the CAA; and Does not provide EPA with the discretionary authority toaddress, as appropriate, disproportionate human health or environmentaleffects, using practicable and legally permissible methods, underExecutive Order 12898 (59 FR 7629, February 16, 1994). In addition, this proposed rule, proposing to approvePennsylvania's redesignation requests and maintenance plans for the2012 PM2.5 NAAQS for the Delaware and Lebanon Areas, doesnot have tribal implications as specified by Executive Order 13175 (65FR 67249, November 9, 2000), because the SIP is not approved to applyin Indian country located in the state, and EPA notes that it will notimpose substantial direct costs on tribal governments or preempt triballaw.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,Incorporation by reference, Intergovernmental relations, Lead, Nitrogendioxide, Ozone, Particulate matter, Reporting and recordkeepingrequirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 5, 2019.Diana Esher,Acting Regional Administrator, Region III.[FR Doc. 2019-15091 Filed 7-15-19; 8:45 am]BILLING CODE 6560-50-P

**Load-Date:** July 17, 2019

**End of Document**



[***MPs told to pass Brexit deal by next Wednesday or face long article 50 extension - as it happened; MPs vote by 321 to 278 to rule out no deal despite government whipping Tory MPs against motion, following 312-308 win for Spelman amendmentFull story: May's final warning to Tory rebels: back me or lose BrexitHow did each MP vote?What were the no-deal amendments?Evening summary***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5VMJ-SR21-F021-61S7-00000-00&context=1516831)

The Guardian(London)

March 13, 2019 Wednesday 5:49 AM GMT

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**Section:** POLITICS; Version:43

**Length:** 41601 words

**Byline:** Kate Lyons (now), Jedidajah Otte , Andrew Sparrow, Matthew Weaver (earlier)

**Body**

block-time published-time 1.57am GMT

Folks, it's time to wrap up the blog for the night.

I'll be back in a few hours to launch a new Politics live blog, bringing you all of Thursday's Brexit and other political news. A reminder of what's on the agenda for Thursday:

Parliament will vote on a motion that sets next Wednesday as the deadline for MPs to pass a Brexit deal. It says, if a deal is passed by then, the government will seek an extension of article 50 until 30 June. But if the deal is not passed by then, then the government will need a longer extension, requiring the UK to take part in European elections.

Thanks so much for your company and your comments. See you soon.

block-time published-time 1.31am GMT

'The best turd we've got' - and other attempts to explain Brexit

There have been some remarkable turns of phrase from commentators and politicians in their attempts to capture just what exactly has gone on in British politics in the last few days.

The most quotable quote from an MP on Brexit in a while (forever?) came from Conservative backbencher Steve Double who said in parliament on Tuesday:

This is a turd of a deal, which has now been taken away and polished, and is now a polished turd. But it might be the best turd that we've got.

This is also pretty good from Tom Peck at the Indy, who says:

The House of Commons was a Benny Hill chase on acid, running through a Salvador Dali painting in a spaceship on its way to infinity.

enltrA vague, and vain attempt to make sense of the great mad nights in British political history. Sketch here. [*https://t.co/4zCw505yNv*](https://t.co/4zCw505yNv)   [*pic.twitter.com/ZENHV8wTnz*](https://t.co/4zCw505yNv)

- Tom Peck (@tompeck) [*March 13, 2019*](https://t.co/4zCw505yNv)

It has got us wondering about the best Brexit analogies, or attempts to explain Brexit that have come out over the months/years. Any favourites? Let me know in the comments or on [*Twitter*](https://t.co/4zCw505yNv).

This one springs to mind:

block-time updated-timeUpdated at 1.37am GMT

block-time published-time 1.18am GMT

'Meltdown' - how the papers covered it

enltrThe Times: Brexit meltdown [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/4YkRFLao1L*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltri: Meltdown [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/RlrU4MqyjF*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrDaily Mail: Chaos reigns [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/jwJ63dK0Lc*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrThe Daily Telegraph: Brexit delayed until further notice after gang of four rebels [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/r57T5xosb4*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrThe Guardian: May's final warning to Tory rebels: back me or lose Brexit [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/e1pQkfuxGt*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrThe Scotsman: MPs reject no-deal Brexit under any circumstances [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/NHNYD1kUCB*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrMetro: It's a total no-no [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/N3gYhlY2m5*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrFinancial Times: May issues ultimatum after MPs seize control with vote to ditch no-deal Brexit [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/dzHajhjgSX*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrDaily Express: Don't let EU bullies win the day [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/yfSEz7ouK3*](https://t.co/4zCw505yNv)

- Helena Lee (@BBCHelenaLee) [*March 13, 2019*](https://t.co/4zCw505yNv)

block-time published-time 1.05am GMT

Taoiseach Leo Varadkar speaking at the American Ireland Gala Fund dinner at the National Building Museum in Washington DC during his visit to the US. Photograph: Brian Lawless/PA

And a little more from Varadkar's speech, in which he says that Ireland needs its friends in the US "more so than ever".

While others may make a different decision, we see ourselves at the heart of the common European home which we help to build.

We want to maintain and enhance the transatlantic relationship and we are determined to protect the Good Friday Agreement and everything that flows from it.

So whatever happens in the coming months, we are sure about our place in the world, we know where we are going, and as a country we are confident about the future.

block-time updated-timeUpdated at 1.06am GMT

block-time published-time 12.56am GMT

Leo Varadkar, the Taoiseach of Ireland, has been in Washington DC, where he delivered a speech at a gala dinner. Gavan Reilly, the political correspondent for Virgin Media News in Ireland, was in attendance and says Varadkar received two spontaneous interruptions for applause as he says Ireland will remain a committed member of the EU and guarantor of the Good Friday Agreement.

enltrThe theme of tonight's dinner is honouring visionary women. Asks the Taoiseach: "How many men does it take to screw in a lightbulb? Not as many as it takes to smash a glass ***ceiling***." Says Ireland and USA have recently smashed stereotypes of what leaders are supposed to look like

- Gavan Reilly (@gavreilly) [*March 14, 2019*](https://t.co/4zCw505yNv)

enltrAnd \*two\* spontaneous interruptions for applause as he says Ireland will remain a committed member of the EU and guarantor of the Good Friday Agreement

- Gavan Reilly (@gavreilly) [*March 14, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.48am GMT

UKIP in Northern Ireland has called Wednesday night "a defining evening" in which the "game-playing political class" brazenly defied the very people who elected them.

I'm quite intrigued to know what they mean by the ominous use of an ellipsis at the end of the tweet. It's quite a menacing bit of punctuation.

enltrA defining evening. Our game-playing political class have exposed themselves. By brazenly defying the very people who elected them, those in the Westminster bubble have made a mockery of British democracy. They think they know better. They needn't celebrate just yet though...

- UKIP Northern Ireland (@UKIP\_NI) [*March 14, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.43am GMT

And Sarah Wollaston has reiterated the calls from the Independent Group for a People's Vote. A reminder that they are tabling an amendment calling for a "public vote in which the people of the United Kingdom may give their consent for either leaving the European Union on terms to be determined by Parliament or retaining the United Kingdom's membership of the European Union".

Photographs of the proposed amendment are being widely shared by MPs on Twitter tonight.

enltrWe are almost out of road, time to start pressing [*#PeoplesVote*](https://t.co/4zCw505yNv) amendments at every opportunity & time for Labour front bench to finally get off the fence   [*pic.twitter.com/c7AXmAnIei*](https://t.co/4zCw505yNv)

- Sarah Wollaston MP (@sarahwollaston) [*March 14, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.40am GMT

Sarah Wollaston, MP for Totnes, formerly of the Conservative Party now of the Independent Group, has been watching Peston and is unimpressed by Angela Rayner's performance. She says both major parties have failed to deliver, which is why we are seeing, what she describes as, "broken politics".

enltrSeriously, [*@UKLabour*](https://t.co/4zCw505yNv) is never going to genuinely support a   [*#PeoplesVote*](https://t.co/4zCw505yNv) just keep saying they are almost very nearly there.... & their Conference motion is absolutely clear   [*https://t.co/7F6IEENVe8*](https://t.co/4zCw505yNv)

- Sarah Wollaston MP (@sarahwollaston) [*March 14, 2019*](https://t.co/4zCw505yNv)

enltrOur [*#brokenpolitics*](https://t.co/4zCw505yNv) summed up: A Govt that says NoDeal would be a disaster, then hours later whips its MPs to vote for it & an incompetent Opposition that says it backs a   [*#PeoplesVote*](https://t.co/4zCw505yNv) but won't do anything to make it happen.

- Sarah Wollaston MP (@sarahwollaston) [*March 14, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.31am GMT

Labour MP for Walthamstow, Stella Creasy, has shared four videos explaining to her constituents what went down today. It's an interesting summary of the day's events, as well as giving a sense of how the day unfolded from the perspective of one of the players in the "complete parliamentary madness" of the day, as Creasy describes it.

Creasy says she will be supporting amendments that give Britain a longer extension before it has to leave the EU, saying the country needs more time to "sort this out".

Creasy says she was unsurprised that as Theresa May left the House today it was to shouts of "resign", saying that any other prime minister who had failed to carry parliament with her, and indeed her own party with her, would not still be in Downing Street, adding that she thinking "the country will suffer as a result" of May's refusal to step down.

If you've got seven minutes, the four videos are worth a watch.

enltrWalthamstow hopefully this part 1 of 4 of tonights update on what happened in parliament. Having total technology meltdown which is just further [*#brexithaos*](https://t.co/4zCw505yNv) so please bear with me in trying to keep you updated! 1/4   [*pic.twitter.com/rRDG2DiEYV*](https://t.co/4zCw505yNv)

- stellacreasy (@stellacreasy) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrWalthamstow hopefully this part 2 of 4 of tonights update on what happened in parliament. Having total technology meltdown which is just further [*#brexithaos*](https://t.co/4zCw505yNv) so please bear with me in trying to keep you updated! 2/4   [*pic.twitter.com/fQFBORNcrx*](https://t.co/4zCw505yNv)

- stellacreasy (@stellacreasy) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrWalthamstow hopefully this part 3 of 4 of tonights update on what happened in parliament. Having total technology meltdown which is just further [*#brexithaos*](https://t.co/4zCw505yNv) so please bear with me in trying to keep you updated! 3/4   [*pic.twitter.com/VLOsmXogFm*](https://t.co/4zCw505yNv)

- stellacreasy (@stellacreasy) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrWalthamstow hopefully this part 4 of 4 of tonights update on what happened in parliament. Having total technology meltdown which is just further [*#brexithaos*](https://t.co/4zCw505yNv) so please bear with me in trying to keep you updated! 4/4   [*pic.twitter.com/euzG9gBmRw*](https://t.co/4zCw505yNv)

- stellacreasy (@stellacreasy) [*March 14, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.21am GMT

Also, thank you to starsmurf for this lovely comment, I can confirm that our moderators are indeed very long-suffering, as well as being brilliant, dedicated and all-round lovely people. They are also often unsung, so I'm taking this opportunity to share your praise of them above the line:

Thank you mods and all those updating ATL.

We really need to have a crowdfunder set up for the poor long-suffering mods plus Andrew Sparrow and the others who have kept this going pretty much 24 hours a day over these last few days. We can keep them in coffee for when they're working and something stronger for when they're off duty or when it all gets too much. Cakes and other sources of sustenance could be provided too. We all win because journalists with plenty of sugar and caffeine in their systems can cope with the political chaos while the mods can deal with the trolls and Putinbots. A well-fed mod is a happy mod.

And while we don't have a crowd-funding campaign for sugary and caffeinated goodness, the Guardian runs on a [*membership model*](https://t.co/4zCw505yNv). So if you love us, make sure you've joined up.

block-time published-time 12.13am GMT

Hello everyone.

This is Kate Lyons taking over the blog from my colleague Jedidajah Otte, which means we have come full circle on a huge day of Brexit news. I started this blog at about 5:30 on Wednesday morning and will keep it ticking over through the wee hours of Thursday morning, until there is no more news to report.

I sincerely hope for your sakes that none of you have been reading the blog that entire time (if you have, please go to sleep), though I wouldn't blame you if you had been glued to it for that time, given the day that has just been and the stellar work of my colleagues in bringing the news to you.

I'll be bringing you reaction from MPs, the papers and commentators. For now, here's how the last few day's Brexit happenings have been seen by the newspaper cartoonists of Australia:

enltrGoldilocks and the Brexit. My [*@smh*](https://t.co/4zCw505yNv)   [*@theage*](https://t.co/4zCw505yNv) cartoon.   [*pic.twitter.com/XC74bbV4iO*](https://t.co/4zCw505yNv)

- The Cathy Wilcox (@cathywilcox1) [*March 13, 2019*](https://t.co/4zCw505yNv)

enltrBrescherxit in today's [*@australian*](https://t.co/4zCw505yNv)   [*pic.twitter.com/WFrXCyjVO3*](https://t.co/4zCw505yNv)

- Captain Sizzling Monkey Pirate Ninja Reboot (@jonkudelka) [*March 13, 2019*](https://t.co/4zCw505yNv)

block-time published-time 12.03am GMT

I'm now handing over to my colleague Kate Lyons, who will continue rounding up reactions.

block-time published-time 11.58pm GMT

David Davis, who voted for the unsuccessful Malthouse agreement earlier, wants to "help" Theresa May deliver Brexit.

enltrConservative MP David Davis tells Nick Watt that Theresa May "knows she has to deliver Brexit" but that "she will get there, people like me will help her get there" [*#newsnight*](https://t.co/4zCw505yNv)  |    [*@nicholaswatt*](https://t.co/4zCw505yNv)   [*pic.twitter.com/i4d2mVsqVo*](https://t.co/4zCw505yNv)

- BBC Newsnight (@BBCNewsnight) [*March 13, 2019*](https://t.co/4zCw505yNv)

block-time published-time 11.48pm GMT

Sarah Newton MP, the 15th member of the government to quit over Brexit, has provided a statement:

"At the last general election I was given a mandate by my constituents to deliver Brexit, with an orderly transition to a new, close and special relationship with the EU. To deliver Brexit with a deal not a no-deal Brexit. I believe the withdrawal agreement and the future political declaration deliver on that manifesto pledge and will continue to support it.

Today, I resigned from the government so that I could vote for a motion that honours my commitment to my constituents, to leave the EU with a deal.

Like many of my constituents, I have been inspired by the personal courage and resilience of the prime minister and will continue to support her Herculean effort to secure enough support from across the house to leave the EU with a deal."

Updated at 11.55pm GMT

11.23pm GMT

According to HuffPost UK's Paul Waugh, things could indeed be entirely up to Speaker John Bercow from here on.

Speaker today issued a dark warning (during Gove speech if I recall rightly) that he would rule on whether it's in order for Govt to simply table same deal again and again. He really could throw a spanner in works next week. And he has nothing to lose. [*https://t.co/67Jrug6TEo*](https://t.co/4zCw505yNv)

- Paul Waugh (@paulwaugh) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 11.24pm GMT

11.07pm GMT

For now, Jacob Rees-Mogg seems unwilling to concede defeat, as the bill required to actually rule out a no-deal scenario does not exist yet.

The law still says we leave on 29th March. [*https://t.co/gmna7gaaHq*](https://t.co/4zCw505yNv)

- Jacob Rees-Mogg (@Jacob\_Rees\_Mogg) [*March 13, 2019*](https://t.co/4zCw505yNv)

Gina Miller has predictably called for exactly this bill to be passed without much further ado.

Vote tonight 1st step back onto the path to commonsense and our country's interest before party. Now need it to be binding legislation.

- Gina Miller (@thatginamiller) [*March 13, 2019*](https://t.co/4zCw505yNv)

Or, as one Simon Schama puts it:

Mogg doing his "law of the land" drone. And he's quite right. But guess what, chuckles, Parliament can change that law.

- Simon Schama (@simon\_schama) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 11.13pm GMT

10.53pm GMT

As Tory Brexiters have suffered a major blow tonight, a number of pundits suggest that ERG MPs might support May's deal in a third "meaningful vote" next week. However, it is not certain that Speaker John Bercow will allow MV3 if the deal is submitted again without any changes, as Ian Dunt, editor of Politics.co.uk, points out:

2) It is not clear that Bercow will allow - or even can allow - the govt to put a motion down on the deal again if there have been no changes to it. I'll look into the exact rules on that tomorrow. Health warning on it for now.

- Ian Dunt (@IanDunt) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 11.14pm GMT

10.36pm GMT

Greetings, I'm taking over from my colleague Andrew Sparrow and will gather some reactions to tonight's events in parliament.

And what an evening it's been.

I normally try very, very, hard not to say things like this, but have never actually seen anything like what's happened tonight

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 10.38pm GMT

10.14pm GMT

Evening summary

No one knows how the Brexit crisis will end up being resolved, but it is escalating, and getting closer to the point where something decisive will happen. Tonight's votes have shoved events quite some way in that direction. Here are the key developments.

* Theresa May has now finally issued her MPs with an ultimatum; back her deal, or face a long delay to Brexit. (See 8.21pm.) Until now she has sought to threaten Brexiters with the prospect of Brexit being delayed or cancelled, and pro-Europeans, and Labour, with the prospect of a no-deal Brexit, in an effort to get MPs to vote for her plan. Tonight, with MPs voting against no deal, she has gone further than ever before in putting the squeeze on the ERG (European Research Group).

1. But her authority within her party is vanishing. May only agreed to offer today's debate on ruling out no deal because last month pro-European ministers threatened to resign en masse if she didn't. Tonight's events were a shambles for the Conservative parliamentary party, and May has been openly defied by ministers who abstained rather than follow the party whip. (See 8.49pm.) This is not a normal state of affairs, and in the long run having such a weak PM is probably unsustainable.
2. Increasingly parliament really is taking control. May was defeated today on an amendment tabled by a Tory backbencher (Caroline Spelman) and pushed to a vote by a Labour backbencher (Yvette Cooper), although it was the PLP (parliamentary Labour party) that provided the muscle to defeat May. Tomorrow we are likely to see further votes on backbench amendments indicating that the legislature, not the executive, is taking the initiative. No 10 says it is not supporting calls for "indicative votes" on Brexit alternatives, but it seems they may well happen anyway in some form or another, via backbench amendments.
3. The threat of a no-deal Brexit on 29 March - a prospect that for the last two years May has repeatedly kept on the table - has almost certainly been removed. That does not mean tonight's votes kill off no deal for good (see 7.29pm), but May has accepted it must not happen this month.
4. The notion that the Malthouse compromise offers an acceptable way forward has been comprehensively dismissed. This amendment was rejected by a majority of 210. (See 7.35pm.) Given the enormous faith placed in Malthouse by Tory Brexiters, this was a colossal defeat for them.

Here is our main story tonight.

Related: [*May's final warning to Tory rebels: back me or lose Brexit*](https://t.co/4zCw505yNv)

My colleague Jedidajah Otte is now taking over to cover any further reaction.

Updated at 10.25pm GMT

9.42pm GMT

The DUP are not minded to flinch, according to the Telegraph's Jack Maidment.

DUP super chilled about tonight's events. No plans to budge on their backstop red lines. DUP source: "We are quite relaxed about the current situation. We have been in this type of position before. Things tend to go down to the wire. We will keep pushing for a good deal."

- Jack Maidment (@jrmaidment) [*March 13, 2019*](https://t.co/4zCw505yNv)

9.41pm GMT

This is from Sky's Faisal Islam.

Another minister: "There is utter fury and despair by MPs and Ministers at the breakdown of collective responsibility. Voting against a 3 line whip especially as a Cabinet Minister and no repercussions- it's free fall..."

- Faisal Islam (@faisalislam) [*March 13, 2019*](https://t.co/4zCw505yNv)

9.39pm GMT

Corbyn says Labour will renew attempts to find compromise Brexit solution MPs can support

And here is the statement Jeremy Corbyn put out after tonight's votes.

Tonight this house has once again definitely ruled out no deal. The prime minister said the choice was between her deal and no deal. In the last 24 hours parliament has decisively rejected both her deal and no deal. While an extension of article 50 is now inevitable, the responsibility for that extension lies solely and squarely at the prime minister's door.

But extending article 50 without a clear objective is not a solution. parliament must now take control of the situation. In the days that follow, myself, the shadow Brexit secretary and others will have meetings with members across this House to find a compromise solution that can command support in the House. This means doing what the prime minister failed to do two years ago: search for a consensus on the way forward.

Labour has set out a credible alternative plan. Honourable members across this house are coming forward with proposals, whether that's for a permanent customs union, a public vote, Norway plus or other ideas.

Let us, as a House of Commons work now to find a solution - to deal with the crisis facing the country and the deep concerns that many people have for their livelihood, their lives, their future, their jobs, their communities and their factories. It's up to us, as the House of Commons, to look for and find a solution to their concerns. That is what we were elected to do.

Jeremy CorbynPhotograph: UK Parliament/Jessica Taylor/PA

9.32pm GMT

Yvette Cooper, the Labour MP who pushed the Spelman amendment to a vote, has issued this statement about tonight's votes. She said:

The House of Commons has voted decisively tonight against the chaos of no deal. We are in this position because the prime minister has refused to consult or build consensus, and refused to allow votes on other Brexit options. That needs to be urgently sorted out now. The government should come forward with plans to hold indicative votes on different options, including a customs union, so we can get on with this. If the prime minister won't sort this out and build some consensus on the way forward then parliament will need to instead.

9.30pm GMT

This is from BuzzFeed's Alex Wickham.

ERG MPs saying they will vote for the deal at MV3 on the condition May goes

- Alex Wickham (@alexwickham) [*March 13, 2019*](https://t.co/4zCw505yNv)

Those ERG MPs obviously don't include Steve Baker. See [*9.07pm.*](https://t.co/4zCw505yNv)

9.28pm GMT

The People's Vote campaign, which wants a second referendum, has accused Theresa May of trying to blackmail MPs into supporting her deal. It issued this statement from the Tory pro-European Guto Bebb. He said:

Tonight another government minister has resigned on principle rather than be part of a process designed to browbeat parliament into accepting a broken Brexit that the whole country knows fails to honour the promises of 2016 and would leave people poorer.

But, within minutes of losing key votes on this issue, the government has decided to deploy a new false threat. The effort to turn a necessary and sensible extension to the Brexit deadline into a bogeyman that will scare MPs back into line is both irresponsible and unedifying. It deserves to be treated with the same contempt that greeted previous efforts to browbeat or blackmail MPs into supporting a Brexit deal that neither they nor the country want.

9.22pm GMT

Some of us did not always find it easy following the parliamentary proceedings tonight. According to my colleague Heather Stewart, we were in good company...

Eek: government source claims that at the early-evening informal cabinet meeting, Greg Clark asked about whipping arrangements. "Julian Smith didn't know what was going on, and the PM didn't understand what was going on"...Hence chaos...

- Heather Stewart (@GuardianHeather) [*March 13, 2019*](https://t.co/4zCw505yNv)

9.15pm GMT

Unlike Steve Baker, the deputy chair of the ERG (see [*9.07pm)*](https://t.co/4zCw505yNv), Jacob Rees-Mogg, the ERG chair, hinted tonight that he could be persuaded to back the PM's deal.

Asked if he would continue to vote against it, he replied:

We will have to see if there is any change.

There are discussions today in relation to what Geoffrey Cox has had to say to the DUP and, crucially, what may be put in the withdrawal and implementation bill which could have an effect on how people vote.

So I'm not the immovable object facing the irresistible force.

9.10pm GMT

Here is a mini profile of Sarah Newton, who resigned tonight from the government to vote to rule out no deal for good, from the Press Association. (See [*9.04pm.)*](https://t.co/4zCw505yNv)

Sarah Newton's quiet rise within the Conservative ranks was dealt a fatal, self-inflicted blow, following her decision to vote against the government over Brexit. In doing so, she became the second minister from Cornwall to resign over the issue in a fortnight, after Leave-backing George Eustice (Camborne and Redruth) opted to return to the backbenches from the ***agriculture*** brief "to be free to participate in the critical" Brexit debate.

History graduate Newton, a former director of Age Concern England, was among the 2010 intake of MPs, becoming the first person to win the newly created seat of Truro and Falmouth as boundary changes meant Cornwall increased its MPs from five to six. She has held it ever since.

And in 2012, at the height of the furore surrounding the introduction of the so-called "pasty tax", the Cornish MP spoke in the Commons about the cherished delicacy.

Issuing a warning to then-chancellor George Osborne, she said: "There is growing concern throughout Cornwall about the possible unintended consequences of the Budget and about the undoubtedly real threat to the Cornish pasty of the pasty tax."

From May 2015 to July 2016, Newton was a Government whip with departmental responsibility for Defra, and moved to the Home Office as parliamentary under-secretary of state for crime, safeguarding and vulnerability.

The mother-of-three, who backed Theresa May in the Tory leadership election in 2016, was later appointed minister for disabled people, health and work, before becoming work and pensions minister in November 2017.

She resigned on Wednesday evening, moments after defying the whips to vote for the cross-party amendment rejecting a no-deal Brexit.

9.07pm GMT

Steve Baker, the Tory Brexiter and deputy chair of the European Research Group, told Sky News that he would continue to vote against the PM's deal, regardless of her threat to seek a long Brexit delay. He explained:

I'll say to the government now, when meaningful vote three comes back, I will see to it that we keep voting this down however many times it's brought back, whatever pressure we're put under and come what may. Please don't do it. Keep going back to the EU and say, 'It wont pass.'

9.04pm GMT

Sarah Newton resigns as DWP minister as she votes to rule out no-deal Brexit for good

Sarah Newton resigned as minister for disabled people in the work and pensions department tonight as she voted against the Tory whip in the final vote and in favour of the the amended motion ruling out a no-deal Brexit for good.

8.59pm GMT

Former Cabinet minister shares what he's messaged the Chief Whip-'to state the obvious if ministers who felt unable to support govt on a 3 line whip are allowed to remain in place, you will have no way to persuade any colleagues to ever support future 3 line whips' - a fair point

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.58pm GMT

The Brexiter Mark Francois has told Sky News that collective ***discipline*** in the party has collapsed.

On decision not to sack ministers who abstained, Conservative MP Mark Francois tells Sky News's [*@BethRigby*](https://t.co/4zCw505yNv) : "The collective responsibility has disintegrated - you might as well tell the whips to pack up and go home. "The government is barely in office"

- Ashley Cowburn (@ashcowburn) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.58pm GMT

Downing Street also said it had no plans for indicative votes on Brexit alternatives. The prime minister's spokesman said:

We have no plans for indicative votes, I think I've said that on a number of occasions. What you have seen in parliament in recent weeks is a series of plans being put before parliament by opposition parties and they have all been rejected.

8.53pm GMT

This is from David Mundell, the Scottish secretary, explaining why he was one of the 11 ministers who abstained in the final vote (see [*8.49am)*](https://t.co/4zCw505yNv), instead of voting against ruling out no deal for good, as Tory MPs were supposed to.

I've always opposed a no deal Brexit. The House made its view clear by agreeing the Spelman amendment, I didn't think it was right for me to oppose that.The PM has my full support in her objective of leaving the EU with a Deal to deliver an orderly Brexit

- David Mundell (@DavidMundellDCT) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.49pm GMT

How MPs voted in three Brexit divisions

Here are the key figures for how MPs voted in the three votes. The full lists are [*here.*](https://t.co/4zCw505yNv)

The Spelman amendment

Tory MPs were whipped to vote against. But nine of them backed it: Guto Bebb, Ken Clarke, Justine Greening, Dominic Grieve, Sam Gyimah, Phillip Lee, Antoinette Sandbach, Caroline Spelman and Ed Vaizey.

And Labour MPs were whipped to vote for it. But six of them voted against: Ronnie Campbell, Stephen Hepburn, Kate Hoey, John Mann, Dennis Skinner and Graham Stringer.

The Green amendment (or the Malthouse compromise one)

Tories had a free vote. Some 149 voted for it.

They were: Nigel Adams (Selby and Ainsty), Adam Afriyie (Windsor), Peter Aldous (Waveney), Lucy Allan (Telford), David Amess (Southend West), Stuart Andrew (Pudsey), Kemi Badenoch (Saffron Walden), Steve Baker (Wycombe), Henry Bellingham (North West Norfolk), Jake Berry (Rossendale and Darwen), Bob Blackman (Harrow East), Crispin Blunt (Reigate), Graham Brady (Altrincham and Sale West), Suella Braverman (Fareham), Andrew Bridgen (North West Leicestershire), Fiona Bruce (Congleton), Robert Buckland (South Swindon), Alex Burghart (Brentwood and Ongar), Conor Burns (Bournemouth West), Alun Cairns (Vale of Glamorgan), Colin Clark (Gordon), Simon Clarke (Middlesbrough South and East Cleveland), Geoffrey Clifton-Brown (The Cotswolds), Therese Coffey (Suffolk Coastal), Damian Collins (Folkestone and Hythe), Robert Courts (Witney), Chris Davies (Brecon and Radnorshire), David T. C. Davies (Monmouth), Glyn Davies (Montgomeryshire), Philip Davies (Shipley), David Davis (Haltemprice and Howden), Michelle Donelan (Chippenham), Nadine Dorries (Mid Bedfordshire), James Duddridge (Rochford and Southend East), Iain Duncan Smith (Chingford and Woodford Green), Philip Dunne (Ludlow), Michael Ellis (Northampton North), Charlie Elphicke (Dover), George Eustice (Camborne and Redruth), Nigel Evans (Ribble Valley), David Evennett (Bexleyheath and Crayford), Michael Fabricant (Lichfield), Michael Fallon (Sevenoaks), Mark Francois (Rayleigh and Wickford), Lucy Frazer (South East Cambridgeshire), Mark Garnier (Wyre Forest), Cheryl Gillan (Chesham and Amersham), Zac Goldsmith (Richmond Park), Helen Grant (Maidstone and The Weald), James Gray (North Wiltshire), Chris Green (Bolton West), Damian Green (Ashford), Kirstene Hair (Angus), Greg Hands (Chelsea and Fulham), Rebecca Harris (Castle Point), Trudy Harrison (Copeland), Simon Hart (Carmarthen West and South Pembrokeshire), John Hayes (South Holland and The Deepings), James Heappey (Wells), Chris Heaton-Harris (Daventry), Gordon Henderson (Sittingbourne and Sheppey), Adam Holloway (Gravesham), Eddie Hughes (Walsall North), Jeremy Hunt (South West Surrey), Alister Jack (Dumfries and Galloway), Sajid Javid (Bromsgrove), Ranil Jayawardena (North East Hampshire), Bernard Jenkin (Harwich and North Essex), Andrea Jenkyns (Morley and Outwood), Robert Jenrick (Newark), Boris Johnson (Uxbridge and South Ruislip), Caroline Johnson (Sleaford and North Hykeham), Gareth Johnson (Dartford), Andrew Jones (Harrogate and Knaresborough), David Jones (Clwyd West), Daniel Kawczynski (Shrewsbury and Atcham), Julian Knight (Solihull), Greg Knight (East Yorkshire), Kwasi Kwarteng (Spelthorne), John Lamont (Berwickshire, Roxburgh and Selkirk), Mark Lancaster (Milton Keynes North), Pauline Latham (Mid Derbyshire), Andrea Leadsom (South Northamptonshire), Andrew Lewer (Northampton South), Ian Liddell-Grainger (Bridgwater and West Somerset), Julia Lopez (Hornchurch and Upminster), Jack Lopresti (Filton and Bradley Stoke), Jonathan Lord (Woking), Tim Loughton (East Worthing and Shoreham), Craig Mackinlay (South Thanet), Rachel Maclean (Redditch), Kit Malthouse (North West Hampshire), Scott Mann (North Cornwall), Paul Maynard (Blackpool North and Cleveleys), Patrick McLoughlin (Derbyshire Dales), Esther McVey (Tatton), Mark Menzies (Fylde), Stephen Metcalfe (South Basildon and East Thurrock), Maria Miller (Basingstoke), Nigel Mills (Amber Valley), Andrew Mitchell (Sutton Coldfield), Penny Mordaunt (Portsmouth North), Nicky Morgan (Loughborough), Sheryll Murray (South East Cornwall), Andrew Murrison (South West Wiltshire), Neil Parish (Tiverton and Honiton), Priti Patel (Witham), Owen Paterson (North Shropshire), Mike Penning (Hemel Hempstead), John Penrose (Weston-super-Mare), Chris Philp (Croydon South), Dan Poulter (Central Suffolk and North Ipswich), Mark Prisk (Hertford and Stortford), Tom Pursglove (Corby), Will Quince (Colchester), Dominic Raab (Esher and Walton), Jacob Rees-Mogg (North East Somerset), Laurence Robertson (Tewkesbury), Mary Robinson (Cheadle), Andrew Rosindell (Romford), Lee Rowley (North East Derbyshire), Paul Scully (Sutton and Cheam), Bob Seely (Isle of Wight), Andrew Selous (South West Bedfordshire), Grant Shapps (Welwyn Hatfield), Alec Shelbrooke (Elmet and Rothwell), Henry Smith (Crawley), Royston Smith (Southampton, Itchen), Bob Stewart (Beckenham), Iain Stewart (Milton Keynes South), Julian Sturdy (York Outer), Rishi Sunak (Richmond (Yorks)), Desmond Swayne (New Forest West), Hugo Swire (East Devon), Derek Thomas (St Ives), Ross Thomson (Aberdeen South), Justin Tomlinson (North Swindon), Michael Tomlinson (Mid Dorset and North Poole), Craig Tracey (North Warwickshire), Theresa Villiers (Chipping Barnet), Charles Walker (Broxbourne), Ben Wallace (Wyre and Preston North), David Warburton (Somerton and Frome), Helen Whately (Faversham and Mid Kent), Heather Wheeler (South Derbyshire), John Whittingdale (Maldon), Gavin Williamson (South Staffordshire), William Wragg (Hazel Grove), Nadhim Zahawi (Stratford-on-Avon).

Labour MPs were whipped to vote against. But four of them voted for. They were: Ronnie Campbell (Blyth Valley), Kate Hoey (Vauxhall), Dennis Skinner (Bolsover), Graham Stringer (Blackley and Broughton).

And 66 Tories voted against the amendment.

They were: Richard Bacon (South Norfolk), Guto Bebb (Aberconwy), Nick Boles (Grantham and Stamford), Jack Brereton (Stoke-on-Trent South), Steve Brine (Winchester), Alistair Burt (North East Bedfordshire), James Cartlidge (South Suffolk), Alex Chalk (Cheltenham), Jo Churchill (Bury St Edmunds), Greg Clark (Tunbridge Wells), Kenneth Clarke (Rushcliffe), Stephen Crabb (Preseli Pembrokeshire), Tracey Crouch (Chatham and Aylesford), Jonathan Djanogly (Huntingdon), Jackie Doyle-Price (Thurrock), Mark Field (Cities of London and Westminster), Vicky Ford (Chelmsford), Kevin Foster (Torbay), Roger Gale (North Thanet), David Gauke (South West Hertfordshire), Nick Gibb (Bognor Regis and Littlehampton), Bill Grant (Ayr, Carrick and Cumnock), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Andrew Griffiths (Burton), Sam Gyimah (East Surrey), Luke Hall (Thornbury and Yate), Richard Harrington (Watford), Oliver Heald (North East Hertfordshire), Peter Heaton-Jones (North Devon), Simon Hoare (North Dorset), Philip Hollobone (Kettering), John Howell (Henley), Nigel Huddleston (Mid Worcestershire), Margot James (Stourbridge), Marcus Jones (Nuneaton), Phillip Lee (Bracknell), Oliver Letwin (West Dorset), David Lidington (Aylesbury), Alan Mak (Havant), Paul Masterton (East Renfrewshire), Johnny Mercer (Plymouth, Moor View), Huw Merriman (Bexhill and Battle), Anne Milton (Guildford), Damien Moore (Southport), Anne Marie Morris (Newton Abbot), David Morris (Morecambe and Lunesdale), James Morris (Halesowen and Rowley Regis), Robert Neill (Bromley and Chislehurst), Andrew Percy (Brigg and Goole), Claire Perry (Devizes), Victoria Prentis (Banbury), Mark Pritchard (The Wrekin), Douglas Ross (Moray), Amber Rudd (Hastings and Rye), Antoinette Sandbach (Eddisbury), Chloe Smith (Norwich North), Nicholas Soames (Mid Sussex), Caroline Spelman (Meriden), Rory Stewart (Penrith and The Border), Gary Streeter (South West Devon), Kelly Tolhurst (Rochester and Strood), Edward Vaizey (Wantage), Matt Warman (Boston and Skegness), Giles Watling (Clacton), Mike Wood (Dudley South).

The main motion, as amended

Tory MPs were whipped to vote against. But 17 of them voted in favour.

They were: Guto Bebb (Aberconwy), Richard Benyon (Newbury), Nick Boles (Grantham and Stamford), Kenneth Clarke (Rushcliffe), Jonathan Djanogly (Huntingdon), George Freeman (Mid Norfolk), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Sam Gyimah (East Surrey), Phillip Lee (Bracknell), Oliver Letwin (West Dorset), Paul Masterton (East Renfrewshire), Sarah Newton (Truro and Falmouth), Mark Pawsey (Rugby), Antoinette Sandbach (Eddisbury), Nicholas Soames (Mid Sussex), Edward Vaizey (Wantage).

And the following 11 Conservatives, who are members of the government did not vote.

Solicitor General Robert Buckland, Foreign Office minister Alistair Burt, Business Secretary Greg Clark, Defence minister Tobias Ellwood, Justice Secretary David Gauke, Business minister Richard Harrington, Culture minister Margot James, Education minister Anne Milton, Scottish Secretary David Mundell, Business minister Claire Perry and Work and Pensions Secretary Amber Rudd.

Labour MPs were whipped to vote in favour. But two of them voted against: Stephen Hepburn and Kate Hoey.

Updated at 8.39am GMT

8.43pm GMT

The pound just briefly hit a 22-month high against the euro, over (EURO)1.18 for the first time since May 2017. It also extended its gains against the US dollar to a nine-month high of $1.3380, before dipping back.

Updated at 9.26pm GMT

8.30pm GMT

Tonight's drama in parliament has driven the pound up to a two-week high against the dollar.

Sterling has just hit $1.33 for the first time since 28th February. That's a gain of over two cents, or 1.8%, as the currency enjoys its best day of 2019.

As you can see, the pound's having a volatile week - rising on Monday as Theresa May headed for talks with Jean-Claude Juncker, then plunging on Tuesday when attorney general Cox didn't change his legal advice on the backstop.

The pound-US dollar exchange ratePhotograph: Refinitiv

Naeem Aslam of City firm Think Markets says traders are relieved that MPs voted not to accept no deal tonight. However....

The fact is that it is comforting to know that no deal Brexit scenario is off the table, but at the same time there is no table. This is because May's party is in more disarray and Brexit has become a laughing matter for everyone.

8.30pm GMT

Here is a Guardian guide to how MPs voted on the main motion (as amended) tonight.

Related: [*How did your MP vote in the March Brexit votes?*](https://t.co/4zCw505yNv)

8.29pm GMT

This is from my colleague Dan Sabbagh, who has been at the Downing Street briefing.

Downing Street briefing just broken up. Ministers who voted against the whip tonight will be expected to resign, those who abstain \*will not\*.

- Dan Sabbagh (@dansabbagh) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.27pm GMT

Here is the text of the government motion being debated tomorrow.

Tomorrow's motion really clears things up [*pic.twitter.com/T2Xtvtzcfw*](https://t.co/4zCw505yNv)

- Matt Chorley (@MattChorley) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.25pm GMT

The division lists for tonight's three votes should be on the Commons website [*here*](https://t.co/4zCw505yNv) (although it has been crashing).

8.23pm GMT

This is from Alasdair de Costa at the Institute for Government showing how cabinet ministers voted on the main motion.

Five attending members of the Cabinet did not vote on the Government's main motion: Amber Rudd, David Gauke, Greg Clark, David Mundell and Claire Perry. [*pic.twitter.com/5EmgA026iT*](https://t.co/4zCw505yNv)

- Alasdair de Costa (@addadc) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.21pm GMT

What May said about MPs having to pass deal or face long Brexit delay

Here is the key passage from Theresa May 's statement responding to the two defeats tonight.

The motion we will table [tomorrow] will set out the fundamental choice facing this house.

If the house finds a way in the coming days to support a deal, it would allow the government to seek a short limited technical extension to article 50 to provide time to pass the necessary legislation and ratify the agreement we have reached with the EU.

But let me be clear, such a short technical extension is only likely to be on offer if we have a deal in place.

Therefore, the house has to understand and accept that, if it is not willing to support a deal in the coming days, and as it is not willing to support leaving without a deal on 29 March, then it is suggesting that there will need to be a much longer extension to article 50. Such an extension would undoubtedly require the United Kingdom to hold European parliament elections in May 2019.

I do not think that would be the right outcome.

But the house needs to face up to the consequences of the decisions it has taken.

Updated at 8.38am GMT

8.12pm GMT

May will tell MPs to pass deal by next Wednesday or face long Brexit deal, Commons told

John Bercow, the speaker, is reading out the motion for tomorrow.

* The government motion tabled for tomorrow sets next Wednesday as the deadline for MPs to pass a Brexit deal. It says, if a deal is passed by then, the government will seek an extension of article 50 until 30 June. But if the deal is not passed by then, then the government will need a longer extension, requiring the UK to take part in European elections, the motion says.

Bercow stresses that the motion will be amendable.

8.04pm GMT

This is from the BBC's Adam Fleming.

Reaction to tonight's vote from [*@EU\_Commission*](https://t.co/4zCw505yNv)   [*pic.twitter.com/7lKTOpWg3H*](https://t.co/4zCw505yNv)

- Adam Fleming (@adamfleming) [*March 13, 2019*](https://t.co/4zCw505yNv)

8.02pm GMT

Hilary Benn, the Labour chair of the Commons Brexit committee, says he agrees with May about the need for the Commons to show it is in favour of something. He says the government should hold indicative votes, as his committee proposes.

8.01pm GMT

Jacob Rees-Mogg, the Tory Brexiter, asks the speaker to confirm that a motion of the house does not override statute law.

John Bercow, the speaker, confirms that is the case.

Updated at 8.03pm GMT

7.57pm GMT

Jeremy Corbyn says May must work with MPs to find a solution to Brexit.

7.56pm GMT

May tells MPs if they do not back Brexit deal soon, she will have to seek a long article 50 extension

Theresa May is speaking now.

She says tonight's vote does not change the fundamental problem; if MPs want to rule out no deal, they must vote for a deal, she says.

She says she has promised a vote on extending article 50. Andrea Leadsom, the leader of the Commons, will soon make a business statement confirming that this will happen on Thursday.

If MPs back a deal soon, the government will seek a short, technical extension of article 50.

But if MPs do not vote for a deal, and do not want a no-deal Brexit, there will have to be a longer extension. And that would require the UK to take part in the European elections.

* May says, if MPs do not vote for a Brexit deal soon, she will have to seek a long article 50 extension, which would mean the UK having to take party in the European elections.

Updated at 8.18pm GMT

7.52pm GMT

May suffers second defeat as MPs vote to rule out no-deal Brexit by majority of 43

Theresa May has lost again, but this time by a much bigger margin. MPs voted by 321 to 278 in favour of the motion ruling out a no-deal Brexit - a majority of 43.

Updated at 7.56pm GMT

7.49pm GMT

Govt ministers who voted for Malthouse Compromise: - Theresa Coffey - Lucy Frazer - Trudy Harrison - Jeremy Hunt - Sajid Javid - Kwasi Kwarteng - Andrea Leadsom - Kit Malthouse - Penny Mourdant - Chris Philp - Paul Scully - Rishi Sunak - Ben Wallace - Gavin Williamson

- Sebastian Payne (@SebastianEPayne) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.49pm GMT

From the Telegraph's Steven Swinford

Absolute fury tonight among Tory Remainers with Yvette Cooper They spent the whole day trying to persuade her and colleagues to drop the Spelman amendment Instead she pushed it, meaning they felt they had no choice but to abstain on no deal vote 'She's totally fucked us'

- Steven Swinford (@Steven\_Swinford) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.48pm GMT

This is from the Telegraph's Anna Mikhailova.

Six Cabinet ministers - Gavin Williamson, Jeremy Hunt, Penny Mordaunt, Andrea Leadsom, Sajid Javid, Alun Cairns - voted for Malthouse. Also ministers Ben Wallace, Robert Jenrick, Lucy Frazer, Robert Buckland, Nadhim Zahawi - and Brexit junior minister Kwasi Kwarteng.

- Anna Mikhailova (@AVMikhailova) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.47pm GMT

MP s inside the voting lobbies report they've seen ministers abstaining - Cabinet ministers ignoring the whip

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.46pm GMT

This is from the SNP's Hannah Bardell.

News from the no lobby, I can see the back of Jezza's head, it's crammed, stuffy and it's starting to smell really really bad...... ???? [*pic.twitter.com/F1xgMrkZs6*](https://t.co/4zCw505yNv)

- Hannah Bardell ???????????????????? (@HannahB4LiviMP) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.45pm GMT

Here are some Labour MPs on the vote.

Tories have gone mad. Promised free vote, yet now whipping against their amended motion (which rules out leaving EU without a deal & Withdrawal Agreement). Sarah Newton has resigned as a Minister.

- Mary Creagh (@MaryCreaghMP) [*March 13, 2019*](https://t.co/4zCw505yNv)

Just to be clear - Theresa May whipping to keep no deal as an option. If you are a business that trades with Europe. Someone with a long term health condition that needs medicines. Work for a company with an office in Europe. Never bloody forget this. [*#brexithaos*](https://t.co/4zCw505yNv)

- stellacreasy (@stellacreasy) [*March 13, 2019*](https://t.co/4zCw505yNv)

In voting lobby now. PM voting against her own motion as amended with Ministers apparently being allowed to abstain. What a total mess.

- Seema Malhotra (@SeemaMalhotra1) [*March 13, 2019*](https://t.co/4zCw505yNv)

Bizarre sight in Commons now with Govt Whips (remember Theresa May said it was a free vote) attempting to force Tory MPs to vote against exactly the same motion many of them voted for less than 30 mins ago

- Steve McCabe (@steve\_mccabe) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.42pm GMT

From the BBC's Laura Kuenssberg

So... the main vote is now on whether UK can EVER leave the EU without a deal (because of earlier Spelman vote) - govt is now said to be trying to force its own MP s to vote against its own motion - frankly things so chaotic this could implode by mistake

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.37pm GMT

MPs are now voting on the main motion, as amended.

But this is basically a re-run of the first vote. The result is likely to be very similar although it is possible that, because some MPs may not have expected Spelman to win first time round, they might vote differently now.

7.35pm GMT

MPs reject Malthouse compromise amendment by majority of 210

The Malthouse compromise amendment has been defeated by 374 votes to 164 - a majority of 210.

7.31pm GMT

This is from Newsnight's Nicholas Watt.

Govt now facing ministerial resignation alert. Govt planning to whip against their no deal motion because it has now been amended to rule out no deal in all circumstances. If govt whips against that ministers say they will resign

- Nicholas Watt (@nicholaswatt) [*March 13, 2019*](https://t.co/4zCw505yNv)

After the vote on the Green amendment, we should get a vote on the main motion as amended - ie, potentially a combination of Spelman and Green.

Updated at 7.39pm GMT

7.29pm GMT

Why the no-deal amendment does not definitely rule out no deal

It is important to stress, of course, that the Spelman amendment passed a few minutes ago does not definitely rule out a no-deal Brexit.

There are two reasons for that.

First, it is not a binding amendment. It is not legislation, and it is not a motion that gives a formal instruction to the government as "humble address" motions do.

The government could choose to accept it, and treat it as binding, but it has not said yet that it will. And even if it did...

Second, it is not within the government's power to rule out no deal (in the terms of the motion) because it does not call for article 50 to be revoked, which would probably require separate legislation anyway. Caroline Spelman and Jack Dromey, who tabled it, intended it to signal that ministers should extend article 50 in the event of no deal being agreed. But, as Theresa May says repeatedly, that only postpones the problem.

Updated at 7.37pm GMT

7.23pm GMT

MPs are now voting on the Green amendment (aka the Malthouse compromise one).

This is what it says.

At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows:

1. That the government should publish the UK's day one tariff schedules immediately;

2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU;

3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and

4. The government should unilaterally guarantee the rights of EU citizens resident in the UK."

7.18pm GMT

May suffers fresh defeat as MPs vote to rule out no-deal Brexit for good by majority of four

Theresa May has been defeated by four votes, because MPs have backed the Spelman amendment ruling out a no-deal Brexit for good by 312 votes to 308.

7.16pm GMT

Theresa May's decision to allow Tories a free vote on the main motion, and on the Malthouse compromise one, is in line with a proposal she made when she was shadow leader of the Commons in 2003, the Hansard Society's Ruth Fox has just pointed out on the BBC.

Here's the 2003 speech by Theresa May, endorsing free votes, that [*@RuthFox01*](https://t.co/4zCw505yNv) just referenced |   [*#BrexitVote*](https://t.co/4zCw505yNv)   [*https://t.co/XFSt5D48g7*](https://t.co/4zCw505yNv)

- Hansard Society (@HansardSociety) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.14pm GMT

Here is Yvette Cooper on why she pushed the amendment to a vote.

Voting now for amendment a. I welcome assurances from Ministers on the Government's intentions & will vote for the main motion against No Deal if this amendment is not passed. But think it also helpful for House to have chance to vote for a simpler, clearer motion too

- Yvette Cooper (@YvetteCooperMP) [*March 13, 2019*](https://t.co/4zCw505yNv)

7.13pm GMT

The Labour MP Debbie Abrahams thinks the Spelman amendment will be defeated.

Don't think amend a will be carried....

- Debbie Abrahams MP (@Debbie\_abrahams) [*March 13, 2019*](https://t.co/4zCw505yNv)

If that is right, it will be because Tory MPs who voted for it in January won't vote for it tonight - because they think it is more important for the government motion to be passed by a huge majority (which would be a snub to the hard Brexiters).

To get that result, they have to defeat Spelman, because if Spelman were to pass, there would be no vote on the motion, which it would replace.

Updated at 7.16pm GMT

7.10pm GMT

This amendment is word-for-word the same as one passed by the Commons in January, after the first Brexit "next steps" vote. [*It was passed by 318 votes to 310 - a majority of eight.*](https://t.co/4zCw505yNv)

Here is [*the list of 17 Tory rebels who voted for this amendment in January:*](https://t.co/4zCw505yNv) Heidi Allen (South Cambridgeshire), Guto Bebb (Aberconwy), Nick Boles (Grantham and Stamford), Kenneth Clarke (Rushcliffe), Jonathan Djanogly (Huntingdon), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Sam Gyimah (East Surrey), Phillip Lee (Bracknell), Jeremy Lefroy (Stafford), Oliver Letwin (West Dorset), Mark Pawsey (Rugby), Antoinette Sandbach (Eddisbury), Anna Soubry (Broxtowe), Caroline Spelman (Meriden), Edward Vaizey (Wantage), and Sarah Wollaston (Totnes).

And there were three Labour rebels who voted against: Stephen Hepburn (Jarrow), Kate Hoey (Vauxhall), and Graham Stringer (Blackley and Broughton).

Updated at 7.14pm GMT

7.05pm GMT

If the Spelman gets passed, there will be no vote on the government motion - because the amendment would replace it.

This is what the Spelman amendment says.

Line 1, leave out from "house" to end and add "rejects the United Kingdom leaving the European Union without a withdrawal agreement and a framework for the future relationship."

7.02pm GMT

MPs vote on Spelman amendment

John Bercow, the speaker, is putting the amendments to a vote.

He says Caroline Spelman said she did not want to move her amendment, but Yvette Cooper told him that she did want to move the amendment.

Cooper stands up. She starts saying, despite what Liam Fox said in his winding-up speech...

Bercow says he does not want a speech. He just wants Cooper to move the amendment, which she does.

6.59pm GMT

Fox says the Commons contracted out its decision-making to the people at the time of the referendum. The Commons is honour-bound to accept the result. He says the Lib Dems may not care about the views of the public, but he does.

The British people have given parliament a clear instruction.

It is time for us to determine who is the boss.

Updated at 7.09pm GMT

6.58pm GMT

Fox is refusing to take an intervention from Ken Clarke. Labour MPs start jeering at Fox, but Fox continues to refuse to give way. Clarke had longer to speak than he has got, he says.

He says Yvette Cooper earlier said she wanted to know if the result of this vote would mean the UK would not leave the EU on 29 March without an agreement. That is the position, he says. But he says in the longer term the only way to take no deal off the table is to have a deal. Having no Brexit would be even worse, he says.

6.55pm GMT

Liam Fox, the international trade secretary, is winding up for the government.

He says some of those opposed to a no-deal Brexit want to reverse Brexit.

He says the government motion focuses on 29 March. At that point the UK either has to leave with a deal, or leave without a deal, or have an extension.

An extension is not in the gift of the UK. All 27 EU countries would have to agree. And it is not clear what price the EU might extract for an extension.

He says what Labour wants is impossible. It wants to stay in the customs union, but it also wants an independent trade policy. You can't have both, he says.

He says for much of the debate he did not recognise the country being described. The UK is in control of its own future, he says.

6.51pm GMT

Pennycook says the way the government worded its amendment (see [*3.10pm)*](https://t.co/4zCw505yNv) is unsatisfactory. At worst it is ambiguous, at best it is contradictory.

That is why Labour favours backing the Spelman amendment, he says.

6.48pm GMT

Pennycook asks why any responsible government would contemplate an entirely avoidable act of self-harm.

And it would be a measure that does not have majority public support, he says.

He says, by repeating the mantra "No deal is better than a bad deal", the government desensitised people to the risks involved.

* Pennycook says May's "No deal is better than a bad deal" slogan desensitised people to the risks involved.

6.45pm GMT

Matthew Pennycook, the shadow Brexit minister, is winding up the debate for Labour now.

He says it is hard to overstate how damaging a no-deal Brexit in just over a fortnight would be. It would be "nothing short of a national disaster", he says.

6.38pm GMT

Government suffers two defeats in House of Lords on Brexit trade bill

The government has suffered two defeats in the House of Lords on the trade bill.

In the first, peers voted by 285 to 184, a majority of 101, in favour of a cross-party amendment tabled by the Labour former Northern Ireland secretary Peter Hain aimed at ensuring the continuation of frictionless trade between Northern Ireland and the Republic and blocking the imposition of customs arrangements or other checks and controls after Brexit day.

Explaining what his amendment would do, Hain said:

It does not place the government in a straight-jacket. All it requires is the very outcome we are all - leave or remain, government or opposition, London or Dublin - supposed to be signed up to. Namely the invisible open border on the island of Ireland we currently have.

And in the second vote, peers voted by 254 to 187, a majority of 67, for a cross-party move to demand that a future trade deal with the EU would include measures that enable "all UK and EU citizens to exercise the same reciprocal rights to work, live and study for the purpose of the provision of trade in goods or services".

6.30pm GMT

Liz Truss, the chief secretary to the Treasury, told Radio 4's PM programme this evening that she was "not inclined" to vote for the no-deal Brexit motion tonight. Tories have a free vote, so she does not have to. She said:

I'm going to vote to keep no-deal on the table.

She also said she thought May's deal was still viable. She explained:

I think it is still alive, I do. Ultimately, when you look at the alternatives - which are a customs union, no Brexit or no-deal - Theresa May's deal is more attractive than those other three options.

I think that's the conclusion MPs will ultimately come to.

Liz Truss being interviewed outside the Houses of Parliament.Photograph: Hannah McKay/Reuters

Updated at 6.31pm GMT

6.26pm GMT

Pro-Brexit campaigners outside the Houses of Parliament earlier today.Photograph: Niklas Halle'n/AFP/Getty Images

6.23pm GMT

Leo Varadkar, the Irish leader, has said that if the UK government did go ahead with [*its plan to avoid customs checks at the border between Ireland and Northern Ireland in the event of a no-deal Brexit,*](https://t.co/4zCw505yNv) it would soon end up having to set up a backstop-type arrangement anyway. He explained:

I don't think the UK's proposals will be workable for very long. They propose to treat Northern Ireland differently from the rest of the UK.

Northern Ireland will become a back door to the European single market and I think that in a matter of months that will lead to the need for checks at Northern Ireland's ports.

So those that opposed the agreement may find that something very akin to the backstop is applied by the UK government in a few weeks' time.

Leo Varadkar speaking at the US Chamber of Commerce in Washington DC earlier today.Photograph: Brian Lawless/PA

Updated at 6.34pm GMT

6.18pm GMT

Jack Dromey, the Labour MP who jointly tabled the no-deal amendment with Caroline Spelman, has just told Sky News that he does not intend to move the amendment. Earlier Spelman said she would not be moving it either. (See [*3.43pm*](https://t.co/4zCw505yNv).) Dromey said MPs had already backed the amendment (in January - tonight's is word-for-word the same) and that what was important tonight was for MPs to vote, by a massive majority, for the government motion, ruling out a no-deal Brexit on 29 March.

Asked if there would be a vote on the motion, Spelman told Sky News she did not know, because any MP who signed it could push for a vote.

But, given what Dromey is saying, and what Yvette Cooper said earlier (see [*5.34pm),*](https://t.co/4zCw505yNv) it looks as though there won't be a vote on it.

Sky's Jon Craig tells the programme that Spelman was "nobbled" and that, having decided to whip against the amendment, No 10 did not want a vote because some pro-European ministers would have voted in favour.

Updated at 6.33pm GMT

6.01pm GMT

Leading Eurosceptics are lobbying right-of-centre governments in the EU27 to veto any British request for an extension to article 50 to ensure the UK drops out of the EU at the end of the month without a deal, my colleague Patrick Wintour reports. His story goes on:

In theory, only one country is required to wield its veto for any British request to be rejected.

It is highly unlikely this lobbying will succeed as the governments in countries such as Hungary, Italy and Poland have other more important battles to fight with the EU. But the lobbying underlines the precariousness of the British position.

And here it is in full.

Related: [*Brexiters lobby for European veto of article 50 extension*](https://t.co/4zCw505yNv)

Updated at 6.36pm GMT

5.59pm GMT

Here are two Europe correspondents on the Malthouse compromise amendment.

From the Telegraph's Peter Foster

This Malthouse "pay-as-you-go" [*#brexit*](https://t.co/4zCw505yNv) amendment is utterly delusional. Unicorns really do have more chance of existing. Am on phone with EU source discuss extension and what might trigger leaders into harder than expected response? "That".

- Peter Foster (@pmdfoster) [*March 13, 2019*](https://t.co/4zCw505yNv)

From the Independent's Jon Stone

One EU source to me after reading Malthouse: "My god they are mad" [*https://t.co/riYj6I7xK2*](https://t.co/4zCw505yNv)

- Jon Stone (@joncstone) [*March 13, 2019*](https://t.co/4zCw505yNv)

5.55pm GMT

Labour's Jess Phillips is speaking in the debate now. She says she thinks Theresa May is "terrified" of the Brexiters in her party. Sir Nicholas Soames, the Conservative pro-European, intervenes. He says he has studied May, and he thinks May is "respectful" of the Brexiters, not frightened of them. Phillips says Soames knows May better than she does - partly because May does not speak to her, she says - but she insists that May looks like a "rabbit in the headlights" in her dealings with the Brexiters.

Updated at 6.37pm GMT

5.34pm GMT

The Labour MP Yvette Cooper is speaking now. Heidi Allen, the Independent Group MP, asks Cooper if she will move the Spelman amendment herself in the light of the fact that Caroline Spelman won't move it. (See [*5.20pm.)*](https://t.co/4zCw505yNv) Cooper says she will listen to what Liam Fox, the international trade secretary, says in his winding-up speech. If it is put to a vote, she will support it, she says. But she says tonight is about ruling out a no-deal Brexit on 29 March.

5.31pm GMT

Damian Green, the Tory former first secretary of state, is speaking now. He has tabled what is known as the Malthouse compromise amendment. (See [*3.10pm.)*](https://t.co/4zCw505yNv)

Referring to the most controversial part of the amendment, paragraph 3, he acknowledges that [*Michel Barnier, the EU's chief Brexit negotiator, has said this proposal (a transition without the UK having to agree to the backstop, basically) is unacceptable*](https://t.co/4zCw505yNv). But he says if the government just did everything Barnier said, it would never get anywhere.

He urges MPs to back the amendment, saying it offers a way forward.

Updated at 5.51pm GMT

5.26pm GMT

This is from my colleague Jessica Elgot on the Spelman amendment. (See [*5.20pm.)*](https://t.co/4zCw505yNv)

Labour sources saying they will encourage other MPs to move the amendment anyway. Meanwhile huge soft Tory whipping operation underway to try and convince MPs that it is better to see victory on the government motion, not a backbench one. [*https://t.co/DEYPo4uCPM*](https://t.co/4zCw505yNv)

- Jessica Elgot (@jessicaelgot) [*March 13, 2019*](https://t.co/4zCw505yNv)

5.20pm GMT

May risks further blow as Bercow dismisses attempt to stop vote on hostile no-deal amendment

Spelman says she is going to withdraw her amendment.

She says that that is because it is more important to have a big vote for a no-deal amendment (ie, a big majority for the government motion) than for her to carry on with an amendment already passed in January.

So she will withdraw her amendment, she says.

John Bercow, the Speaker, intervenes. He says she cannot withdraw it. It is being debated, and it is in the hands of the house. He says that she can choose not to move it. But other signatories to it could move it, he says.

She can't withdraw her amendment, her amendment hasn't yet been moved - her amendment is frankly in the hands of the House of Commons.

If [Spelman] puts forward an amendment and chooses not to move it, that's for her judgment and people will make their own assessment of that, but it's perfectly possible for other signatories to it who do stick with the wish to persist with it to do so.

* Bercow dismisses Tory attempt to cancel a vote on a no-deal amendment embarrassing to the government.

This is awkward for Theresa May because the government motion would have been carried overwhelmingly, without the Conservative party splitting. But if the Spelman amendment is moved by one of the other signatories, as seems likely (Labour MPs Jack Dromey and Yvette Cooper are among those who have signed it), there probably will be a Tory split.

Updated at 6.40pm GMT

5.12pm GMT

Dame Caroline Spelman, the Conservative who has tabled the amendment ruling out a no-deal Brexit, is speaking now.

Hopefully she will address reports that the government whips are trying to get her to pull her amendment.

This is from the Telegraph's Jack Maidment.

New: Tory MP Dame Caroline Spelman under huge pressure from the Govt not to push her no-deal amendment to a vote amid fears it would result in rebel Remainer Tory ministers having to be sacked. People now trying to figure out if another signatory could move the amendment. Chaos.

- Jack Maidment (@jrmaidment) [*March 13, 2019*](https://t.co/4zCw505yNv)

5.06pm GMT

Earlier John Bercow, the Speaker, said that at some point in the future he could end up having to rule on whether to allow another vote on the PM's deal - or whether to block it on the grounds that parliamentary rules say the Commons should not be asked to vote on a matter it has already considered. (See [*3.43pm.)*](https://t.co/4zCw505yNv)

Sky's Lewis Goodall points out that this could end up being explosive. He has more detail here.

VERY interesting. John Bercow, responding to a question from [*@angelaeagle*](https://t.co/4zCw505yNv), implied it's possible that if the government keeps bringing back the withdrawal agreement to the Commons, he could rule it out of order as it's not responding to the will of the House. Would be explosive.

- Lewis Goodall (@lewis\_goodall) [*March 13, 2019*](https://t.co/4zCw505yNv)

Page 397 of erskine may: "A motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again during that same session."

- Lewis Goodall (@lewis\_goodall) [*March 13, 2019*](https://t.co/4zCw505yNv)

Continued: "Whether the second motion is substantively the same as the first is a matter for the chair." Essentially, as several MPs and parliamentary experts have said to me this afternoon- Bercow has the power to decide.

- Lewis Goodall (@lewis\_goodall) [*March 13, 2019*](https://t.co/4zCw505yNv)

Here is the relevant passage from erskine May. Last time the power was used was in 1943. But as one parliamentary source said, "that's because since the rule was implemented properly, governments and MPs don't bother to try it, so it's never usually needed." [*pic.twitter.com/DWvnGU0SeM*](https://t.co/4zCw505yNv)

- Lewis Goodall (@lewis\_goodall) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 5.54pm GMT

4.59pm GMT

Stephen Gethins, the SNP's Europe spokesman, is speaking in the debate now. He says that a no-deal Brexit should have been ruled out straight after the referendum. The Scottish government brought together experts to come up with a compromise plan for Brexit, he says. But the UK government failed to do this, he says.

The Green MP Caroline Lucas says going for a no-deal Brexit is the action of a rogue state. Gethins agrees.

Updated at 5.55pm GMT

4.54pm GMT

Nicky Morgan, who used to be seen as one of the most pro-European backbenchers in the Conservative party, has told Sky News that she won't vote for the Spelman amendment. (See [*3.10pm.)*](https://t.co/4zCw505yNv)

Nicky Morgan tells [*@KayBurley*](https://t.co/4zCw505yNv) she won't support Spelman amendment because she feels you shouldn't rule out No Deal full-stop.

- Beth Rigby (@BethRigby) [*March 13, 2019*](https://t.co/4zCw505yNv)

The Telegraph's Christopher Hope thinks he know why.

Nicky Morgan wants to be leader [*https://t.co/X4UFprZqb5*](https://t.co/4zCw505yNv)

- Christopher Hope (@christopherhope) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 5.55pm GMT

4.51pm GMT

The Labour MP Emma Reynolds has said she welcomes Michael Gove's hint that the government could support MPs being given indicative votes on Brexit. (See [*3.57pm.)*](https://t.co/4zCw505yNv)

Surprised and encouraged that Michael Gove seemed to hint that Govt might consider giving indicative votes to various [*#Brexit*](https://t.co/4zCw505yNv) options in answer to my question in parliament today. It is the only way to determine where consensus can be found among MPs.   [*https://t.co/HxwXFIvtRz*](https://t.co/4zCw505yNv)

- Emma Reynolds (@EmmaReynoldsMP) [*March 13, 2019*](https://t.co/4zCw505yNv)

The FT's Sebastian Payne says the Tory MP Sir Oliver Letwin and Labour's Yvette Cooper are planning an indicative votes amendment for tomorrow.

??Cunning plan alert ?? Oliver Letwin and Yvette Cooper are planning to table an amendment tomorrow to allow for indicative votes on alternative forms of Brexit during a delay. Ball is in PM's court now. More on [*@FinancialTimes*](https://t.co/4zCw505yNv) live blog   [*https://t.co/laMeXaY64h*](https://t.co/4zCw505yNv)

- Sebastian Payne (@SebastianEPayne) [*March 13, 2019*](https://t.co/4zCw505yNv)

4.45pm GMT

The anti-Brexit campaigner Steve Bray next to pro-Brexit campaigners outside the Houses of Parliament.Photograph: Tom Nicholson/Rex/Shutterstock

Updated at 4.55pm GMT

4.44pm GMT

Here is George Osborne, the Evening Standard editor and former chancellor, on Philip Hammond's call in his spring statement speech for consensus on Brexit. (See [*1.36pm.)*](https://t.co/4zCw505yNv)

This was thre most significant thing in Philip Hammond's statement - and a welcome break with his neighbour - as [*@JoeMurphyLondon*](https://t.co/4zCw505yNv) explains   [*https://t.co/8FQGSddquu*](https://t.co/4zCw505yNv)

- George Osborne (@George\_Osborne) [*March 13, 2019*](https://t.co/4zCw505yNv)

The BBC's Laura Kuenssberg has written [*a blog*](https://t.co/4zCw505yNv) about Hammond comment too. Here's an extract.

The PM could compromise to get a hypothetical softer Brexit through the Commons - but days later find out that she could no longer govern.

In this febrile atmosphere when the chancellor makes a call, as he has just done, for a "consensus" across parliament to find a way out of this hole, he is also hinting very publicly to the prime minister that it might be time now to think about making that sacrifice.

It's important to remember that Mr Hammond's preferred option all along has been to back the prime minister's deal, to try to get it through.

But a mild-sounding call for compromise just now, is not necessarily politically mild at all.

4.37pm GMT

In the debate Ken Clarke, the Tory pro-European, is speaking in the debate now. He is restating his support for a Norway plus Brexit.

4.34pm GMT

Gove says no-deal Brexit could lead to return of direct rule in Northern Ireland

In his speech opening the debate Michael Gove, the environment secretary, said a no-deal Brexit could lead to the re-introduction of direct rule in Northern Ireland.

He was responding to Sylvia Hermon, the independent MP from North Down, who asked Gove if he agreed MPs, including the DUP, should give "due weight to [*the serious warning" issued by the head of the Northern Ireland civil service, David Sterling,*](https://t.co/4zCw505yNv) about no deal.

Gove said Hermon was "absolutely 100% totally right". He said legislation issued by the Westminster government to empower Northern Ireland's civil servants to take decisions was "sustainable at the moment". But, he went on:

It is also clear that the current situation with no executive would be very, very difficult to sustain in the uniquely challenging context of a no-deal exit.

Now we, in the circumstances that the house has voted for no deal, would have to start formal engagement with the Irish government about further arrangements for providing strengthened decision-making in the event of that outcome, and that would include the very real possibility of imposing a form of direct rule.

Now that is a grave step and experience shows us it's very hard to return from that step, and it'd be especially difficult in the context of no deal.

The parliament buildings, commonly known as Stormont, in Northern Ireland.Photograph: Paul Faith/AFP/Getty Images

Updated at 4.36pm GMT

4.27pm GMT

Starmer ends his speech by saying that he hopes the vote tonight will "bury no deal so deep that it never resurfaces".

Updated at 4.33pm GMT

4.20pm GMT

Here is the BBC's Laura Kuenssberg on Gove's suggestion that the government could back "indicative votes" on Brexit alternatives. (See [*3.57pm.)*](https://t.co/4zCw505yNv)

Conversations going on in govt about how to find a way forward - no final decision yet on doing it this way, tomorrow might feel a bit like indicative votes any way depending what amendments go down [*https://t.co/EKwFx8ukCa*](https://t.co/4zCw505yNv)

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

4.16pm GMT

Labour's Ben Bradshaw asks Starmer to reaffirm Labour's commitment to a public vote.

Starmer says he can do so. The Labour manifesto said it would accept the referendum result. But it also said it would not accept May's red lines.

Labour lost that election, he says.

He says the goverment is in a "hopeless" position.

The PM's red lines, and no deal - the two things Labour rejected in its manifesto - are still on the table, he says. He says that is why a people's vote is still on the table.

Anna Soubry asks if Labour will support a people's vote now.

Stamer says Corbyn said two weeks ago Labour would table an amendment, or support one. That remains the position, he says.

Updated at 4.34pm GMT

4.13pm GMT

Sir Keir Starmer, the shadow Brexit secretary, is responding to Gove in the Brexit debate.

The Tory Brexiter Mark Francois intervenes to say Gove implied the government will bring May's deal back to the Commons for a third meaningful vote. He says he is willing to bet Starmer £50 that that vote will take place on Tuesday 26 March.

Starmer says he does not gamble.

Turning to Gove's speech, Starmer says Gove was blaming the opposition for the failure of May's deal.

But the government has failed to reach out to other parties to find a plan acceptable to the Commons, he says.

Updated at 4.18pm GMT

4.05pm GMT

Parliament 'divorced from reality', EU's deputy Brexit negotiator tells ambassadors

The EU's deputy Brexit negotiator Sabine Weyand has said MPs' decision to resurrect plans already rejected by Brussels countless times shows that parliament is "divorced from reality".

Speaking at a closed-door meeting of EU ambassadors this morning, Weyand made the tart observation about the [*Malthouse compromise*](https://t.co/4zCw505yNv) - a variant of plans rejected by Brussels numerous times.

Quoting private remarks by the Dutch prime minister, Mark Rutte, Weyand also said the decision to vote for no-deal was "like the Titanic voting for the iceberg to get out of the way".

Officials have voiced astonishment that Theresa May is allowing a free vote on no-deal, rather than seeking to defend the Brexit agreement painstakingly negotiated with the EU over 20 months. One senior source told the Guardian the decision to hold a free vote was "incredible".

Weyand, an architect of the Strasbourg assurances hammered out on Monday, said that the second historic defeat for May's deal showed that "a short technical extension" of talks could now be ruled out.

But EU member states do not share this view. France and Germany are among several countries who want to see flexibility, although they share concerns about a long-drawn-out Brexit distracting the EU when it has numerous economic and foreign policy questions jostling for attention.

The ambassadors concluded that the highly political question of extending Brexit talks could only be decided by EU leaders, who will assess the question at a summit next Thursday (21 March). Insiders expect the decision will be taken on Thursday by leaders, rather than pre-cooked in advance by their officials.

If MPs vote for an extension on Thursday, a critical period of diplomacy will begin. Donald Tusk, the president of the European council, will meet the Dutch prime minister Mark Rutte on Friday, Angela Merkel and Emmanuel Macron on Monday, Leo Varadkar on Tuesday.

While various extension times have been mooted - from five weeks to 21 months - there has never been a default position. Insiders stress the decision will depend on what the UK asks for.

But there is growing impatience with the UK - one ambassador asked why the EU had to assess complicated scenarios, when the British government could [*revoke article 50*](https://t.co/4zCw505yNv).

Many EU diplomats and officials think a short extension - two to three months - would be pointless, while not lessening the distraction of Brexit. "The shorter the extension, the more likely it is going to stay on the European agenda," said one diplomat, from a country that favours a flexible approach.

But others are talking tough, while the debate in parliament has not enhanced confidence in the British political system.

"The damage is done. We know they are still putting party before country and humouring people who believe in fairies," said one source, referring to the revived Malthouse compromise. "There was a feeling 'wouldn't it be better to have a dose of no deal to bring some sanity to the debate?'"

But there is also wariness of no-deal Brexit and several ambassadors refused to accept a commission proposal that a second extension would be ruled out.

Sabine WeyandPhotograph: BBC News

3.57pm GMT

This is what Michael Gove said in his response to Emma Reynolds, when she asked about indicative votes:

I think that, depending on how the house votes today, we may have an opportunity to vote on that proposition tomorrow. But one of the things that I think is important is that we, as quickly as we possibly can, find consensus.

Updated at 3.59pm GMT

3.52pm GMT

Gove suggests government could support MPs being given indicative votes on Brexit alternatives

Labour's Emma Reynolds asks why the government won't agree to indicative votes, as the Brexit committee recommends. (See [*2.49pm.)*](https://t.co/4zCw505yNv)

Gove says he thinks there could be a vote on this tomorrow. He goes on to say that, if a no-deal Brexit is rejected tonight, it will be important to "find consensus" as quickly as possible.

* Gove suggests government may support MPs being given indicative votes on Brexit alternatives. Echoing what Philip Hammond said earlier (see 1.36pm and 2.24pm.)

3.46pm GMT

Ken Clarke, the Tory pro-European, asks if the government will revoke article 50 if the EU refuses to extend article 50.

Gove says the UK cannot revoke article 50 and then trigger it again. The European court of justice has said that is not allowed, he says.

Updated at 4.00pm GMT

3.45pm GMT

Labour's Hilary Benn asks why it is democratic to keep asking MPs to vote on the same idea, but undemocratic to ask the public if they want to change their mind.

Gove claims the deal being voted on last night was significantly different from the one voted on in January.

And he says Labour originally opposed a second referendum.

3.43pm GMT

Bercow says at some point he may have to rule on whether Commons procedure allows repeat vote on May's deal

Gove says May's deal got more votes last night than it did in January.

He says MPs cannot dodge choices.

Labour's Angela Eagle rises to make a point of order. She says Gove has made it clear that the government intends to put the same motion to the Commons again and again. Is that allowed?

John Bercow, the Speaker, says there are precedents for this. But he says at some point in the future he might have to rule on it.

* Bercow says at some point he may have to rule on whether Commons procedure allows a repeat vote on May's deal.

Gove says it is now make-your-mind-up time for the Commons.

Updated at 8.36am GMT

3.39pm GMT

Labour's Yvette Cooper asks Gove to confirm that, if the government motion is approved, the UK won't leave the EU on 29 March without a deal.

Gove says that that is what the motion is designed to prevent.

Gove says the government motion does not take no deal off the table. The only way you can do that is by passing a deal, or revoking article 50, he says.

3.28pm GMT

The SNP's Stewart McDonald says Gove is one of the senior authors of the mess he has just described. (See [*3.24pm.)*](https://t.co/4zCw505yNv) Does he feel any sense of responsibility? Will he apologise?

Gove says he voted for the deal last night. The SNP did not. He accuses the SNP of sectional posturing.

Michael GovePhotograph: Parliament TV

3.24pm GMT

Gove says farmers would face "very, very challenging circumstances" in the event of a no-deal Brexit.

He says many businesses have made the preparations necessary to be able to carry on trading with the EU in the event of a no-deal Brexit.

The government can do many things to mitigate against the impact of no deal, he says.

But he says the UK cannot tell the EU what tariffs it must impose, and it cannot tell ports such as Calais what checks they should and should not impose.

Updated at 4.01pm GMT

3.20pm GMT

Dominic Grieve, the Conservative former attorney general, asks Gove to confirm that, if the government motion is passed, it will amend the EU Withdrawal Act to amend the date of Brexit.

Gove says May has given that commitment.

3.18pm GMT

Labour's Ben Bradshaw says May promised free votes last night. So why are Tory MPs getting a free vote on Green, but not on Spelman.

Gove says Labour should give its MPs a free vote too.

3.16pm GMT

Gove says, following the defeat of Theresa May's deal, MPs face a number of unattractive choices.

All are worse than May's deal, he says.

Anna Soubry, the former Tory who is now an Independent Group MP, says Gove has confirmed that the government motion does not take the no-deal option off the table. But MPs were told they would get a vote today on taking no deal off the table. She asks Gove to confirm that Tory MPs are getting a free vote on the Green amendment, but are being told to vote against the Spelman amendment. She suggests that Spelman will not push her amendment to a vote because of the government's stance.

Updated at 3.20pm GMT

3.12pm GMT

Michael Gove, the environment secretary, is opening the debate.

He starts with a tribute to Theresa May. Here is some commentary from political journalists.

Gove begins his speech with a paean to Theresa May. Remember when they really didn't like each other and she delightedly sacked him? The last 3 years have been deeply weird in so many ways

- Henry Zeffman (@hzeffman) [*March 13, 2019*](https://t.co/4zCw505yNv)

This must be so painful for May. Seeing Gove, a man she clashed with repeatedly under Cameron and kept out of her 1st Cabinet in 2016, take her place as she sits literally silently behind him.

- Paul Waugh (@paulwaugh) [*March 13, 2019*](https://t.co/4zCw505yNv)

Michael Gove sucks up BIGTIME to the PM in the chamber. "She always, always, always acts in the national interest... We are lucky to have her." ??

- Pippa Crerar (@PippaCrerar) [*March 13, 2019*](https://t.co/4zCw505yNv)

Michael Gove appears to be reading out an obituary to Theresa May as he kicks off the no-deal debate in the Commons.

- Ashley Cowburn (@ashcowburn) [*March 13, 2019*](https://t.co/4zCw505yNv)

3.10pm GMT

Full text of government motion and two amendments to be put to vote

John Bercow, the Speaker, says he is calling two amendments - Caroline Spelman's and Damian Green's (the Malthouse compromise one).

Here is the government motion.

That this house declines to approve leaving the European Union without a withdrawal agreement and a framework for the future relationship on 29 March 2019; and notes that leaving without a deal remains the default in UK and EU law unless this house and the EU ratify an agreement.

Here is the Spelman amendment.

Line 1, leave out from "house" to end and add "rejects the United Kingdom leaving the European Union without a withdrawal agreement and a framework for the future relationship."

This is word-for-word the same as [*the amendment passed by MPs at the end of January*](https://t.co/4zCw505yNv), by a majority of eight.

And here is the Green amendment.

At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows:

1. That the government should publish the UK's day one tariff schedules immediately;

2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU;

3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and

4. The government should unilaterally guarantee the rights of EU citizens resident in the UK."

Updated at 3.21pm GMT

2.57pm GMT

This is what a Treasury source said about suggestions that Philip Hammond's comments at the end of his spring statement speech (see [*1.36pm)*](https://t.co/4zCw505yNv) implied he was not backing Theresa May's Brexit deal. The source said:

[Hammond] has been very clear that he supports the PM's deal but he has also been saying for months that compromise is how we get through this and he is calling for compromise.

2.53pm GMT

MPs debate no-deal Brexit

The debate on a no-deal Brexit will start soon, after a 10-minute rule bill.

Tom Brake, the Lib Dem spokesman, starts with a point of order. He says some MPs may have business interests that would benefit from a no-deal Brexit leading to a fall in the pound. Should they have to declare this?

John Bercow, the Speaker, says MPs have to declare their interests in the register.

Updated at 3.05pm GMT

2.51pm GMT

A pro-Brexit campaigner outside the Houses of Parliament today. Photograph: Niklas Halle'n/AFP/Getty Images

2.49pm GMT

The Commons Brexit committee has released [*a short, emergency report*](https://t.co/4zCw505yNv) following last night's vote, renewing its call for indicative votes in the Commons on future Brexit options. Hilary Benn, the committee chair, said:

After another historic defeat for the prime minister, the UK will now have to apply for an extension to article 50. The extension will need to be of sufficient length to allow parliament to reach agreement on a proposal that it is prepared to support.

The clock has now been run down to the point where there is no alternative left given that leaving with no deal cannot be the policy of any responsible government.

Parliament must now be given the chance to hold a series of indicative votes as quickly as possible or else we will not find out what there might be support for as an alternative to the prime minister's deal which has now been rejected twice by large majorities.

2.43pm GMT

This is from Business Insider's Adam Bienkov, with a line from the Number 10 briefing.

Downing Street unable to satisfactorily explain why the government is whipping against the Spelman amendment but isn't whipping against the Malthouse amendment, despite May saying she opposed both in the Commons earlier.

- Adam Bienkov (@AdamBienkov) [*March 13, 2019*](https://t.co/4zCw505yNv)

2.40pm GMT

This is from the Sun's Tom Newton Dunn.

I hear an interesting move is afoot by Tory/DUP/Labour Brexiteer MPs - tabling a joint amendment to rule out a 2nd Referendum in principle for Thursday's voting. Plan is to spike People's Vote's guns early.

- Tom Newton Dunn (@tnewtondunn) [*March 13, 2019*](https://t.co/4zCw505yNv)

(Presumably these would be the same Brexiters who make the point that Commons motions are not binding, eg, Jacob Rees-Mogg at [*8.56am.)*](https://t.co/4zCw505yNv)

UPDATE: And this is from the FT's Laura Hughes.

Told this could be text of the amendment: ... "and believes that the result of the 2016 EU Referendum should be respected and that a second referendum would be divisive and expensive, and therefore should not take place." [*https://t.co/oV3wzUeqMp*](https://t.co/4zCw505yNv)

- Laura Hughes (@Laura\_K\_Hughes) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 3.18pm GMT

2.28pm GMT

Figures released by the National Records of Scotland today, showing that the birth rate across the country has fallen to its lowest level since civil registration began in 1855, sharpen concerns about the impact of Brexit on the country's significant demographic challenges.

The predictions are pretty stark - all of Scotland's population growth over the next 25 years is projected to come from migration. But a recent report from an independent expert panel warned that changes set out in the Westminster government's white paper could reduce net migration to Scotland by 50% over the coming two decades. The report also found that if the UK government ends free movement Scotland's working-age population could decline by up to 5%, noting that 63% of workers in Scotland earn less than the proposed £30,000 post-Brexit salary threshold for skilled immigrants, with sectors sicj as textiles, social care, leisure and travel worst affected.

It's hard to overstate how concerned businesses are about post-Brexit staffing, especially in the care and tourism sectors and those based in the Highlands.

Meanwhile, the first minister, Nicola Sturgeon, has today announced £2m for Brexit support grants, previously only open to exporters, to help small and medium-sized businesses prepare for leaving the EU.

Updated at 3.23pm GMT

2.24pm GMT

The Daily Mail's political editor, Jason Groves, thinks that Philip Hammond's comment at the end of his spring statement speech (see [*1.36pm),*](https://t.co/4zCw505yNv) combined with what Stephen Barclay has been saying today, suggests the government is moving towards "indicative votes" - allowing the Commons to vote on a series of Brexit options.

No-one confirming anything, but Hammond and Barclay words on compromise and consensus suggest govt will move to indicative votes on brexit options - perhaps as early as tomorrow

- Jason Groves (@JasonGroves1) [*March 13, 2019*](https://t.co/4zCw505yNv)

Rupert Harrison, who worked as George Osborne's chief of staff when Osborne was chancellor, says he thought that was implied in what Theresa May said last night, after her deal was defeated.

Wasn't this also the implication of Theresa May's words last night?

- Rupert Harrison (@rbrharrison) [*March 13, 2019*](https://t.co/4zCw505yNv)

For the record, this is what May said last night.

But let me be clear. Voting against leaving without a deal and for an extension does not solve the problems we face.

The EU will want to know what use we mean to make of such an extension.

This house will have to answer that question. Does it wish to revoke article 50? Does it want to hold a second referendum? Or does it want to leave with a deal but not this deal?

These are unenviable choices, but thanks to the decision the house has made this evening they must now be faced.

Updated at 3.24pm GMT

2.17pm GMT

This is from Guy Verhofstadt, the European parliament's lead Brexit spokesman, commenting on an Instagram post from Donald Tusk, the European council president.

Sometimes it takes a child to put everything in perspective. What a terrible waste [*#Brexit*](https://t.co/4zCw505yNv) is. ???   [*#IamEuropean*](https://t.co/4zCw505yNv)   [*@eucopresident*](https://t.co/4zCw505yNv)   [*pic.twitter.com/dIozxhjAKO*](https://t.co/4zCw505yNv)

- Guy Verhofstadt (@guyverhofstadt) [*March 13, 2019*](https://t.co/4zCw505yNv)

1.48pm GMT

Theresa May was due to open the Brexit debate today, but Michael Gove, the environment secretary, is going to do it instead. Given the state of her voice, that's understandable.

The Government have confirmed that [*@michaelgove*](https://t.co/4zCw505yNv) not   [*@theresa\_may*](https://t.co/4zCw505yNv) will open the no-Deal debate.   [*@LiamFox*](https://t.co/4zCw505yNv) will close. For   [*@UKLabour*](https://t.co/4zCw505yNv) it will be   [*@Keir\_Starmer*](https://t.co/4zCw505yNv) and   [*@mtpennycook*](https://t.co/4zCw505yNv)

- Labour Whips (@labourwhips) [*March 13, 2019*](https://t.co/4zCw505yNv)

1.36pm GMT

Hammond calls for 'consensus' on leaving EU, hinting he wants government to back softer Brexit

At the end of his spring statement speech Philip Hammond, the chancellor, urged MPs to build a "consensus" around Brexit. He said:

Last night's events mean we are not where I hoped we would be today. Our economy is fundamentally robust. But the uncertainty that I hoped we would lift last night, still hangs over us. We cannot allow that to continue.

It is damaging our economy and it is damaging our standing and reputation in the world.

Tonight, we have a choice: we can remove the threat of an imminent no-deal exit hanging over our economy.

Tomorrow, we will have the opportunity to start to map out a way forward towards building a consensus across this house for a deal we can, collectively support, to exit the EU in an orderly way.

Hammond referred to "a deal" that MPs could support, not "the deal" put forward by Theresa May. It was a very strong hint that he would like the government to pivot towards a softer Brexit, which would potentially involve a Norway-style Brexit passing with Labour support.

Philip Hammond delivers his spring statement.Photograph: -/AFP/Getty Images

Updated at 8.35am GMT

1.06pm GMT

Hammond has also managed a Brexit joke. Announcing money for a new super-computer at Edinburgh University, which will be five times faster than the existing one, he says that, with the right algorithms, it might even be able to come up with a solution to the Northern Irish backstop.

Updated at 1.43pm GMT

1.04pm GMT

Here is some Twitter comment on Philip Hammond's no-deal warnings.

From the BBC's Laura Kuenssberg

Hammond says everyone in house needs to put aside differences and find a compromise - leaving without deal not what people voted for , he says - interesting he hasn't yet explicitly argued for May's deal

- Laura Kuenssberg (@bbclaurak) [*March 13, 2019*](https://t.co/4zCw505yNv)

From CityAM's Owen Bennett

If this is Philip Hammond's final set piece as chancellor, he's going down all guns blazing. Says a no deal would lead to higher prices in the shops and a smaller economy. No quick fix to cope with no deal impact. This is going to rile up many Tories. [*#springstatement*](https://t.co/4zCw505yNv)

- Owen Bennett (@owenjbennett) [*March 13, 2019*](https://t.co/4zCw505yNv)

Interesting that [*@CCHQPress*](https://t.co/4zCw505yNv) hasn't tweeted out any of Hammond's no deal warnings in his speech.   [*https://t.co/WQdVNqlgru*](https://t.co/4zCw505yNv)

- Owen Bennett (@owenjbennett) [*March 13, 2019*](https://t.co/4zCw505yNv)

From the Sun's Tom Newton Dunn

Philip Hammond calls for Commons to "put aside our differences and seek a compromise in the national interest"; ie, a softer Brexit deal. This is pointedly not MV3, which is why PM has a face like thunder behind him.

- Tom Newton Dunn (@tnewtondunn) [*March 13, 2019*](https://t.co/4zCw505yNv)

From the Guardian's Richard Partington

Hammond takes a dig at Brexiters: "The idea there is some readily available fix to avoid the consequences of a no-deal Brexit is just wrong" -- any fiscal or monetary response would need to be temporary to avoid inflation

- Richard Partington (@RJPartington) [*March 13, 2019*](https://t.co/4zCw505yNv)

From Sky's Beth Rigby

Jeers as Chancellor claims Tories the party of business against backdrop of Brexit meltdown. 16 days to go until B-day & still no clear path thru on May's Deal, No Deal and No Brexit. This speech to implore Tories to fall into line. Hammond the last one they'd listen to

- Beth Rigby (@BethRigby) [*March 13, 2019*](https://t.co/4zCw505yNv)

12.58pm GMT

Hammond says no-deal Brexit would lead to lower growth, higher unemployment and higher prices

In his spring statement Philip Hammond, the chancellor, says that if there is a Brexit deal, he will launch a three-year spending review before the summer.

"I intend to launch a full three-year Spending Review before the summer recess, to be concluded alongside an Autumn Budget." - [*@PhilipHammondUK*](https://t.co/4zCw505yNv)   [*#SpringStatement*](https://t.co/4zCw505yNv)   [*pic.twitter.com/4TIHxUJN0Y*](https://t.co/4zCw505yNv)

- HM Treasury (@hmtreasury) [*March 13, 2019*](https://t.co/4zCw505yNv)

But he says a no-deal Brexit would deliver "a significant short- to medium-term reduction in the productive capacity of the the British economy".

He says it would lead to lower growth, higher unemployment and higher prices.

Updated at 1.47pm GMT

12.53pm GMT

During PMQs Theresa May accused Jeremy Corbyn of not referring to Labour's second referendum commitment in the Commons yesterday.

Labour's Dawn Butler has accused her of lying, because Corbyn did refer to the policy in his main speech.

The Prime Minister has just lied to the house. [*@jeremycorbyn*](https://t.co/4zCw505yNv) spoke and edorsed   [*#PeoplesVote*](https://t.co/4zCw505yNv) in yesterday's debate. I've located the text below.   [*#Brexit*](https://t.co/4zCw505yNv)   [*#Brexitvote*](https://t.co/4zCw505yNv)   [*@BBCPolitics*](https://t.co/4zCw505yNv)   [*@SkyNews*](https://t.co/4zCw505yNv)   [*@SkyNewsBreak*](https://t.co/4zCw505yNv)   [*@Channel4News*](https://t.co/4zCw505yNv)   [*@channel5\_tv*](https://t.co/4zCw505yNv)   [*@itvnews*](https://t.co/4zCw505yNv)   [*pic.twitter.com/ORF26oYZI7*](https://t.co/4zCw505yNv)

- (((Dawn Butler MP))) (@DawnButlerBrent) [*March 13, 2019*](https://t.co/4zCw505yNv)

But, as HuffPost's Paul Waugh points out, May seemed to be referring to the fact that Corbyn did not mention a public vote in his statement to MPs after May's deal was defeated.

Corbyn did keep the option of PV open in his opening statement in debate (having not done so earlier in week). It was his failure to mention it after May defeat last night that some MPs objected to.

- Paul Waugh (@paulwaugh) [*March 13, 2019*](https://t.co/4zCw505yNv)

12.47pm GMT

The Brexit debate is due to start at around 3.30pm. Theresa May will be opening it. It will run until 7pm, when MPs will vote.

There are six amendments on [*the order paper (pdf)*](https://t.co/4zCw505yNv). And two more manuscript amendments have been tabled.

Two manuscript amendments tabled for the no-deal debate. [*pic.twitter.com/toIW9B6qz3*](https://t.co/4zCw505yNv)

- Labour Whips (@labourwhips) [*March 13, 2019*](https://t.co/4zCw505yNv)

12.44pm GMT

PMQs is now over. And Philip Hammond, the chancellor, is about to deliver his spring statement.

I will cover any Brexit-related news from the statement, but our main coverage of the statement will be on my colleague Graeme Wearden 's business live blog.

Related: [*Spring statement: Philip Hammond reveals state of UK's economy and finances - live*](https://t.co/4zCw505yNv)

12.42pm GMT

The Tory MP Alberto Costa says the media call his place a failing parliament. But there was nothing failing when it passed his amendment on the rights of British citizens in the EU three weeks ago. What has May done to get EU leaders to agree to this?

May says she has spoken to a number of EU leaders about this.

12.39pm GMT

Mark Pawsey, a Conservative, asks about Rugby council's housebuilding programme. May says she is please to hear it is providing more homes.

12.37pm GMT

Mark Francois, the Tory Brexiter, says on 29 January the Commons, and most Tory MPs, voted for the Brady amendment (saying the backstop should be replaced). Brady was designed to facilitate the Malthouse compromise. If the Malthouse compromise amendment is called later, will Tories get a free vote, and how will May herself vote?

May says she addressed this earlier. (See [*12.33pm.)*](https://t.co/4zCw505yNv) She says her agreement with the EU says alternative arrangements for the backstop should be worked up. That is what Malthouse was asking for, she says.

12.34pm GMT

The Tory MP David Tredinnick asks May if Labour should allow a free vote on no deal tonight.

May says it would be better if all MPs had a free vote.

12.33pm GMT

The Tory MP Peter Bone asked May about the Malthouse compromise amendment. In her response, May said the government had already accepted two of its four demands (1 and 4 - see [*11.22am*](https://t.co/4zCw505yNv) for the full text) and that MPs were getting a vote on an article 50 extension. But on the key demand (number 3), she said it was unacceptable to the EU.

12.29pm GMT

PMQs - Snap verdict

PMQs - Snap verdict: Profoundly uninspiring. There are times during national crisis when parliamentarians rise to the occasion. But there was no sign of that in those PMQs exchanges. Jeremy Corbyn was absolutely right, of course, when he said that Theresa May's plan has been decisively rejected, but he did not get very far in challenging May to adopt Labour's plan and he sounded relatively unengaged considering the seriousness of what is at stake. Although he highlighted some of the horrors of a no-deal Brexit, if anything he probably understated the potential problems, and sounded less passionate about the extent of the mess than he does when he is talking about issues like, say, homelessness or poverty. He restated the case for Labour's Brexit, but he did not sound like someone poised to drive it through the House of Commons. Still, he had a a better case than May who, partly because of the problems with her voice, was literally pitiful. She had a carefully crafted soundbite (I may have lost my voice, but I understand the voice of the country), but it was not enough to restore her credibility. In the past, May has frequently accused Corbyn of wanting to stop Brexit (a surprise to those who have actually studied his record). But, interestingly, today she seemed to have dropped that line of attack, criticising him at one point for not restating his referendum policy yesterday and at another point highlighting his own Eurosceptic credentials.

Updated at 1.51pm GMT

12.12pm GMT

Corbyn says Owen Paterson said during the referendum: "Only a madman would leave the single market". With May's deal decisively rejected, what is May now for? Labour's plan is the only credible show in town.

May says Corbyn says he opposes no deal, but he votes to bring it closer. Labour's plan has been rejected several times by this house. She says she may not have her own voice, but she understands the voice of the country. People want to leave the EU, end free movement, have their own trade policy, and ensure laws are made in UK courts. Corbyn used to believe in this too. Why is he now against it?

Corbyn says May no longer has the ability to lead. It is rudderless. He says, where the PM has failed, the house needs to listen to the country. He says British citizens face uncertainty. May needs to show leadership. So what is her plan?

May says MPs will vote on no deal today, and then on extending article 50 tomorrow if no deal is rejected. MPs have to make choices. She says Corbyn does not agree with government policy, or even Labour policy. He has nothing to offer this country.

Updated at 1.52pm GMT

12.08pm GMT

Corbyn says the CBI have described a no-deal Brexit as as sledgehammer to the economy. Manufacturing is now in recession. May's deal has been decisively rejected. When will May accept that there must be a negotiated customs union with the EU.

May says the CBI says Labour's policies would lead to a drop in living standards. Corbyn claims to be in favour of a second referendum. But he did not even refer to that last night.

Corbyn says May's answer will not reassure people worried about their jobs. Food producers are also in despair. Will she now back close alignment to the single market to back their industry?

May says her deal does include access to the EU on the basis of no tariffs. It would help if Corbyn had read it.

12.06pm GMT

Jeremy Corbyn also sends his condolences to those affected by the crash in Ethiopia.

He says May says the only choice is between her deal and no deal. Last night her deal was finished off. And she will not whip her MPs on no deal. How will she vote?

May says she will vote for the government motion.

* May confirms she will vote to rule out a no-deal Brexit on 29 March.

Corbyn asks why May is still ambivalent about a no-deal outcome.

May says she wants a deal. Businesses want that too. One thing they worry about more than no deal is a Corbyn government.

12.03pm GMT

John Baron, a Tory Brexiter, says the UK trades with countries outside the EU profitably on WTO terms. Does May accept that a no-deal Brexit is the default position, and better than a bad deal.

May says she wants to leave with a good deal.

12.02pm GMT

Theresa May get a loud cheer when she stands up. But her voice does not seem to have improved since yesterday.

She sends her condolences to those killed in the crash in Ethiopia.

11.59am GMT

PMQs

PMQs is about to start.

Here is the list of MPs down to ask a question.

PMQsPhotograph: HoC

11.57am GMT

Mandelson says government's no-deal customs plans for Ireland 'not serious or sustainable'

And Lord Mandelson, the former Labour trade secretary and former European commissioner, has also criticised the no-deal tariff plan announced by the government this morning. In a statement released by the People's Vote campaign, he said suspending customs checks in Ireland would be a serious mistake. He said:

Refusing to comply with our responsibilities under international trade law to operate a customs border at any frontier is not a serious or sustainable solution to the problem of a hard border that Brexit - of any variety - threatens.

Today's ill thought-out proposals on tariffs and customs illustrate the political, economic and reputational risk that the government's make-it-up-as-we-go-along approach poses to the United Kingdom.

Today the Commons must reject any prospect of a no-deal Brexit and on Thursday they should make sure any extension of the article 50 deadline is used to deliver the clarity about Brexit that has been missing from the last two-and-a-half years of debate.

11.52am GMT

Ireland 's ***agriculture*** minister has said the UK's decision to impose high tariffs on beef and cheddar in a no-deal scenario are "potentially a disaster" for Irish farmers.

Michael Creed also said that the logic of introducing a different regime for Northern Ireland defied Brexiter logic and accused the UK of being "selective" about tariffs to put pressure on the Irish to buckle over the backstop. He told RTE radio's Today with Sean O'Rourke show:

It is interesting in the context of what is published today the UK contemplating bespoke arrangements for Northern Ireland, if we had the bespoke arrangements that are in the withdrawal agreement we would avoid a hard border.

He said the department of ***agriculture*** had modelled the impact of a full World Trade Organisation schedule would have add (EURO)1.7bn to the costs of products.

Ireland is the fifth largest beef exporter in the world with a trade with 50% of the meat going to the UK, a market worth (EURO)2.5 billion (£2.15bn)

Angus Woods, the Irish Farmers Association, national livestock chair told RTE.

The idea that Irish farmers and businesses would be able to pay a tariff and compete with the likes of South American goods into the UK market just wouldn't work.

It doesn't take a whole lot, targeting 50 or 60 container loads of the high value steak cuts into the UK market would be enough to drag the whole marketplace down and make it unviable for Irish farmers in the UK market.

Updated at 12.00pm GMT

11.22am GMT

What the Malthouse compromise amendment says

This is what the Malthouse compromise amendment says.

At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows: 1. That the government should publish the UK's day one tariff schedules immediately; 2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU; 3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and 4. The government should unilaterally guarantee the rights of EU citizens resident in the UK.".

Hardcore Brexitologists will know that the amendment is actually based on the Malthouse compromise plan B. For more on Malthouse, you can read the full text [*here.*](https://t.co/4zCw505yNv)

You can read all the amendments today's motion on the order paper [*here (pdf).*](https://t.co/4zCw505yNv) (Or at least all the ones tabled last night - John Bercow, the speaker, said yesterday he would also accept manuscript ones tabled this morning.)

11.15am GMT

No 10 gives in to pressure from Brexiters and allows free vote on Malthouse compromise amendment

Conservative MPs will get a free vote on the Malthouse compromise amendment, Downing Street has decided. (See [*8.55am*](https://t.co/4zCw505yNv),   [*9.11am*](https://t.co/4zCw505yNv) and   [*10.32am.)*](https://t.co/4zCw505yNv)

Free vote now for Malthouse amendment too after threatened ministerial rebellion... but not (yet) Spelman-Dromey

- Faisal Islam (@faisalislam) [*March 13, 2019*](https://t.co/4zCw505yNv)

11.09am GMT

Anti-Brexit campaigners attaching flags to a lamppost outside the Houses of Parliament todayPhotograph: Kirsty Wigglesworth/AP

11.00am GMT

This is from the BBC's Norman Smith.

Am told AG didn't get to see PMs revised deal until 1am on Tuesday morning. No wonder he wasn't very keen on it....

- norman smith (@BBCNormanS) [*March 13, 2019*](https://t.co/4zCw505yNv)

10.54am GMT

Here is Stewart Jackson, the former Tory MP who was chief of staff to David Davis when he was Brexit secretary, on the Malthouse compromise amendment (see [*8.55am*](https://t.co/4zCw505yNv),   [*9.11am*](https://t.co/4zCw505yNv) and   [*10.32am.)*](https://t.co/4zCw505yNv)

Memo to [*@10DowningStreet*](https://t.co/4zCw505yNv) : Malthouse is your Willie Wonka golden ticket out of this shambles. Grasp it with both hands.   [*https://t.co/qlzSKoor4k*](https://t.co/4zCw505yNv)

- Stewart Jackson (@BrexitStewart) [*March 13, 2019*](https://t.co/4zCw505yNv)

10.47am GMT

Turning back to [*the government's announcement about what tariffs would apply in the event of a no-deal Brexit,*](https://t.co/4zCw505yNv)David Henig, director of the UK Trade Policy Project, has written a good blog with a preliminary analysis   [*here.*](https://t.co/4zCw505yNv)

Here's an extract from his summary.

A serious attempt to balance the different interests at play, UK producers and consumers, developing countries, and future trade agreements...

The hit to UK producers will primarily come from their inability to export tariff free, which will significantly affect competitiveness, though in some cases increased tariff free imports will also affect this;

Probably little effect on consumer prices overall, these are in any case downward-sticky when tariffs are reduced (quality at the same price tends to rise though), but cars likely to be a big exception, where prices will rise, and bikes may be an exception in the opposite direction.

10.41am GMT

And here is the Times's Sam Coates on what happened at this morning's cabinet.

Cabinet 90 mins Theresa May indicated she would whip against amendments today (straight no to no deal, Malthouse etc) Cabinet row ensued. Williamson, Grayling, Leadsom, Javid, Fox suggested whipping against Malthouse unwise Remain wing led by Hammond for x-party consensus

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)

Theresa May told that the party is coalescing around Malthouse and it would be mad to \*whip\* against it Presumably whipping against Malthouse would lead to resignations, not least from Kit Malthouse One source says they doubt the three line whip position can hold to end of day

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)

Another source said whipping not decided. "Number 10 know they have a problem and will hopefully sort it" said a cabinet source Ouch If you whip against Spellman-Dromey (straight no to no deal amendment) you have to whip against Malthouse. So what do they do?

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)

Hammond told cabinet they have to do a deal, and find a cross party solution, try out lots of options. Others in cabinet think this is just a play for customs union membership

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)

Williamson said it would be "daft" to whip against Malthouse. He said it was "Not clever" and "it's going to cause a lot of problems". I'm told he also said you needed a Commons vote on EU A50 extension offer

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)

More cabinet Julian Smith indirectly blamed Geoffrey Cox for defeat this morning. He said if things had gone slightly differently he could potentially have got the DUP on side and lots of Tory colleagues still going on

- Sam Coates Times (@SamCoatesTimes) [*March 13, 2019*](https://t.co/4zCw505yNv)Ministers leaving Number 10 after cabinet today. Left to right: David Gauke, Amber Rudd, Matt Hancock and Natalie Evans. Photograph: Tolga Akmen/AFP/Getty Images

Updated at 11.02am GMT

10.32am GMT

The Telegraph's Steven Swinford says Theresa May has been told she will face government resignations unless she gives Tory MPs a free vote on the Malthouse compromise amendment - the one favoured by Brexiters (see [*8.55am*](https://t.co/4zCw505yNv) and   [*9.11am.)*](https://t.co/4zCw505yNv)

Cabinet latest: Half a dozen ministers - including Williamson, Fox, Grayling, Leadsom - warned against whipping against Malthouse (h/t [*@SamCoatesTimes*](https://t.co/4zCw505yNv) ) Williamson said it would have 'severe consequences' for party Ministers expect No 10 will have to relent and offer free vote

- Steven Swinford (@Steven\_Swinford) [*March 13, 2019*](https://t.co/4zCw505yNv)

New: A delegation of 15 Brexiteer ministers is meeting PM at 4.30 today They will demand a free vote on the Malthouse compromise and warn that they are prepared to quit if she will not allow them to back it 'We will all go. It would be the end of her' [*https://t.co/2DZj1l1Q2U*](https://t.co/4zCw505yNv)

- Steven Swinford (@Steven\_Swinford) [*March 13, 2019*](https://t.co/4zCw505yNv)

Last night Michel Barnier, the EU's chief Brexit negotiator, said [*it was a "dangerous illusion" to think that the Malthouse compromise plan was on offer from the EU.*](https://t.co/4zCw505yNv)

Updated at 10.37am GMT

10.28am GMT

Boris Johnson says May's decision to give MPs free vote on no-deal Brexit 'absurd'

In his LBC phone-in Boris Johnson, the Brexiter former foreign secretary, said Theresa May's decision to give MPs a free vote on a no-deal Brexit tonight was "absurd". He said:

I think this is a fundamental matter of government policy, whether or not you are going to disable your negotiators by saying you are willing to walk away from the table or not. If you are not able to walk away from a negotiation, what is your negotiating leverage?

And, on a non-Brexit matter, [*as the Daily Mirror's Mikey Smith reports,*](https://t.co/4zCw505yNv) Johnson triggered fury by saying that police spending on child sexual abuse investigations was "spaffed up a wall".

Boris Johnson in the Commons yesterday.Photograph: Reuters Tv/Reuters

Updated at 1.46pm GMT

10.18am GMT

Barnier says risk of no-deal Brexit 'has never been higher'

In his speech to the European parliament Michel Barnier, the EU's chief Brexit negotiator, also said that the risk of a no-deal Brexit had never been higher. He said:

We are at a critical point. The risk of no-deal has never been higher. That is the risk of an exit - even by accident - by the UK from the EU in a disorderly fashion.

I urge you please not to under-estimate the risk or its consequences.

10.15am GMT

Earlier in the European parliament's debate Melania-Gabriela Ciot - Europe minister of Romania, which currently holds the European council's presidency - said EU leaders wluld expect a "credible justification" for any extension requested by the UK and for its duration. She said:

The UK government and the British parliament have to come out with a clear sense of direction as to where there is a majority and timing as to when it will materialise.

In the meantime, the only certainty we have is an increased uncertainty for citizens and for businesses with an already clear economic impact in terms of level of activity, investment and - more importantly - jobs.

10.04am GMT

Farage urges EU leaders to rule out extending article 50

Nigel Farage, the former UKip leader and chair of the Europe of Freedom and Direct Democracy group in the parliament, is speaking now.

He says he warned Michel Barnier that the withdrawal agreement would not get through the Commons. The EU is now short of £39bn, he says.

He says opinion in the UK is hardening against the EU.

He says the UK does not want four more years of trade talks. And the EU does not want them either. He says the solution is for EU leaders to veto an article 50 extension at their summit next week.

Then the two sides would be able to get on with their lives, he says.

* Farage urges EU leaders to rule out extending article 50.

Nigel FaragePhotograph: Simon Dawson/Reuters

9.59am GMT

European parliament's lead Brexit spokesman says he would oppose even 24-hour article 50 extension unless UK says what it wants

This is what Guy Verhofstadt said in the European parliament about extending article 50.

I don't want a long extension. I say that very openly. An extension, where we go beyond the European elections, and the European elections will be hijacked by the Brexiters, and by the whole Brexit issues. We will talk only about that, and not about the real problems, and the real reforms we need in the European Union.

The only thing we will do, we will give a new mandate to Mr Farage. That's exactly wants. Why he wants that? For two reasons. First of all, he can continue to have a salary that he can ***transfer*** to his offshore company. And the second thing is that he can continue to do his dirty work in the European Union, that is to try to destroy the European Union from within...

What we need is now certainty from the House of Commons... And so I am against every extension, whether an extension of one day, one week, even 24 hours, if it is not based on a clear opinion of the House of Commons for something, that we know what they want.

Guy Verhofstadt Photograph: Francisco Seco/AP

Updated at 10.10am GMT

9.50am GMT

Guy Verhofstadt, the leader of the Alliance of Liberals and Democrats for Europe in the European parliament, and the parliament's lead Brexit spokesman, is speaking now.

He starts by telling Henkel (see [*9.45am)*](https://t.co/4zCw505yNv) that Henkel needs to address his remarks to his Conservative party colleagues in the European Conservatives and Reformists group.

He says a long extension of article 50 would mean Nigel Farage staying on as an MEP. He would continue to get his salary, which he could pay into his offshore company, and he would continue to be able to do his "dirty work" in the EU.

Verhofstadt says he would be opposed to any article 50 extension unless the UK has decided what it wants.

9.45am GMT

Hans-Olaf Henkel, the German MEP who is vice chair of the European Conservatives and Reformists in the European parliament, says the best solution would be for the UK to stay in the EU.

He says the commission should help those in the UK who are campaigning for a second referendum.

And it should offer reform on immigration rules. That would make a difference, he says.

He says the EU will never be complete without the UK.

9.36am GMT

Manfred Weber, the leader of the centre-right European People's party in the European parliament, and its candidate to be the next European commission president, is speaking now.

He says Brexit has let down a whole generation of young Europeans.

And he repeats the point Barnier made; the EU can only grant an article 50 extension if it knows what the UK wants. He says "the Brits" must clarify this at the next EU summit.

Brexit was made by populism, by easy answers. But the Brexiters cannot provide any easy answers now, he says.

9.32am GMT

Barnier is now speaking in English.

People ask if he is disappointed after last night's vote, he says.

But he says his answer is always the same. The EU remains respectful of the UK, and it will remain calm and united in these negotiations, defending the EU and its citizens.

And that is it. Barnier has now finished.

9.30am GMT

Barnier says EU cannot grant article 50 extension until it knows why UK wants one

Barnier says there can be no further assurances to the UK.

What will happen now? Barnier says there will be votes in the Commons on no deal, and on extending article 50.

He says he hopes the UK will eventually agree on a constructive proposal.

The EU needs an answer now, he says.

He says the UK has to explain why an extension should be granted. He says the EU cannot grant an extension until it gets an answer.

They have to tell us what it is they want for their future relationship.

What will their choice be, what will be the line they will take? That is the question we need a clear answer to now. That is the question that has to be answered before a decision on a possible further extension.

Why would we extend these discussions? The discussion on article 50 is done and dusted. We have the withdrawal agreement. It is there.

That is the question asked and we are waiting for an answer to that.

* Barnier says the EU cannot grant an article 50 extension until it knows why the UK wants one.

Updated at 9.43am GMT

9.27am GMT

Barnier says the EU is not being inflexible in relation to the Irish backstop out of dogma.

It is a matter of practicalities, he says. It is about protecting the single market.

Michel BarnierPhotograph: BBC News

9.24am GMT

Barnier says the next stage of the Brexit negotiation, the one dealing with the future trade relationship, will be more important than the current one.

He says if the UK wants an orderly Brexit, then the treaty already agreed is the only available one.

"This treaty is and will remain the only available treaty" EU's chief negotiator Michel Barnier says if UK still wants to leave EU in an orderly manner the current treaty is the only one available Latest [*#Brexit*](https://t.co/4zCw505yNv) updates:   [*https://t.co/bDw5xCMP3W*](https://t.co/4zCw505yNv)   [*pic.twitter.com/qamScchBOy*](https://t.co/4zCw505yNv)

- BBC Politics (@BBCPolitics) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 9.35am GMT

9.22am GMT

In the European parliament Michel Barnier, the EU's chief Brexit negotiator, is speaking now.

There is a live feed [*here.*](https://t.co/4zCw505yNv)

Barnier says last night's Commons vote just prolongs and makes worst the deep uncertainty about Brexit.

Responsibility for the Brexit decision belongs solely with the UK, he says.

9.19am GMT

This is from the former Ukip leader Nigel Farage.

Have just come out of a meeting with Barnier and he is scared of a no deal WTO Brexit. There is also huge pressure on Mrs May, if she demands an extension, to give a firm reason why. There will be no blank cheque for it. I'll be speaking in the European Parliament shortly.

- Nigel Farage (@Nigel\_Farage) [*March 13, 2019*](https://t.co/4zCw505yNv)

9.11am GMT

Boris Johnson tells LBC that MPs will be debating the "very good" Malthouse compromise amendment last night.

Heading to table a [*#MalthouseCompromise*](https://t.co/4zCw505yNv) Plan B amendment with   [*@DamianGreen*](https://t.co/4zCw505yNv),   [*@NickyMorgan01*](https://t.co/4zCw505yNv) and   [*@Simonhartmp*](https://t.co/4zCw505yNv), supported by   [*@Jacob\_Rees\_Mogg*](https://t.co/4zCw505yNv),   [*@NigelDoddsDUP*](https://t.co/4zCw505yNv) and Iain Duncan Smith   [*pic.twitter.com/LzMbozTinJ*](https://t.co/4zCw505yNv)

- Steve Baker MP (@SteveBakerHW) [*March 12, 2019*](https://t.co/4zCw505yNv)

More about the [*#MalthouseCompromise*](https://t.co/4zCw505yNv) may be found here:   [*https://t.co/8Fbrf9YRPz*](https://t.co/4zCw505yNv)   [*pic.twitter.com/FuauVkj2fJ*](https://t.co/4zCw505yNv)

- Steve Baker MP (@SteveBakerHW) [*March 12, 2019*](https://t.co/4zCw505yNv)

Updated at 10.32am GMT

9.08am GMT

Boris Johnson, the Brexiter former foreign secretary, is holding an LBC phone-in.

Nick Ferrari, the presenter, reads out a quote from Johnson saying it would be easy to negotiate new trade deals.

Johnson says he does not regret this. But only a handful of deals, to rollover the benefits of exiting EU trade deals, have been agreed, Ferrari says.

Johnson claims there is still time to get a better deal from the EU. He says the EU always agrees deals at the last moment. Or the horses change in the final furlong, as he puts it.

I covered a lot of EU summits, I have been to a lot of them in my time, I have seen how the EU works.

The horses always change places in the final furlong, it's always at five minutes to midnight that the real deal is done.

In Brussels the real fix is always in at the end.

Updated at 10.11am GMT

8.57am GMT

Rees-Mogg says the most likely thing now is the UK leaving on 29 March without a deal.

But he says people who want to delay Brexit, like Yvette Cooper and Dominic Grieve, want to stop it entirely.

And that's it. His LBC interview is over.

8.56am GMT

Rees-Mogg says voting to rule out no deal won't have legal force

Good morning. I'm Andrew Sparrow, picking up from Matthew Weaver.

Jacob Rees-Mogg, the Tory Brexiter and chair of the European Reseach Group, the powerful caucus representing up to 80 or so Conservatives pushing for a harder Brexit, is on LBC now.

Q: Some people are saying Britain has lost its Brexit. Is that right?

Rees-Mogg says he does not accept that. If he did, he would not have voted against the deal last night. He says parliament has already voted to leave the EU.

What MPs voted for last night was opinion, he says. The article 50 legislation and the EU Withdrawal Act were law. They are in a different category.

Q: So if MPs vote for an extension, it will not necessarily happen?

That's right, says Rees-Mogg. He says it is up to the EU to offer an extension.

Q: What do you expect to happen now?

Rees-Mogg says he expects the motion ruling out no deal to go through. But it does not really change anything, because it is not law.

* Rees-Mogg says voting to rule out no deal won't have legal force.

Updated at 9.37am GMT

8.55am GMT

Tory Brexiters were 'yearning' to be able to vote for May's deal, Steve Baker claims

Steve Baker, deputy chairman of the European Research Group, claimed Brexiters were "all really yearning to be able to vote for" Theresa May's deal last night.

But he claimed attorney general Geoffrey Cox's verdict that the risk of staying in the backstop remained unchanged meant they had to reject it. He told Today:

That final paragraph of his advice showing we would not have a lawful mechanism to exit the backstop, really blew up all prospect of us being able to vote for the deal.

Asked what should happen now, Baker said:

We have tabled an amendment related to the Malthouse B compromise. That means you throw three safety nets around exiting without a withdrawal agreement. The first is that you continue to offer plan A, which is that if we had alternative arrangements on the Irish backstop, we would approve the withdrawal agreement. The second is that we would offer to buy the implementation period for the financial settlement in the withdrawal agreement, so they get about £10bn a year and we all get a transition arrangement. And the third is that we take advantage of a wide-range of standstill agreements and arrangements... and ***notify*** that trade preference to the WTO to exit smoothy.

Fellow Conservative Nick Boles dismissed the idea as "basically a no deal exit." He added the EU has made clear that it would not accept such options. He said:

It is incredibly important for all of us to stick to things that actually can be deliver and not to try to come up with new schemes that which simply won't fly.

Boles said parliament should use any extension to article 50 to "start voting on compromises".

He added:

We have not been given the chance ever, by this prime minister, to debate and vote on alternative compromises. We need to start doing that next week so the EU sees that we are actually making progress, that we are gripping reality not fantasy.

Boles said the prime minister was entitled to try to get her deal through. But he added:

What she is not entitled to do is prevent the rest of us from seeing if there are alternatives compromises that could attract the support of a majority.

Steve BakerPhotograph: Victoria Jones/PA

Updated at 9.16am GMT

8.34am GMT

David Cameron urges MPs to rule out no-deal Brexit

David Cameron has urged his successor to abandon her deal and search of "other alternatives" on Brexit.

Speaking to reporters outside his house, he said:

Obviously what needs to happen next is to rule out no deal, that would be a disaster for our country and to seek an extension and I'm sure that's what's going to happen next.

What happened last night is that some people who have always wanted Brexit have voted against it again. And this is exasperating for the prime minister and I think she should feel free to look at other alternatives for partnership deals, and the like, in order to solve this problem, because you can't go on with a situation where people who want Brexit keep voting against it.

David Cameron doorstepped by Sky News.Photograph: Sky News

Updated at 9.12am GMT

8.15am GMT

Rebecca Long-Bailey, the shadow business secretary, has called for parliament to reach a consensus deal on leaving the EU.

Speaking to the Today programme she called on the prime minister to give MPs a free vote on all of the options out of the current impasse. She said:

There are very very common areas between Labour's position and the position that has been set out by a number of Tory MPs... to having a customs union deal and a strong single market deal.

She also appeared to play down the option of a second referendum. Long-Bailey said:

We haven't ruled out a people's vote, but our priority is securing a deal, but we also stated that we would keep all options on the table to avoid a damaging Tory Brexit and a no-deal Brexit.

She added:

We need to move the prime minister's red lines towards a deal that would secure a parliamentary majority. First we need to rule out no deal. Secondly we need to look at the extension of article 50 for a short period of time in order to give us the opportunity to renegotiate a deal.

I'm sure that there will be a number of amendments put forward in the next few days outlining the direction of travel that parliament should take, because it is clear that the prime minister is not capable at this time of trying to find that consensus.

Asked about another vote of no confidence in the government, Long-Bailey said:

Of course it is something that we may consider in the future, but our priority at the moment is looking at ruling out no deal, making sure that we get that extension and we use it wisely to renegotiate the deal going forward.

Updated at 9.09am GMT

7.51am GMT

Tariffs will be slashed to zero on 87% of imports to the UK as part of a temporary no-deal plan to prevent a [*£9bn price shock*](https://t.co/4zCw505yNv) to business and consumers, the government has announced today.

But tariffs will apply to certain goods including beef, lamb, pork, poultry and some dairy products to "support farmers and producers who have historically been protected through high EU tariffs".

MPs will be voting later on Wednesday to reject a no-deal Brexit after a humiliating [*149-vote defeat*](https://t.co/4zCw505yNv) for Theresa May's deal in the Commons on Tuesday.

The government described today's announcement as a "modest liberalisation" of tariffs designed to minimise disruption to business and price shock in the supermarkets.

Related: [*Government to slash tariffs to zero in case of no-deal Brexit*](https://t.co/4zCw505yNv)

7.49am GMT

No-deal tariff plan would be 'sledgehammer' for economy, says CBI

Responding to the tariff regime, CBI director-general Carolyn Fairbairn told Today:

This tells us everything that is wrong with a no-deal scenario.

What we are hearing is the biggest change in terms of trade this country has faced since the mid-19th century being imposed on this country with no consultation with business, no time to prepare.

This is no way to run a country. What we potentially are going to see is this imposition of new terms of trade at the same time as business is blocked out of its closest trading partner. This is a sledgehammer for our economy.

Carolyn FairbairnPhotograph: Mark Thomas/REX/Shutterstock

Updated at 8.36am GMT

7.44am GMT

On the new tariff regime, Barclay told Today it was a "modest liberalisation" of trade.

"This is a modest liberalisation, it is a temporary measure, this is for a short term while we engage with business and see what the real-term consequences are," he said.

The Guardian's Lisa O'Carroll tweets the details of the new tariffs:

The Tariff Rates just revealed by government [*pic.twitter.com/11KWXVoUsU*](https://t.co/4zCw505yNv)

- lisa o'carroll (@lisaocarroll) [*March 13, 2019*](https://t.co/4zCw505yNv)

So for clarification - no checks on Irish border in no deal and tariff regime will not apply on goods crossing Irish border. But tariffs would have to be paid on certain goods going from Ireland/EU to U.K. Govt says there will be no checks down Irish Sea, hence smuggling opps.

- lisa o'carroll (@lisaocarroll) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 8.59am GMT

7.34am GMT

Steve Barclay (or 'Steve Brexit' as John Humphrys called him) is still promoting Theresa May's withdrawal agreement despite the two crushing Commons defeats.

"The best way of getting Brexit delivered was the vote put before the House last night," the Brexit secretary said.

Citing a point made by Ken Clarke, Barclay added: "Whatever deal you have you have to have the withdrawal agreement. The EU has been clear on that. And there is nothing in the withdrawal agreement that the Labour party in principle disagrees with."

His comments suggest the government has not ruled out a third vote on the withdrawal agreement.

Alun Cairns, the Wales secretary, is making similar hints according to Sky News.

As we reported on [*@skynews*](https://t.co/4zCw505yNv) last night. Alun Cairns telling me in an interview after the defeat; "I don't think this is the end of the deal necessarily"   [*https://t.co/amlRiVQRIC*](https://t.co/4zCw505yNv)

- Beth Rigby (@BethRigby) [*March 13, 2019*](https://t.co/4zCw505yNv)

Updated at 8.59am GMT

7.19am GMT

[*Angela Merkel*](https://t.co/4zCw505yNv) has said that securing EU leaders' agreement on a Brexit delay up until the end of June will be "easy", according to senior diplomatic sources.

Attitudes in some of the EU's capitals towards a possible extension of article 50 have recently hardened, with diplomats complaining that London had been "lazy" and taken a positive decision for granted.

But the German chancellor let it be known at the recent EU-Arab summit in Sharm el-Sheikh that Berlin will not stand in the way, sources have disclosed to the Guardian.

Related: [*Angela Merkel 'said it would be easy to get EU to extend article 50'*](https://t.co/4zCw505yNv)

7.18am GMT

The Brexit secretary, Stephen Barclay, has been put up to face the media today.

He is asked on the Today programme how he'll vote in the no deal vote. He dodges and says he'll wait to see what the amendments are. But faced with a choice between no deal and no Brexit, Barclay says he'd favour no deal.

* Stephen Barclay says he would prefer no deal to no Brexit.

Updated at 8.51am GMT

7.10am GMT

Britain will slash tariffs on a range of imports from outside the European Union if MPs vote to leave without a deal, PA reports.

But some products coming from the remaining 27 EU member states which are currently imported free of tariffs will now face levies for the first time.

Ministers said that, overall, the changes would represent a "modest liberalisation" of the UK's tariff regime.

Under a unilateral temporary scheme announced by the government, 87% of all imports to the UK by value would be eligible for zero-tariff access - up from 80% at present - while many other goods will be subject to a lower rate than currently applied under EU rules.

In special arrangements for Northern Ireland, the UK's temporary import tariffs will not apply to EU goods crossing the border from the Republic.

7.05am GMT

Attorney general Geoffrey Cox snuffed out May's hopes of an orderly Brexit by advising that the UK might still find itself stuck in the backstop.Photograph: Mark Duffy/AFP/Getty Images

Here is the Guardian's Rafael Behr on last night's defeat.

Related: [*Theresa May's Brexit lost to the ultimate adversary: reality | Rafael Behr*](https://t.co/4zCw505yNv)

And this is how his column starts.

There might still be ways that Brexit can go badly; unexplored dead ends and byways of failure. But the road to success is now closed. [*Parliament's second verdict*](https://t.co/4zCw505yNv) on Theresa May's deal is slightly less crushing than the first one in January. But a defeat by 149 votes, just weeks before Britain is due to leave the EU, indicates not only the last evacuation of any authority from the prime minister but a profound crisis in the project that is the only purpose of her government. She had one job, and she cannot do it. Vital questions about the future will now be settled in a state between despondency and panic. There is no strategy, no guiding intelligence. A plan must be salvaged from the wreckage of a bad idea badly executed.

There was a moment, early today, when May thought she saw a way through. A path was briefly visible to the promised land of orderly Brexit. The prime minister had brought legal clarifications from Strasbourg to embellish her deal. But then the road was [*barred by Geoffrey Cox*](https://t.co/4zCw505yNv). The attorney general judged that the UK might still find itself in the notorious backstop - an EU customs union - with no unilateral means of dissolving the arrangement. Indefinite backstop is a deal-breaker for hardliners.

Cox's judgment spread disappointment well beyond the circle of noisy Brexit ultras. There is a quieter tranche of MPs whose first preference is that [*Brexit*](https://t.co/4zCw505yNv) just be done with a minimum of trauma. Most aren't that bothered about the detail. But May's withdrawal agreement, the only existing mechanism to achieve their goal, is just too toxic after so much high-profile scorn.

Updated at 8.50am GMT

7.00am GMT

Today's business in the House of Commons. [*pic.twitter.com/dcdqfMi1sO*](https://t.co/4zCw505yNv)

- Kate Lyons (@MsKateLyons) [*March 13, 2019*](https://t.co/4zCw505yNv)

6.53am GMT

Yesterday, [*writing in the Guardian*](https://t.co/4zCw505yNv), former Australian prime minister Kevin Rudd warned that expecting the Commonwealth to fill the trade gap left by the EU, was "utter delusion".

Today, one of Australia's top business leaders has cautioned that the trade uncertainty caused by Brexit is hurting its trade partners.

James Pearson, chief executive of the Australian Chamber of Commerce and Industry, said the 300,000 businesses it represents were "exposed quite heavily" to export and import markets and the UK was a "significant" trading partner. He said:

[MPs] need to resolve the issues as soon as practical so that we can get on with building and strengthening further the United Kingdom-Australia trade and investment relationship.

It's got a long history, it's a very strong and profitable one and a beneficial one for the people and businesses of both countries, so we are looking forward to doing that once this uncertainty is resolved.

Updated at 8.47am GMT

6.42am GMT

What happens next?Almost three years after the Brexit referendum, the country is still divided on the issue and the path ahead for Brexit is unclear.Photograph: Tim Ireland/AP

Political correspondent Peter Walker, has [*this excellent guide*](https://t.co/4zCw505yNv) to what happens next.

What happens next?

As promised in advance by [*Theresa May*](https://t.co/4zCw505yNv), the next step will be motions on successive days to see first if MPs want to rule out a no-deal departure and then, if they do, whether they wish to extend article 50 and delay the Brexit process. The Conservatives will have a free vote on no deal. May stressed that Wednesday's vote would not rule out no deal for ever - just for now. And if MPs decline to rule out no deal, she said, it will become official government policy.

What does this mean for Theresa May?

Whatever happens, it's not good news. Badly losing two Commons votes on your government's flagship policy is unprecedented for a modern prime minister, and in any other political era would herald their imminent eviction from Downing Street. There had been speculation that May could even resign if she lost again. While she has not, she is badly weakened, and the challenges will surely come. For now, MPs' focus is on seeking to shape [*Brexit*](https://t.co/4zCw505yNv), and few would probably want to immediately take on her onerous task. But - as with everything in this matter - events could move very quickly.

How long could Brexit be delayed?

That depends, not least on whether MPs support this. May is adamant that if there is a pause it should be brief and not one that would require the UK to take part in the upcoming European elections, taking place in 10 weeks' time. But any Commons motion on extending article 50 will be amendable, and parliament might take another view.

Could May seek a softer Brexit?

Seemingly not, at least not yet. After the vote her spokesman reiterated the prime minister's opposition to any Brexit deal that involves a customs union. Meanwhile the EU has indicated that it has no appetite for further talks.

What will Labour do next?

While pushing for a second referendum is still among the party's official demands, in responding to May's defeat, Jeremy Corbyn spoke mainly about again pushing Labour's Brexit plan - which involves membership of a customs union, or the idea of a general election. But again, things could change quickly, and those MPs who back a second referendum have not given up on the idea.

Could there be a general election?

That is what some Conservative backbenchers loyal to May were warning would inevitably happen if she lost the latest vote. This is likely to have been intended as an extra warning to would-be Tory rebels, one that went largely unobserved. An election could still happen, but that would involve extending article 50 for longer than the government wants.

Related: [*What happens now that May's Brexit deal has been defeated again?*](https://t.co/4zCw505yNv)

Updated at 8.46am GMT

6.30am GMT

The pound rose slightly overnight as traders took the Commons vote as a sign that Brexit is now more likely to be delayed. It is sitting at $1.309 and (EURO)1.16.

David de Garis, a director of economics and market at National Australia Bank, told Reuters that he expected today's no-deal vote to go against the government as well as Thursday's expected vote to extend the article 50 trigger. That would be "of some comfort to sterling", he said.

But he added: "It's still a fast moving environment, with political pressure at understandably extreme levels."

6.20am GMT

This graph shows the biggest government defeats in House of Commons. Tuesday night's comes in fourth; the largest remains [*Theresa May's first defeat*](https://t.co/4zCw505yNv) on her Brexit plan in January.

[*Biggest government defeats in House of Commons*](https://t.co/4zCw505yNv)

6.06am GMT

How the papers are covering last night's defeat

Theresa May looks downcast on the front pages of most of the papers today, which all focus on the [*defeat of the Brexit deal*](https://t.co/4zCw505yNv) in the House of Commons last night. Our full wrap of how the papers covered the news is   [*here*](https://t.co/4zCw505yNv).

The Guardian front page, Wednesday 13 March 2019: Another huge defeat for May. And just 16 days until Brexit [*pic.twitter.com/fM1zuXRsA2*](https://t.co/4zCw505yNv)

- The Guardian (@guardian) [*March 12, 2019*](https://t.co/4zCw505yNv)

Tomorrow's front page: Brexit delay mayhem [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*https://t.co/9pDVQqfl93*](https://t.co/4zCw505yNv)   [*pic.twitter.com/qcjZYOigx6*](https://t.co/4zCw505yNv)

- Daily Mirror (@DailyMirror) [*March 12, 2019*](https://t.co/4zCw505yNv)

Wednesday's FT: "May loses control of Brexit after MPs throw out revamped deal" [*#bbcpapers*](https://t.co/4zCw505yNv)   [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv) (via   [*@AllieHBNews*](https://t.co/4zCw505yNv) )   [*pic.twitter.com/izXTYvq2HJ*](https://t.co/4zCw505yNv)

- BBC News (UK) (@BBCNews) [*March 12, 2019*](https://t.co/4zCw505yNv)

Wednesday's Daily MAIL: "The House Of Fools" [*#bbcpapers*](https://t.co/4zCw505yNv)   [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/3R3mq96J6E*](https://t.co/4zCw505yNv)

- Allie Hodgkins-Brown (@AllieHBNews) [*March 12, 2019*](https://t.co/4zCw505yNv)

Wednesday's TIMES: "Driven to despair" [*#bbcpapers*](https://t.co/4zCw505yNv)   [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/aWkg4rEkco*](https://t.co/4zCw505yNv)

- Allie Hodgkins-Brown (@AllieHBNews) [*March 12, 2019*](https://t.co/4zCw505yNv)

The front page of tomorrow's Daily Telegraph 'May clings on despite a second humiliating defeat' [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/BdOouQqBXI*](https://t.co/4zCw505yNv)

- The Telegraph (@Telegraph) [*March 12, 2019*](https://t.co/4zCw505yNv)

Tomorrow's front page: Theresa May's rejigged Brexit plan croaked after hardline Tory MP's inflicted another devastating defeat. [*https://t.co/NSLxFZWNbH*](https://t.co/4zCw505yNv)   [*pic.twitter.com/0YDHTyak2Q*](https://t.co/4zCw505yNv)

- The Sun (@TheSun) [*March 12, 2019*](https://t.co/4zCw505yNv)

Wednesday's i - "Out of control" [*#bbcpapers*](https://t.co/4zCw505yNv)   [*#tomorrowspaperstoday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/BSMvT63Fbg*](https://t.co/4zCw505yNv)

- Allie Hodgkins-Brown (@AllieHBNews) [*March 12, 2019*](https://t.co/4zCw505yNv)

Here's tomorrow's [*@Daily\_Express*](https://t.co/4zCw505yNv) front page: - How much more of this can Britain take?   [*#TomorrowsPapersToday*](https://t.co/4zCw505yNv)   [*pic.twitter.com/Oj6Ou8nb38*](https://t.co/4zCw505yNv)

- Daily Express (@Daily\_Express) [*March 12, 2019*](https://t.co/4zCw505yNv)

Related: [*'House of fools': what the papers said about May's Brexit defeat*](https://t.co/4zCw505yNv)

Updated at 8.45am GMT

6.03am GMT

The interactive that allowed you to see how every MP voted on yesterday's motion seems to have had a bit of a malfunction when embedded in the blog.

I've take it down, but if you'd like to search for your (or any) MP, you can do that [*here*](https://t.co/4zCw505yNv). And we will be updating the interactive with the results from all the Brexit votes this week. So, one to bookmark.

Related: [*How did your MP vote in the March Brexit votes?*](https://t.co/4zCw505yNv)

5.35am GMT

Hello early-rising politics-watchers, welcome to our rolling coverage of today's politics news.

After yesterday's thumping defeat of Theresa May's Brexit deal - which was defeated by 149 votes in the Commons - MPs are preparing to vote on another significant Brexit motion today. This time they will vote on whether or not a no-deal Brexit is possible.

Donald Tusk warned that the outcome of last night's vote made a no-deal Brexit more likely, saying: "On the EU side we have done all that is possible to reach an agreement... With only 17 days left to 29 March, today's vote has significantly increased the likelihood of a no-deal Brexit."

If MPs reject the possibility of a no-deal Brexit, they will vote on the possibility of delaying the UK's exit from the European Union on Thursday.

Labour has said it will try to force the government to adopt its Brexit stance. After May was defeated, the Labour leader Jeremy Corbyn called for a general election.

It's going to be another big Brexit day, in another big Brexit week. We're glad to have you along for the ride.

Get in touch via [*Twitter*](https://t.co/4zCw505yNv), in the comments, or via email - [*kate.lyons@theguardian.com*](mailto:kate.lyons@theguardian.com) - if you have questions, thoughts, or witticisms to share. I'll be gently shepherding the blog along in the early hours before Andrew Sparrow takes over a little later.

184472019-03-14T02:00:00Ztrue2019-03-13T05:36:06Zfalsefalse2019-03-14T08:39:09ZfalseUKtheguardian.com[*https://gu.com/p/bxthtfalsetruehttps://media.guim.co.uk/67aed10ba5cfc1c5ddd3ed657d209e5ff884dcfd/0\_148\_3500\_2100/500.jpgfalseenFolks*](https://gu.com/p/bxthtfalsetruehttps://media.guim.co.uk/67aed10ba5cfc1c5ddd3ed657d209e5ff884dcfd/0_148_3500_2100/500.jpgfalseenFolks), it's time to wrap up the blog for the night. I'll be back in a few hours to launch a new Politics live blog, bringing you all of Thursday's Brexit and other political news. A reminder of what's on the agenda for Thursday: Parliament will vote on a motion that sets next Wednesday as the deadline for MPs to pass a Brexit deal. It says, if a deal is passed by then, the government will seek an extension of article 50 until 30 June. But if the deal is not passed by then, then the government will need a longer extension, requiring the UK to take part in European elections. Thanks so much for your company and your comments. See you soon. 'The best turd we've got' - and other attempts to explain Brexit There have been some remarkable turns of phrase from commentators and politicians in their attempts to capture just what exactly has gone on in British politics in the last few days. The most quotable quote from an MP on Brexit in a while (forever?) came from Conservative backbencher Steve Double who said in parliament on Tuesday: This is a turd of a deal, which has now been taken away and polished, and is now a polished turd. But it might be the best turd that we've got. This is also pretty good from Tom Peck at the Indy, who says: The House of Commons was a Benny Hill chase on acid, running through a Salvador Dali painting in a spaceship on its way to infinity. It has got us wondering about the best Brexit analogies, or attempts to explain Brexit that have come out over the months/years. Any favourites? Let me know in the comments or on Twitter. This one springs to mind: And a little more from Varadkar's speech, in which he says that Ireland needs its friends in the US "more so than ever". While others may make a different decision, we see ourselves at the heart of the common European home which we help to build. We want to maintain and enhance the transatlantic relationship and we are determined to protect the Good Friday Agreement and everything that flows from it. So whatever happens in the coming months, we are sure about our place in the world, we know where we are going, and as a country we are confident about the future. Leo Varadkar, the Taoiseach of Ireland, has been in Washington DC, where he delivered a speech at a gala dinner. Gavan Reilly, the political correspondent for Virgin Media News in Ireland, was in attendance and says Varadkar received two spontaneous interruptions for applause as he says Ireland will remain a committed member of the EU and guarantor of the Good Friday Agreement. UKIP in Northern Ireland has called Wednesday night "a defining evening" in which the "game-playing political class" brazenly defied the very people who elected them. I'm quite intrigued to know what they mean by the ominous use of an ellipsis at the end of the tweet. It's quite a menacing bit of punctuation. And Sarah Wollaston has reiterated the calls from the Independent Group for a People's Vote. A reminder that they are tabling an amendment calling for a "public vote in which the people of the United Kingdom may give their consent for either leaving the European Union on terms to be determined by Parliament or retaining the United Kingdom's membership of the European Union". Photographs of the proposed amendment are being widely shared by MPs on Twitter tonight. Sarah Wollaston, MP for Totnes, formerly of the Conservative Party now of the Independent Group, has been watching Peston and is unimpressed by Angela Rayner's performance. She says both major parties have failed to deliver, which is why we are seeing, what she describes as, "broken politics". Labour MP for Walthamstow, Stella Creasy, has shared four videos explaining to her constituents what went down today. It's an interesting summary of the day's events, as well as giving a sense of how the day unfolded from the perspective of one of the players in the "complete parliamentary madness" of the day, as Creasy describes it. Creasy says she will be supporting amendments that give Britain a longer extension before it has to leave the EU, saying the country needs more time to "sort this out". Creasy says she was unsurprised that as Theresa May left the House today it was to shouts of "resign", saying that any other prime minister who had failed to carry parliament with her, and indeed her own party with her, would not still be in Downing Street, adding that she thinking "the country will suffer as a result" of May's refusal to step down. If you've got seven minutes, the four videos are worth a watch. Also, thank you to starsmurf for this lovely comment, I can confirm that our moderators are indeed very long-suffering, as well as being brilliant, dedicated and all-round lovely people. They are also often unsung, so I'm taking this opportunity to share your praise of them above the line: Thank you mods and all those updating ATL. We really need to have a crowdfunder set up for the poor long-suffering mods plus Andrew Sparrow and the others who have kept this going pretty much 24 hours a day over these last few days. We can keep them in coffee for when they're working and something stronger for when they're off duty or when it all gets too much. Cakes and other sources of sustenance could be provided too. We all win because journalists with plenty of sugar and caffeine in their systems can cope with the political chaos while the mods can deal with the trolls and Putinbots. A well-fed mod is a happy mod. And while we don't have a crowd-funding campaign for sugary and caffeinated goodness, the Guardian runs on a membership model. So if you love us, make sure you've joined up. Hello everyone. This is Kate Lyons taking over the blog from my colleague Jedidajah Otte, which means we have come full circle on a huge day of Brexit news. I started this blog at about 5:30 on Wednesday morning and will keep it ticking over through the wee hours of Thursday morning, until there is no more news to report. I sincerely hope for your sakes that none of you have been reading the blog that entire time (if you have, please go to sleep), though I wouldn't blame you if you had been glued to it for that time, given the day that has just been and the stellar work of my colleagues in bringing the news to you. I'll be bringing you reaction from MPs, the papers and commentators. For now, here's how the last few day's Brexit happenings have been seen by the newspaper cartoonists of Australia: I'm now handing over to my colleague Kate Lyons, who will continue rounding up reactions. David Davis, who voted for the unsuccessful Malthouse agreement earlier, wants to "help" Theresa May deliver Brexit. Sarah Newton MP, the 15th member of the government to quit over Brexit, has provided a statement: "At the last general election I was given a mandate by my constituents to deliver Brexit, with an orderly transition to a new, close and special relationship with the EU. To deliver Brexit with a deal not a no-deal Brexit. I believe the withdrawal agreement and the future political declaration deliver on that manifesto pledge and will continue to support it. Today, I resigned from the government so that I could vote for a motion that honours my commitment to my constituents, to leave the EU with a deal. Like many of my constituents, I have been inspired by the personal courage and resilience of the prime minister and will continue to support her Herculean effort to secure enough support from across the house to leave the EU with a deal." According to HuffPost UK's Paul Waugh, things could indeed be entirely up to Speaker John Bercow from here on. For now, Jacob Rees-Mogg seems unwilling to concede defeat, as the bill required to actually rule out a no-deal scenario does not exist yet. Gina Miller has predictably called for exactly this bill to be passed without much further ado. Or, as one Simon Schama puts it: As Tory Brexiters have suffered a major blow tonight, a number of pundits suggest that ERG MPs might support May's deal in a third "meaningful vote" next week. However, it is not certain that Speaker John Bercow will allow MV3 if the deal is submitted again without any changes, as Ian Dunt, editor of Politics.co.uk, points out: Greetings, I'm taking over from my colleague Andrew Sparrow and will gather some reactions to tonight's events in parliament. And what an evening it's been. No one knows how the Brexit crisis will end up being resolved, but it is escalating, and getting closer to the point where something decisive will happen. Tonight's votes have shoved events quite some way in that direction. Here are the key developments. Theresa May has now finally issued her MPs with an ultimatum; back her deal, or face a long delay to Brexit. (See 8.21pm.) Until now she has sought to threaten Brexiters with the prospect of Brexit being delayed or cancelled, and pro-Europeans, and Labour, with the prospect of a no-deal Brexit, in an effort to get MPs to vote for her plan. Tonight, with MPs voting against no deal, she has gone further than ever before in putting the squeeze on the ERG (European Research Group). But her authority within her party is vanishing. May only agreed to offer today's debate on ruling out no deal because last month pro-European ministers threatened to resign en masse if she didn't. Tonight's events were a shambles for the Conservative parliamentary party, and May has been openly defied by ministers who abstained rather than follow the party whip. (See 8.49pm.) This is not a normal state of affairs, and in the long run having such a weak PM is probably unsustainable. Increasingly parliament really is taking control. May was defeated today on an amendment tabled by a Tory backbencher (Caroline Spelman) and pushed to a vote by a Labour backbencher (Yvette Cooper), although it was the PLP (parliamentary Labour party) that provided the muscle to defeat May. Tomorrow we are likely to see further votes on backbench amendments indicating that the legislature, not the executive, is taking the initiative. No 10 says it is not supporting calls for "indicative votes" on Brexit alternatives, but it seems they may well happen anyway in some form or another, via backbench amendments. The threat of a no-deal Brexit on 29 March - a prospect that for the last two years May has repeatedly kept on the table - has almost certainly been removed. That does not mean tonight's votes kill off no deal for good (see 7.29pm), but May has accepted it must not happen this month. The notion that the Malthouse compromise offers an acceptable way forward has been comprehensively dismissed. This amendment was rejected by a majority of 210. (See 7.35pm.) Given the enormous faith placed in Malthouse by Tory Brexiters, this was a colossal defeat for them. Here is our main story tonight. My colleague Jedidajah Otte is now taking over to cover any further reaction. The DUP are not minded to flinch, according to the Telegraph's Jack Maidment. This is from Sky's Faisal Islam. And here is the statement Jeremy Corbyn put out after tonight's votes. Tonight this house has once again definitely ruled out no deal. The prime minister said the choice was between her deal and no deal. In the last 24 hours parliament has decisively rejected both her deal and no deal. While an extension of article 50 is now inevitable, the responsibility for that extension lies solely and squarely at the prime minister's door. But extending article 50 without a clear objective is not a solution. parliament must now take control of the situation. In the days that follow, myself, the shadow Brexit secretary and others will have meetings with members across this House to find a compromise solution that can command support in the House. This means doing what the prime minister failed to do two years ago: search for a consensus on the way forward. Labour has set out a credible alternative plan. Honourable members across this house are coming forward with proposals, whether that's for a permanent customs union, a public vote, Norway plus or other ideas. Let us, as a House of Commons work now to find a solution - to deal with the crisis facing the country and the deep concerns that many people have for their livelihood, their lives, their future, their jobs, their communities and their factories. It's up to us, as the House of Commons, to look for and find a solution to their concerns. That is what we were elected to do. Yvette Cooper, the Labour MP who pushed the Spelman amendment to a vote, has issued this statement about tonight's votes. She said: The House of Commons has voted decisively tonight against the chaos of no deal. We are in this position because the prime minister has refused to consult or build consensus, and refused to allow votes on other Brexit options. That needs to be urgently sorted out now. The government should come forward with plans to hold indicative votes on different options, including a customs union, so we can get on with this. If the prime minister won't sort this out and build some consensus on the way forward then parliament will need to instead. This is from BuzzFeed's Alex Wickham. Those ERG MPs obviously don't include Steve Baker. See 9.07pm. The People's Vote campaign, which wants a second referendum, has accused Theresa May of trying to blackmail MPs into supporting her deal. It issued this statement from the Tory pro-European Guto Bebb. He said: Tonight another government minister has resigned on principle rather than be part of a process designed to browbeat parliament into accepting a broken Brexit that the whole country knows fails to honour the promises of 2016 and would leave people poorer. But, within minutes of losing key votes on this issue, the government has decided to deploy a new false threat. The effort to turn a necessary and sensible extension to the Brexit deadline into a bogeyman that will scare MPs back into line is both irresponsible and unedifying. It deserves to be treated with the same contempt that greeted previous efforts to browbeat or blackmail MPs into supporting a Brexit deal that neither they nor the country want. Some of us did not always find it easy following the parliamentary proceedings tonight. According to my colleague Heather Stewart, we were in good company... Unlike Steve Baker, the deputy chair of the ERG (see 9.07pm), Jacob Rees-Mogg, the ERG chair, hinted tonight that he could be persuaded to back the PM's deal. Asked if he would continue to vote against it, he replied: We will have to see if there is any change. There are discussions today in relation to what Geoffrey Cox has had to say to the DUP and, crucially, what may be put in the withdrawal and implementation bill which could have an effect on how people vote. So I'm not the immovable object facing the irresistible force. Here is a mini profile of Sarah Newton, who resigned tonight from the government to vote to rule out no deal for good, from the Press Association. (See 9.04pm.) Sarah Newton's quiet rise within the Conservative ranks was dealt a fatal, self-inflicted blow, following her decision to vote against the government over Brexit. In doing so, she became the second minister from Cornwall to resign over the issue in a fortnight, after Leave-backing George Eustice (Camborne and Redruth) opted to return to the backbenches from the ***agriculture*** brief "to be free to participate in the critical" Brexit debate. History graduate Newton, a former director of Age Concern England, was among the 2010 intake of MPs, becoming the first person to win the newly created seat of Truro and Falmouth as boundary changes meant Cornwall increased its MPs from five to six. She has held it ever since. And in 2012, at the height of the furore surrounding the introduction of the so-called "pasty tax", the Cornish MP spoke in the Commons about the cherished delicacy. Issuing a warning to then-chancellor George Osborne, she said: "There is growing concern throughout Cornwall about the possible unintended consequences of the Budget and about the undoubtedly real threat to the Cornish pasty of the pasty tax." From May 2015 to July 2016, Newton was a Government whip with departmental responsibility for Defra, and moved to the Home Office as parliamentary under-secretary of state for crime, safeguarding and vulnerability. The mother-of-three, who backed Theresa May in the Tory leadership election in 2016, was later appointed minister for disabled people, health and work, before becoming work and pensions minister in November 2017. She resigned on Wednesday evening, moments after defying the whips to vote for the cross-party amendment rejecting a no-deal Brexit. Steve Baker, the Tory Brexiter and deputy chair of the European Research Group, told Sky News that he would continue to vote against the PM's deal, regardless of her threat to seek a long Brexit delay. He explained: I'll say to the government now, when meaningful vote three comes back, I will see to it that we keep voting this down however many times it's brought back, whatever pressure we're put under and come what may. Please don't do it. Keep going back to the EU and say, 'It wont pass.' Sarah Newton resigned as minister for disabled people in the work and pensions department tonight as she voted against the Tory whip in the final vote and in favour of the the amended motion ruling out a no-deal Brexit for good. The Brexiter Mark Francois has told Sky News that collective ***discipline*** in the party has collapsed. Downing Street also said it had no plans for indicative votes on Brexit alternatives. The prime minister's spokesman said: We have no plans for indicative votes, I think I've said that on a number of occasions. What you have seen in parliament in recent weeks is a series of plans being put before parliament by opposition parties and they have all been rejected. This is from David Mundell, the Scottish secretary, explaining why he was one of the 11 ministers who abstained in the final vote (see 8.49am), instead of voting against ruling out no deal for good, as Tory MPs were supposed to. Here are the key figures for how MPs voted in the three votes. The full lists are here. The Spelman amendment Tory MPs were whipped to vote against. But nine of them backed it: Guto Bebb, Ken Clarke, Justine Greening, Dominic Grieve, Sam Gyimah, Phillip Lee, Antoinette Sandbach, Caroline Spelman and Ed Vaizey. And Labour MPs were whipped to vote for it. But six of them voted against: Ronnie Campbell, Stephen Hepburn, Kate Hoey, John Mann, Dennis Skinner and Graham Stringer. The Green amendment (or the Malthouse compromise one) Tories had a free vote. Some 149 voted for it. They were: Nigel Adams (Selby and Ainsty), Adam Afriyie (Windsor), Peter Aldous (Waveney), Lucy Allan (Telford), David Amess (Southend West), Stuart Andrew (Pudsey), Kemi Badenoch (Saffron Walden), Steve Baker (Wycombe), Henry Bellingham (North West Norfolk), Jake Berry (Rossendale and Darwen), Bob Blackman (Harrow East), Crispin Blunt (Reigate), Graham Brady (Altrincham and Sale West), Suella Braverman (Fareham), Andrew Bridgen (North West Leicestershire), Fiona Bruce (Congleton), Robert Buckland (South Swindon), Alex Burghart (Brentwood and Ongar), Conor Burns (Bournemouth West), Alun Cairns (Vale of Glamorgan), Colin Clark (Gordon), Simon Clarke (Middlesbrough South and East Cleveland), Geoffrey Clifton-Brown (The Cotswolds), Therese Coffey (Suffolk Coastal), Damian Collins (Folkestone and Hythe), Robert Courts (Witney), Chris Davies (Brecon and Radnorshire), David T. C. Davies (Monmouth), Glyn Davies (Montgomeryshire), Philip Davies (Shipley), David Davis (Haltemprice and Howden), Michelle Donelan (Chippenham), Nadine Dorries (Mid Bedfordshire), James Duddridge (Rochford and Southend East), Iain Duncan Smith (Chingford and Woodford Green), Philip Dunne (Ludlow), Michael Ellis (Northampton North), Charlie Elphicke (Dover), George Eustice (Camborne and Redruth), Nigel Evans (Ribble Valley), David Evennett (Bexleyheath and Crayford), Michael Fabricant (Lichfield), Michael Fallon (Sevenoaks), Mark Francois (Rayleigh and Wickford), Lucy Frazer (South East Cambridgeshire), Mark Garnier (Wyre Forest), Cheryl Gillan (Chesham and Amersham), Zac Goldsmith (Richmond Park), Helen Grant (Maidstone and The Weald), James Gray (North Wiltshire), Chris Green (Bolton West), Damian Green (Ashford), Kirstene Hair (Angus), Greg Hands (Chelsea and Fulham), Rebecca Harris (Castle Point), Trudy Harrison (Copeland), Simon Hart (Carmarthen West and South Pembrokeshire), John Hayes (South Holland and The Deepings), James Heappey (Wells), Chris Heaton-Harris (Daventry), Gordon Henderson (Sittingbourne and Sheppey), Adam Holloway (Gravesham), Eddie Hughes (Walsall North), Jeremy Hunt (South West Surrey), Alister Jack (Dumfries and Galloway), Sajid Javid (Bromsgrove), Ranil Jayawardena (North East Hampshire), Bernard Jenkin (Harwich and North Essex), Andrea Jenkyns (Morley and Outwood), Robert Jenrick (Newark), Boris Johnson (Uxbridge and South Ruislip), Caroline Johnson (Sleaford and North Hykeham), Gareth Johnson (Dartford), Andrew Jones (Harrogate and Knaresborough), David Jones (Clwyd West), Daniel Kawczynski (Shrewsbury and Atcham), Julian Knight (Solihull), Greg Knight (East Yorkshire), Kwasi Kwarteng (Spelthorne), John Lamont (Berwickshire, Roxburgh and Selkirk), Mark Lancaster (Milton Keynes North), Pauline Latham (Mid Derbyshire), Andrea Leadsom (South Northamptonshire), Andrew Lewer (Northampton South), Ian Liddell-Grainger (Bridgwater and West Somerset), Julia Lopez (Hornchurch and Upminster), Jack Lopresti (Filton and Bradley Stoke), Jonathan Lord (Woking), Tim Loughton (East Worthing and Shoreham), Craig Mackinlay (South Thanet), Rachel Maclean (Redditch), Kit Malthouse (North West Hampshire), Scott Mann (North Cornwall), Paul Maynard (Blackpool North and Cleveleys), Patrick McLoughlin (Derbyshire Dales), Esther McVey (Tatton), Mark Menzies (Fylde), Stephen Metcalfe (South Basildon and East Thurrock), Maria Miller (Basingstoke), Nigel Mills (Amber Valley), Andrew Mitchell (Sutton Coldfield), Penny Mordaunt (Portsmouth North), Nicky Morgan (Loughborough), Sheryll Murray (South East Cornwall), Andrew Murrison (South West Wiltshire), Neil Parish (Tiverton and Honiton), Priti Patel (Witham), Owen Paterson (North Shropshire), Mike Penning (Hemel Hempstead), John Penrose (Weston-super-Mare), Chris Philp (Croydon South), Dan Poulter (Central Suffolk and North Ipswich), Mark Prisk (Hertford and Stortford), Tom Pursglove (Corby), Will Quince (Colchester), Dominic Raab (Esher and Walton), Jacob Rees-Mogg (North East Somerset), Laurence Robertson (Tewkesbury), Mary Robinson (Cheadle), Andrew Rosindell (Romford), Lee Rowley (North East Derbyshire), Paul Scully (Sutton and Cheam), Bob Seely (Isle of Wight), Andrew Selous (South West Bedfordshire), Grant Shapps (Welwyn Hatfield), Alec Shelbrooke (Elmet and Rothwell), Henry Smith (Crawley), Royston Smith (Southampton, Itchen), Bob Stewart (Beckenham), Iain Stewart (Milton Keynes South), Julian Sturdy (York Outer), Rishi Sunak (Richmond (Yorks)), Desmond Swayne (New Forest West), Hugo Swire (East Devon), Derek Thomas (St Ives), Ross Thomson (Aberdeen South), Justin Tomlinson (North Swindon), Michael Tomlinson (Mid Dorset and North Poole), Craig Tracey (North Warwickshire), Theresa Villiers (Chipping Barnet), Charles Walker (Broxbourne), Ben Wallace (Wyre and Preston North), David Warburton (Somerton and Frome), Helen Whately (Faversham and Mid Kent), Heather Wheeler (South Derbyshire), John Whittingdale (Maldon), Gavin Williamson (South Staffordshire), William Wragg (Hazel Grove), Nadhim Zahawi (Stratford-on-Avon). Labour MPs were whipped to vote against. But four of them voted for. They were: Ronnie Campbell (Blyth Valley), Kate Hoey (Vauxhall), Dennis Skinner (Bolsover), Graham Stringer (Blackley and Broughton). And 66 Tories voted against the amendment. They were: Richard Bacon (South Norfolk), Guto Bebb (Aberconwy), Nick Boles (Grantham and Stamford), Jack Brereton (Stoke-on-Trent South), Steve Brine (Winchester), Alistair Burt (North East Bedfordshire), James Cartlidge (South Suffolk), Alex Chalk (Cheltenham), Jo Churchill (Bury St Edmunds), Greg Clark (Tunbridge Wells), Kenneth Clarke (Rushcliffe), Stephen Crabb (Preseli Pembrokeshire), Tracey Crouch (Chatham and Aylesford), Jonathan Djanogly (Huntingdon), Jackie Doyle-Price (Thurrock), Mark Field (Cities of London and Westminster), Vicky Ford (Chelmsford), Kevin Foster (Torbay), Roger Gale (North Thanet), David Gauke (South West Hertfordshire), Nick Gibb (Bognor Regis and Littlehampton), Bill Grant (Ayr, Carrick and Cumnock), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Andrew Griffiths (Burton), Sam Gyimah (East Surrey), Luke Hall (Thornbury and Yate), Richard Harrington (Watford), Oliver Heald (North East Hertfordshire), Peter Heaton-Jones (North Devon), Simon Hoare (North Dorset), Philip Hollobone (Kettering), John Howell (Henley), Nigel Huddleston (Mid Worcestershire), Margot James (Stourbridge), Marcus Jones (Nuneaton), Phillip Lee (Bracknell), Oliver Letwin (West Dorset), David Lidington (Aylesbury), Alan Mak (Havant), Paul Masterton (East Renfrewshire), Johnny Mercer (Plymouth, Moor View), Huw Merriman (Bexhill and Battle), Anne Milton (Guildford), Damien Moore (Southport), Anne Marie Morris (Newton Abbot), David Morris (Morecambe and Lunesdale), James Morris (Halesowen and Rowley Regis), Robert Neill (Bromley and Chislehurst), Andrew Percy (Brigg and Goole), Claire Perry (Devizes), Victoria Prentis (Banbury), Mark Pritchard (The Wrekin), Douglas Ross (Moray), Amber Rudd (Hastings and Rye), Antoinette Sandbach (Eddisbury), Chloe Smith (Norwich North), Nicholas Soames (Mid Sussex), Caroline Spelman (Meriden), Rory Stewart (Penrith and The Border), Gary Streeter (South West Devon), Kelly Tolhurst (Rochester and Strood), Edward Vaizey (Wantage), Matt Warman (Boston and Skegness), Giles Watling (Clacton), Mike Wood (Dudley South). The main motion, as amended Tory MPs were whipped to vote against. But 17 of them voted in favour. They were: Guto Bebb (Aberconwy), Richard Benyon (Newbury), Nick Boles (Grantham and Stamford), Kenneth Clarke (Rushcliffe), Jonathan Djanogly (Huntingdon), George Freeman (Mid Norfolk), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Sam Gyimah (East Surrey), Phillip Lee (Bracknell), Oliver Letwin (West Dorset), Paul Masterton (East Renfrewshire), Sarah Newton (Truro and Falmouth), Mark Pawsey (Rugby), Antoinette Sandbach (Eddisbury), Nicholas Soames (Mid Sussex), Edward Vaizey (Wantage). And the following 11 Conservatives, who are members of the government did not vote. Solicitor General Robert Buckland, Foreign Office minister Alistair Burt, Business Secretary Greg Clark, Defence minister Tobias Ellwood, Justice Secretary David Gauke, Business minister Richard Harrington, Culture minister Margot James, Education minister Anne Milton, Scottish Secretary David Mundell, Business minister Claire Perry and Work and Pensions Secretary Amber Rudd. Labour MPs were whipped to vote in favour. But two of them voted against: Stephen Hepburn and Kate Hoey. The pound just briefly hit a 22-month high against the euro, over (EURO)1.18 for the first time since May 2017. It also extended its gains against the US dollar to a nine-month high of $1.3380, before dipping back. Tonight's drama in parliament has driven the pound up to a two-week high against the dollar. Sterling has just hit $1.33 for the first time since 28th February. That's a gain of over two cents, or 1.8%, as the currency enjoys its best day of 2019. As you can see, the pound's having a volatile week - rising on Monday as Theresa May headed for talks with Jean-Claude Juncker, then plunging on Tuesday when attorney general Cox didn't change his legal advice on the backstop. Naeem Aslam of City firm Think Markets says traders are relieved that MPs voted not to accept no deal tonight. However.... The fact is that it is comforting to know that no deal Brexit scenario is off the table, but at the same time there is no table. This is because May's party is in more disarray and Brexit has become a laughing matter for everyone. Here is a Guardian guide to how MPs voted on the main motion (as amended) tonight. This is from my colleague Dan Sabbagh, who has been at the Downing Street briefing. Here is the text of the government motion being debated tomorrow. The division lists for tonight's three votes should be on the Commons website here (although it has been crashing). This is from Alasdair de Costa at the Institute for Government showing how cabinet ministers voted on the main motion. Here is the key passage from Theresa May's statement responding to the two defeats tonight. The motion we will table [tomorrow] will set out the fundamental choice facing this house. If the house finds a way in the coming days to support a deal, it would allow the government to seek a short limited technical extension to article 50 to provide time to pass the necessary legislation and ratify the agreement we have reached with the EU. But let me be clear, such a short technical extension is only likely to be on offer if we have a deal in place. Therefore, the house has to understand and accept that, if it is not willing to support a deal in the coming days, and as it is not willing to support leaving without a deal on 29 March, then it is suggesting that there will need to be a much longer extension to article 50. Such an extension would undoubtedly require the United Kingdom to hold European parliament elections in May 2019. I do not think that would be the right outcome. But the house needs to face up to the consequences of the decisions it has taken. John Bercow, the speaker, is reading out the motion for tomorrow. The government motion tabled for tomorrow sets next Wednesday as the deadline for MPs to pass a Brexit deal. It says, if a deal is passed by then, the government will seek an extension of article 50 until 30 June. But if the deal is not passed by then, then the government will need a longer extension, requiring the UK to take part in European elections, the motion says. Bercow stresses that the motion will be amendable. This is from the BBC's Adam Fleming. Hilary Benn, the Labour chair of the Commons Brexit committee, says he agrees with May about the need for the Commons to show it is in favour of something. He says the government should hold indicative votes, as his committee proposes. Jacob Rees-Mogg, the Tory Brexiter, asks the speaker to confirm that a motion of the house does not override statute law. John Bercow, the speaker, confirms that is the case. Jeremy Corbyn says May must work with MPs to find a solution to Brexit. Theresa May is speaking now. She says tonight's vote does not change the fundamental problem; if MPs want to rule out no deal, they must vote for a deal, she says. She says she has promised a vote on extending article 50. Andrea Leadsom, the leader of the Commons, will soon make a business statement confirming that this will happen on Thursday. If MPs back a deal soon, the government will seek a short, technical extension of article 50. But if MPs do not vote for a deal, and do not want a no-deal Brexit, there will have to be a longer extension. And that would require the UK to take part in the European elections. May says, if MPs do not vote for a Brexit deal soon, she will have to seek a long article 50 extension, which would mean the UK having to take party in the European elections. Theresa May has lost again, but this time by a much bigger margin. MPs voted by 321 to 278 in favour of the motion ruling out a no-deal Brexit - a majority of 43. From the Telegraph's Steven Swinford This is from the Telegraph's Anna Mikhailova. This is from the SNP's Hannah Bardell. Here are some Labour MPs on the vote. From the BBC's Laura Kuenssberg MPs are now voting on the main motion, as amended. But this is basically a re-run of the first vote. The result is likely to be very similar although it is possible that, because some MPs may not have expected Spelman to win first time round, they might vote differently now. The Malthouse compromise amendment has been defeated by 374 votes to 164 - a majority of 210. This is from Newsnight's Nicholas Watt. After the vote on the Green amendment, we should get a vote on the main motion as amended - ie, potentially a combination of Spelman and Green. It is important to stress, of course, that the Spelman amendment passed a few minutes ago does not definitely rule out a no-deal Brexit. There are two reasons for that. First, it is not a binding amendment. It is not legislation, and it is not a motion that gives a formal instruction to the government as "humble address" motions do. The government could choose to accept it, and treat it as binding, but it has not said yet that it will. And even if it did... Second, it is not within the government's power to rule out no deal (in the terms of the motion) because it does not call for article 50 to be revoked, which would probably require separate legislation anyway. Caroline Spelman and Jack Dromey, who tabled it, intended it to signal that ministers should extend article 50 in the event of no deal being agreed. But, as Theresa May says repeatedly, that only postpones the problem. MPs are now voting on the Green amendment (aka the Malthouse compromise one). This is what it says. At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows: 1. That the government should publish the UK's day one tariff schedules immediately; 2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU; 3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and 4. The government should unilaterally guarantee the rights of EU citizens resident in the UK." Theresa May has been defeated by four votes, because MPs have backed the Spelman amendment ruling out a no-deal Brexit for good by 312 votes to 308. Theresa May's decision to allow Tories a free vote on the main motion, and on the Malthouse compromise one, is in line with a proposal she made when she was shadow leader of the Commons in 2003, the Hansard Society's Ruth Fox has just pointed out on the BBC. Here is Yvette Cooper on why she pushed the amendment to a vote. The Labour MP Debbie Abrahams thinks the Spelman amendment will be defeated. If that is right, it will be because Tory MPs who voted for it in January won't vote for it tonight - because they think it is more important for the government motion to be passed by a huge majority (which would be a snub to the hard Brexiters). To get that result, they have to defeat Spelman, because if Spelman were to pass, there would be no vote on the motion, which it would replace. This amendment is word-for-word the same as one passed by the Commons in January, after the first Brexit "next steps" vote. It was passed by 318 votes to 310 - a majority of eight. Here is the list of 17 Tory rebels who voted for this amendment in January: Heidi Allen (South Cambridgeshire), Guto Bebb (Aberconwy), Nick Boles (Grantham and Stamford), Kenneth Clarke (Rushcliffe), Jonathan Djanogly (Huntingdon), Justine Greening (Putney), Dominic Grieve (Beaconsfield), Sam Gyimah (East Surrey), Phillip Lee (Bracknell), Jeremy Lefroy (Stafford), Oliver Letwin (West Dorset), Mark Pawsey (Rugby), Antoinette Sandbach (Eddisbury), Anna Soubry (Broxtowe), Caroline Spelman (Meriden), Edward Vaizey (Wantage), and Sarah Wollaston (Totnes). And there were three Labour rebels who voted against: Stephen Hepburn (Jarrow), Kate Hoey (Vauxhall), and Graham Stringer (Blackley and Broughton). If the Spelman gets passed, there will be no vote on the government motion - because the amendment would replace it. This is what the Spelman amendment says. Line 1, leave out from "house" to end and add "rejects the United Kingdom leaving the European Union without a withdrawal agreement and a framework for the future relationship." John Bercow, the speaker, is putting the amendments to a vote. He says Caroline Spelman said she did not want to move her amendment, but Yvette Cooper told him that she did want to move the amendment. Cooper stands up. She starts saying, despite what Liam Fox said in his winding-up speech... Bercow says he does not want a speech. He just wants Cooper to move the amendment, which she does. Fox says the Commons contracted out its decision-making to the people at the time of the referendum. The Commons is honour-bound to accept the result. He says the Lib Dems may not care about the views of the public, but he does. The British people have given parliament a clear instruction. It is time for us to determine who is the boss. Fox is refusing to take an intervention from Ken Clarke. Labour MPs start jeering at Fox, but Fox continues to refuse to give way. Clarke had longer to speak than he has got, he says. He says Yvette Cooper earlier said she wanted to know if the result of this vote would mean the UK would not leave the EU on 29 March without an agreement. That is the position, he says. But he says in the longer term the only way to take no deal off the table is to have a deal. Having no Brexit would be even worse, he says. Liam Fox, the international trade secretary, is winding up for the government. He says some of those opposed to a no-deal Brexit want to reverse Brexit. He says the government motion focuses on 29 March. At that point the UK either has to leave with a deal, or leave without a deal, or have an extension. An extension is not in the gift of the UK. All 27 EU countries would have to agree. And it is not clear what price the EU might extract for an extension. He says what Labour wants is impossible. It wants to stay in the customs union, but it also wants an independent trade policy. You can't have both, he says. He says for much of the debate he did not recognise the country being described. The UK is in control of its own future, he says. Pennycook says the way the government worded its amendment (see 3.10pm) is unsatisfactory. At worst it is ambiguous, at best it is contradictory. That is why Labour favours backing the Spelman amendment, he says. Pennycook asks why any responsible government would contemplate an entirely avoidable act of self-harm. And it would be a measure that does not have majority public support, he says. He says, by repeating the mantra "No deal is better than a bad deal", the government desensitised people to the risks involved. Pennycook says May's "No deal is better than a bad deal" slogan desensitised people to the risks involved. Matthew Pennycook, the shadow Brexit minister, is winding up the debate for Labour now. He says it is hard to overstate how damaging a no-deal Brexit in just over a fortnight would be. It would be "nothing short of a national disaster", he says. The government has suffered two defeats in the House of Lords on the trade bill. In the first, peers voted by 285 to 184, a majority of 101, in favour of a cross-party amendment tabled by the Labour former Northern Ireland secretary Peter Hain aimed at ensuring the continuation of frictionless trade between Northern Ireland and the Republic and blocking the imposition of customs arrangements or other checks and controls after Brexit day. Explaining what his amendment would do, Hain said: It does not place the government in a straight-jacket. All it requires is the very outcome we are all - leave or remain, government or opposition, London or Dublin - supposed to be signed up to. Namely the invisible open border on the island of Ireland we currently have. And in the second vote, peers voted by 254 to 187, a majority of 67, for a cross-party move to demand that a future trade deal with the EU would include measures that enable "all UK and EU citizens to exercise the same reciprocal rights to work, live and study for the purpose of the provision of trade in goods or services". Liz Truss, the chief secretary to the Treasury, told Radio 4's PM programme this evening that she was "not inclined" to vote for the no-deal Brexit motion tonight. Tories have a free vote, so she does not have to. She said: I'm going to vote to keep no-deal on the table. She also said she thought May's deal was still viable. She explained: I think it is still alive, I do. Ultimately, when you look at the alternatives - which are a customs union, no Brexit or no-deal - Theresa May's deal is more attractive than those other three options. I think that's the conclusion MPs will ultimately come to. Leo Varadkar, the Irish leader, has said that if the UK government did go ahead with its plan to avoid customs checks at the border between Ireland and Northern Ireland in the event of a no-deal Brexit, it would soon end up having to set up a backstop-type arrangement anyway. He explained: I don't think the UK's proposals will be workable for very long. They propose to treat Northern Ireland differently from the rest of the UK. Northern Ireland will become a back door to the European single market and I think that in a matter of months that will lead to the need for checks at Northern Ireland's ports. So those that opposed the agreement may find that something very akin to the backstop is applied by the UK government in a few weeks' time. Jack Dromey, the Labour MP who jointly tabled the no-deal amendment with Caroline Spelman, has just told Sky News that he does not intend to move the amendment. Earlier Spelman said she would not be moving it either. (See 3.43pm.) Dromey said MPs had already backed the amendment (in January - tonight's is word-for-word the same) and that what was important tonight was for MPs to vote, by a massive majority, for the government motion, ruling out a no-deal Brexit on 29 March. Asked if there would be a vote on the motion, Spelman told Sky News she did not know, because any MP who signed it could push for a vote. But, given what Dromey is saying, and what Yvette Cooper said earlier (see 5.34pm), it looks as though there won't be a vote on it. Sky's Jon Craig tells the programme that Spelman was "nobbled" and that, having decided to whip against the amendment, No 10 did not want a vote because some pro-European ministers would have voted in favour. Leading Eurosceptics are lobbying right-of-centre governments in the EU27 to veto any British request for an extension to article 50 to ensure the UK drops out of the EU at the end of the month without a deal, my colleague Patrick Wintour reports. His story goes on: In theory, only one country is required to wield its veto for any British request to be rejected. It is highly unlikely this lobbying will succeed as the governments in countries such as Hungary, Italy and Poland have other more important battles to fight with the EU. But the lobbying underlines the precariousness of the British position. And here it is in full. Here are two Europe correspondents on the Malthouse compromise amendment. From the Telegraph's Peter Foster From the Independent's Jon Stone Labour's Jess Phillips is speaking in the debate now. She says she thinks Theresa May is "terrified" of the Brexiters in her party. Sir Nicholas Soames, the Conservative pro-European, intervenes. He says he has studied May, and he thinks May is "respectful" of the Brexiters, not frightened of them. Phillips says Soames knows May better than she does - partly because May does not speak to her, she says - but she insists that May looks like a "rabbit in the headlights" in her dealings with the Brexiters. The Labour MP Yvette Cooper is speaking now. Heidi Allen, the Independent Group MP, asks Cooper if she will move the Spelman amendment herself in the light of the fact that Caroline Spelman won't move it. (See 5.20pm.) Cooper says she will listen to what Liam Fox, the international trade secretary, says in his winding-up speech. If it is put to a vote, she will support it, she says. But she says tonight is about ruling out a no-deal Brexit on 29 March. Damian Green, the Tory former first secretary of state, is speaking now. He has tabled what is known as the Malthouse compromise amendment. (See 3.10pm.) Referring to the most controversial part of the amendment, paragraph 3, he acknowledges that Michel Barnier, the EU's chief Brexit negotiator, has said this proposal (a transition without the UK having to agree to the backstop, basically) is unacceptable. But he says if the government just did everything Barnier said, it would never get anywhere. He urges MPs to back the amendment, saying it offers a way forward. This is from my colleague Jessica Elgot on the Spelman amendment. (See 5.20pm.) Spelman says she is going to withdraw her amendment. She says that that is because it is more important to have a big vote for a no-deal amendment (ie, a big majority for the government motion) than for her to carry on with an amendment already passed in January. So she will withdraw her amendment, she says. John Bercow, the Speaker, intervenes. He says she cannot withdraw it. It is being debated, and it is in the hands of the house. He says that she can choose not to move it. But other signatories to it could move it, he says. She can't withdraw her amendment, her amendment hasn't yet been moved - her amendment is frankly in the hands of the House of Commons. If [Spelman] puts forward an amendment and chooses not to move it, that's for her judgment and people will make their own assessment of that, but it's perfectly possible for other signatories to it who do stick with the wish to persist with it to do so. Bercow dismisses Tory attempt to cancel a vote on a no-deal amendment embarrassing to the government. This is awkward for Theresa May because the government motion would have been carried overwhelmingly, without the Conservative party splitting. But if the Spelman amendment is moved by one of the other signatories, as seems likely (Labour MPs Jack Dromey and Yvette Cooper are among those who have signed it), there probably will be a Tory split. Dame Caroline Spelman, the Conservative who has tabled the amendment ruling out a no-deal Brexit, is speaking now. Hopefully she will address reports that the government whips are trying to get her to pull her amendment. This is from the Telegraph's Jack Maidment. Earlier John Bercow, the Speaker, said that at some point in the future he could end up having to rule on whether to allow another vote on the PM's deal - or whether to block it on the grounds that parliamentary rules say the Commons should not be asked to vote on a matter it has already considered. (See 3.43pm.) Sky's Lewis Goodall points out that this could end up being explosive. He has more detail here. Stephen Gethins, the SNP's Europe spokesman, is speaking in the debate now. He says that a no-deal Brexit should have been ruled out straight after the referendum. The Scottish government brought together experts to come up with a compromise plan for Brexit, he says. But the UK government failed to do this, he says. The Green MP Caroline Lucas says going for a no-deal Brexit is the action of a rogue state. Gethins agrees. Nicky Morgan, who used to be seen as one of the most pro-European backbenchers in the Conservative party, has told Sky News that she won't vote for the Spelman amendment. (See 3.10pm.) The Telegraph's Christopher Hope thinks he know why. The Labour MP Emma Reynolds has said she welcomes Michael Gove's hint that the government could support MPs being given indicative votes on Brexit. (See 3.57pm.) The FT's Sebastian Payne says the Tory MP Sir Oliver Letwin and Labour's Yvette Cooper are planning an indicative votes amendment for tomorrow. Here is George Osborne, the Evening Standard editor and former chancellor, on Philip Hammond's call in his spring statement speech for consensus on Brexit. (See 1.36pm.) The BBC's Laura Kuenssberg has written a blog about Hammond comment too. Here's an extract. The PM could compromise to get a hypothetical softer Brexit through the Commons - but days later find out that she could no longer govern. In this febrile atmosphere when the chancellor makes a call, as he has just done, for a "consensus" across parliament to find a way out of this hole, he is also hinting very publicly to the prime minister that it might be time now to think about making that sacrifice. It's important to remember that Mr Hammond's preferred option all along has been to back the prime minister's deal, to try to get it through. But a mild-sounding call for compromise just now, is not necessarily politically mild at all. In the debate Ken Clarke, the Tory pro-European, is speaking in the debate now. He is restating his support for a Norway plus Brexit. In his speech opening the debate Michael Gove, the environment secretary, said a no-deal Brexit could lead to the re-introduction of direct rule in Northern Ireland. He was responding to Sylvia Hermon, the independent MP from North Down, who asked Gove if he agreed MPs, including the DUP, should give "due weight to the serious warning" issued by the head of the Northern Ireland civil service, David Sterling, about no deal. Gove said Hermon was "absolutely 100% totally right". He said legislation issued by the Westminster government to empower Northern Ireland's civil servants to take decisions was "sustainable at the moment". But, he went on: It is also clear that the current situation with no executive would be very, very difficult to sustain in the uniquely challenging context of a no-deal exit. Now we, in the circumstances that the house has voted for no deal, would have to start formal engagement with the Irish government about further arrangements for providing strengthened decision-making in the event of that outcome, and that would include the very real possibility of imposing a form of direct rule. Now that is a grave step and experience shows us it's very hard to return from that step, and it'd be especially difficult in the context of no deal. Starmer ends his speech by saying that he hopes the vote tonight will "bury no deal so deep that it never resurfaces". Here is the BBC's Laura Kuenssberg on Gove's suggestion that the government could back "indicative votes" on Brexit alternatives. (See 3.57pm.) Labour's Ben Bradshaw asks Starmer to reaffirm Labour's commitment to a public vote. Starmer says he can do so. The Labour manifesto said it would accept the referendum result. But it also said it would not accept May's red lines. Labour lost that election, he says. He says the goverment is in a "hopeless" position. The PM's red lines, and no deal - the two things Labour rejected in its manifesto - are still on the table, he says. He says that is why a people's vote is still on the table. Anna Soubry asks if Labour will support a people's vote now. Stamer says Corbyn said two weeks ago Labour would table an amendment, or support one. That remains the position, he says. Sir Keir Starmer, the shadow Brexit secretary, is responding to Gove in the Brexit debate. The Tory Brexiter Mark Francois intervenes to say Gove implied the government will bring May's deal back to the Commons for a third meaningful vote. He says he is willing to bet Starmer £50 that that vote will take place on Tuesday 26 March. Starmer says he does not gamble. Turning to Gove's speech, Starmer says Gove was blaming the opposition for the failure of May's deal. But the government has failed to reach out to other parties to find a plan acceptable to the Commons, he says. The EU's deputy Brexit negotiator Sabine Weyand has said MPs' decision to resurrect plans already rejected by Brussels countless times shows that parliament is "divorced from reality". Speaking at a closed-door meeting of EU ambassadors this morning, Weyand made the tart observation about the Malthouse compromise - a variant of plans rejected by Brussels numerous times. Quoting private remarks by the Dutch prime minister, Mark Rutte, Weyand also said the decision to vote for no-deal was "like the Titanic voting for the iceberg to get out of the way". Officials have voiced astonishment that Theresa May is allowing a free vote on no-deal, rather than seeking to defend the Brexit agreement painstakingly negotiated with the EU over 20 months. One senior source told the Guardian the decision to hold a free vote was "incredible". Weyand, an architect of the Strasbourg assurances hammered out on Monday, said that the second historic defeat for May's deal showed that "a short technical extension" of talks could now be ruled out. But EU member states do not share this view. France and Germany are among several countries who want to see flexibility, although they share concerns about a long-drawn-out Brexit distracting the EU when it has numerous economic and foreign policy questions jostling for attention. The ambassadors concluded that the highly political question of extending Brexit talks could only be decided by EU leaders, who will assess the question at a summit next Thursday (21 March). Insiders expect the decision will be taken on Thursday by leaders, rather than pre-cooked in advance by their officials. If MPs vote for an extension on Thursday, a critical period of diplomacy will begin. Donald Tusk, the president of the European council, will meet the Dutch prime minister Mark Rutte on Friday, Angela Merkel and Emmanuel Macron on Monday, Leo Varadkar on Tuesday. While various extension times have been mooted - from five weeks to 21 months - there has never been a default position. Insiders stress the decision will depend on what the UK asks for. But there is growing impatience with the UK - one ambassador asked why the EU had to assess complicated scenarios, when the British government could revoke article 50. Many EU diplomats and officials think a short extension - two to three months - would be pointless, while not lessening the distraction of Brexit. "The shorter the extension, the more likely it is going to stay on the European agenda," said one diplomat, from a country that favours a flexible approach. But others are talking tough, while the debate in parliament has not enhanced confidence in the British political system. "The damage is done. We know they are still putting party before country and humouring people who believe in fairies," said one source, referring to the revived Malthouse compromise. "There was a feeling 'wouldn't it be better to have a dose of no deal to bring some sanity to the debate?'" But there is also wariness of no-deal Brexit and several ambassadors refused to accept a commission proposal that a second extension would be ruled out. This is what Michael Gove said in his response to Emma Reynolds, when she asked about indicative votes: I think that, depending on how the house votes today, we may have an opportunity to vote on that proposition tomorrow. But one of the things that I think is important is that we, as quickly as we possibly can, find consensus. Labour's Emma Reynolds asks why the government won't agree to indicative votes, as the Brexit committee recommends. (See 2.49pm.) Gove says he thinks there could be a vote on this tomorrow. He goes on to say that, if a no-deal Brexit is rejected tonight, it will be important to "find consensus" as quickly as possible. Gove suggests government may support MPs being given indicative votes on Brexit alternatives. Echoing what Philip Hammond said earlier (see 1.36pm and 2.24pm.) Ken Clarke, the Tory pro-European, asks if the government will revoke article 50 if the EU refuses to extend article 50. Gove says the UK cannot revoke article 50 and then trigger it again. The European court of justice has said that is not allowed, he says. Labour's Hilary Benn asks why it is democratic to keep asking MPs to vote on the same idea, but undemocratic to ask the public if they want to change their mind. Gove claims the deal being voted on last night was significantly different from the one voted on in January. And he says Labour originally opposed a second referendum. Gove says May's deal got more votes last night than it did in January. He says MPs cannot dodge choices. Labour's Angela Eagle rises to make a point of order. She says Gove has made it clear that the government intends to put the same motion to the Commons again and again. Is that allowed? John Bercow, the Speaker, says there are precedents for this. But he says at some point in the future he might have to rule on it. Bercow says at some point he may have to rule on whether Commons procedure allows a repeat vote on May's deal. Gove says it is now make-your-mind-up time for the Commons. Labour's Yvette Cooper asks Gove to confirm that, if the government motion is approved, the UK won't leave the EU on 29 March without a deal. Gove says that that is what the motion is designed to prevent. Gove says the government motion does not take no deal off the table. The only way you can do that is by passing a deal, or revoking article 50, he says. The SNP's Stewart McDonald says Gove is one of the senior authors of the mess he has just described. (See 3.24pm.) Does he feel any sense of responsibility? Will he apologise? Gove says he voted for the deal last night. The SNP did not. He accuses the SNP of sectional posturing. Gove says farmers would face "very, very challenging circumstances" in the event of a no-deal Brexit. He says many businesses have made the preparations necessary to be able to carry on trading with the EU in the event of a no-deal Brexit. The government can do many things to mitigate against the impact of no deal, he says. But he says the UK cannot tell the EU what tariffs it must impose, and it cannot tell ports such as Calais what checks they should and should not impose. Dominic Grieve, the Conservative former attorney general, asks Gove to confirm that, if the government motion is passed, it will amend the EU Withdrawal Act to amend the date of Brexit. Gove says May has given that commitment. Labour's Ben Bradshaw says May promised free votes last night. So why are Tory MPs getting a free vote on Green, but not on Spelman. Gove says Labour should give its MPs a free vote too. Gove says, following the defeat of Theresa May's deal, MPs face a number of unattractive choices. All are worse than May's deal, he says. Anna Soubry, the former Tory who is now an Independent Group MP, says Gove has confirmed that the government motion does not take the no-deal option off the table. But MPs were told they would get a vote today on taking no deal off the table. She asks Gove to confirm that Tory MPs are getting a free vote on the Green amendment, but are being told to vote against the Spelman amendment. She suggests that Spelman will not push her amendment to a vote because of the government's stance. Michael Gove, the environment secretary, is opening the debate. He starts with a tribute to Theresa May. Here is some commentary from political journalists. John Bercow, the Speaker, says he is calling two amendments - Caroline Spelman's and Damian Green's (the Malthouse compromise one). Here is the government motion. That this house declines to approve leaving the European Union without a withdrawal agreement and a framework for the future relationship on 29 March 2019; and notes that leaving without a deal remains the default in UK and EU law unless this house and the EU ratify an agreement. Here is the Spelman amendment. Line 1, leave out from "house" to end and add "rejects the United Kingdom leaving the European Union without a withdrawal agreement and a framework for the future relationship." This is word-for-word the same as the amendment passed by MPs at the end of January, by a majority of eight. And here is the Green amendment. At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows: 1. That the government should publish the UK's day one tariff schedules immediately; 2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU; 3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and 4. The government should unilaterally guarantee the rights of EU citizens resident in the UK." This is what a Treasury source said about suggestions that Philip Hammond's comments at the end of his spring statement speech (see 1.36pm) implied he was not backing Theresa May's Brexit deal. The source said: [Hammond] has been very clear that he supports the PM's deal but he has also been saying for months that compromise is how we get through this and he is calling for compromise. The debate on a no-deal Brexit will start soon, after a 10-minute rule bill. Tom Brake, the Lib Dem spokesman, starts with a point of order. He says some MPs may have business interests that would benefit from a no-deal Brexit leading to a fall in the pound. Should they have to declare this? John Bercow, the Speaker, says MPs have to declare their interests in the register. The Commons Brexit committee has released a short, emergency report following last night's vote, renewing its call for indicative votes in the Commons on future Brexit options. Hilary Benn, the committee chair, said: After another historic defeat for the prime minister, the UK will now have to apply for an extension to article 50. The extension will need to be of sufficient length to allow parliament to reach agreement on a proposal that it is prepared to support. The clock has now been run down to the point where there is no alternative left given that leaving with no deal cannot be the policy of any responsible government. Parliament must now be given the chance to hold a series of indicative votes as quickly as possible or else we will not find out what there might be support for as an alternative to the prime minister's deal which has now been rejected twice by large majorities. This is from Business Insider's Adam Bienkov, with a line from the Number 10 briefing. This is from the Sun's Tom Newton Dunn. (Presumably these would be the same Brexiters who make the point that Commons motions are not binding, eg, Jacob Rees-Mogg at 8.56am.) UPDATE: And this is from the FT's Laura Hughes. Figures released by the National Records of Scotland today, showing that the birth rate across the country has fallen to its lowest level since civil registration began in 1855, sharpen concerns about the impact of Brexit on the country's significant demographic challenges. The predictions are pretty stark - all of Scotland's population growth over the next 25 years is projected to come from migration. But a recent report from an independent expert panel warned that changes set out in the Westminster government's white paper could reduce net migration to Scotland by 50% over the coming two decades. The report also found that if the UK government ends free movement Scotland's working-age population could decline by up to 5%, noting that 63% of workers in Scotland earn less than the proposed £30,000 post-Brexit salary threshold for skilled immigrants, with sectors sicj as textiles, social care, leisure and travel worst affected. It's hard to overstate how concerned businesses are about post-Brexit staffing, especially in the care and tourism sectors and those based in the Highlands. Meanwhile, the first minister, Nicola Sturgeon, has today announced £2m for Brexit support grants, previously only open to exporters, to help small and medium-sized businesses prepare for leaving the EU. The Daily Mail's political editor, Jason Groves, thinks that Philip Hammond's comment at the end of his spring statement speech (see 1.36pm), combined with what Stephen Barclay has been saying today, suggests the government is moving towards "indicative votes" - allowing the Commons to vote on a series of Brexit options. Rupert Harrison, who worked as George Osborne's chief of staff when Osborne was chancellor, says he thought that was implied in what Theresa May said last night, after her deal was defeated. For the record, this is what May said last night. But let me be clear. Voting against leaving without a deal and for an extension does not solve the problems we face. The EU will want to know what use we mean to make of such an extension. This house will have to answer that question. Does it wish to revoke article 50? Does it want to hold a second referendum? Or does it want to leave with a deal but not this deal? These are unenviable choices, but thanks to the decision the house has made this evening they must now be faced. This is from Guy Verhofstadt, the European parliament's lead Brexit spokesman, commenting on an Instagram post from Donald Tusk, the European council president. Theresa May was due to open the Brexit debate today, but Michael Gove, the environment secretary, is going to do it instead. Given the state of her voice, that's understandable. At the end of his spring statement speech Philip Hammond, the chancellor, urged MPs to build a "consensus" around Brexit. He said: Last night's events mean we are not where I hoped we would be today. Our economy is fundamentally robust. But the uncertainty that I hoped we would lift last night, still hangs over us. We cannot allow that to continue. It is damaging our economy and it is damaging our standing and reputation in the world. Tonight, we have a choice: we can remove the threat of an imminent no-deal exit hanging over our economy. Tomorrow, we will have the opportunity to start to map out a way forward towards building a consensus across this house for a deal we can, collectively support, to exit the EU in an orderly way. Hammond referred to "a deal" that MPs could support, not "the deal" put forward by Theresa May. It was a very strong hint that he would like the government to pivot towards a softer Brexit, which would potentially involve a Norway-style Brexit passing with Labour support. Hammond has also managed a Brexit joke. Announcing money for a new super-computer at Edinburgh University, which will be five times faster than the existing one, he says that, with the right algorithms, it might even be able to come up with a solution to the Northern Irish backstop. Here is some Twitter comment on Philip Hammond's no-deal warnings. From the BBC's Laura Kuenssberg From CityAM's Owen Bennett From the Sun's Tom Newton Dunn From the Guardian's Richard Partington From Sky's Beth Rigby In his spring statement Philip Hammond, the chancellor, says that if there is a Brexit deal, he will launch a three-year spending review before the summer. But he says a no-deal Brexit would deliver "a significant short- to medium-term reduction in the productive capacity of the the British economy". He says it would lead to lower growth, higher unemployment and higher prices. During PMQs Theresa May accused Jeremy Corbyn of not referring to Labour's second referendum commitment in the Commons yesterday. Labour's Dawn Butler has accused her of lying, because Corbyn did refer to the policy in his main speech. But, as HuffPost's Paul Waugh points out, May seemed to be referring to the fact that Corbyn did not mention a public vote in his statement to MPs after May's deal was defeated. The Brexit debate is due to start at around 3.30pm. Theresa May will be opening it. It will run until 7pm, when MPs will vote. There are six amendments on the order paper (pdf). And two more manuscript amendments have been tabled. PMQs is now over. And Philip Hammond, the chancellor, is about to deliver his spring statement. I will cover any Brexit-related news from the statement, but our main coverage of the statement will be on my colleague Graeme Wearden's business live blog. The Tory MP Alberto Costa says the media call his place a failing parliament. But there was nothing failing when it passed his amendment on the rights of British citizens in the EU three weeks ago. What has May done to get EU leaders to agree to this? May says she has spoken to a number of EU leaders about this. Mark Pawsey, a Conservative, asks about Rugby council's housebuilding programme. May says she is please to hear it is providing more homes. Mark Francois, the Tory Brexiter, says on 29 January the Commons, and most Tory MPs, voted for the Brady amendment (saying the backstop should be replaced). Brady was designed to facilitate the Malthouse compromise. If the Malthouse compromise amendment is called later, will Tories get a free vote, and how will May herself vote? May says she addressed this earlier. (See 12.33pm.) She says her agreement with the EU says alternative arrangements for the backstop should be worked up. That is what Malthouse was asking for, she says. The Tory MP David Tredinnick asks May if Labour should allow a free vote on no deal tonight. May says it would be better if all MPs had a free vote. The Tory MP Peter Bone asked May about the Malthouse compromise amendment. In her response, May said the government had already accepted two of its four demands (1 and 4 - see 11.22am for the full text) and that MPs were getting a vote on an article 50 extension. But on the key demand (number 3), she said it was unacceptable to the EU. PMQs - Snap verdict: Profoundly uninspiring. There are times during national crisis when parliamentarians rise to the occasion. But there was no sign of that in those PMQs exchanges. Jeremy Corbyn was absolutely right, of course, when he said that Theresa May's plan has been decisively rejected, but he did not get very far in challenging May to adopt Labour's plan and he sounded relatively unengaged considering the seriousness of what is at stake. Although he highlighted some of the horrors of a no-deal Brexit, if anything he probably understated the potential problems, and sounded less passionate about the extent of the mess than he does when he is talking about issues like, say, homelessness or poverty. He restated the case for Labour's Brexit, but he did not sound like someone poised to drive it through the House of Commons. Still, he had a a better case than May who, partly because of the problems with her voice, was literally pitiful. She had a carefully crafted soundbite (I may have lost my voice, but I understand the voice of the country), but it was not enough to restore her credibility. In the past, May has frequently accused Corbyn of wanting to stop Brexit (a surprise to those who have actually studied his record). But, interestingly, today she seemed to have dropped that line of attack, criticising him at one point for not restating his referendum policy yesterday and at another point highlighting his own Eurosceptic credentials. Corbyn says Owen Paterson said during the referendum: "Only a madman would leave the single market". With May's deal decisively rejected, what is May now for? Labour's plan is the only credible show in town. May says Corbyn says he opposes no deal, but he votes to bring it closer. Labour's plan has been rejected several times by this house. She says she may not have her own voice, but she understands the voice of the country. People want to leave the EU, end free movement, have their own trade policy, and ensure laws are made in UK courts. Corbyn used to believe in this too. Why is he now against it? Corbyn says May no longer has the ability to lead. It is rudderless. He says, where the PM has failed, the house needs to listen to the country. He says British citizens face uncertainty. May needs to show leadership. So what is her plan? May says MPs will vote on no deal today, and then on extending article 50 tomorrow if no deal is rejected. MPs have to make choices. She says Corbyn does not agree with government policy, or even Labour policy. He has nothing to offer this country. Corbyn says the CBI have described a no-deal Brexit as as sledgehammer to the economy. Manufacturing is now in recession. May's deal has been decisively rejected. When will May accept that there must be a negotiated customs union with the EU. May says the CBI says Labour's policies would lead to a drop in living standards. Corbyn claims to be in favour of a second referendum. But he did not even refer to that last night. Corbyn says May's answer will not reassure people worried about their jobs. Food producers are also in despair. Will she now back close alignment to the single market to back their industry? May says her deal does include access to the EU on the basis of no tariffs. It would help if Corbyn had read it. Jeremy Corbyn also sends his condolences to those affected by the crash in Ethiopia. He says May says the only choice is between her deal and no deal. Last night her deal was finished off. And she will not whip her MPs on no deal. How will she vote? May says she will vote for the government motion. May confirms she will vote to rule out a no-deal Brexit on 29 March. Corbyn asks why May is still ambivalent about a no-deal outcome. May says she wants a deal. Businesses want that too. One thing they worry about more than no deal is a Corbyn government. John Baron, a Tory Brexiter, says the UK trades with countries outside the EU profitably on WTO terms. Does May accept that a no-deal Brexit is the default position, and better than a bad deal. May says she wants to leave with a good deal. Theresa May get a loud cheer when she stands up. But her voice does not seem to have improved since yesterday. She sends her condolences to those killed in the crash in Ethiopia. PMQs is about to start. Here is the list of MPs down to ask a question. And Lord Mandelson, the former Labour trade secretary and former European commissioner, has also criticised the no-deal tariff plan announced by the government this morning. In a statement released by the People's Vote campaign, he said suspending customs checks in Ireland would be a serious mistake. He said: Refusing to comply with our responsibilities under international trade law to operate a customs border at any frontier is not a serious or sustainable solution to the problem of a hard border that Brexit - of any variety - threatens. Today's ill thought-out proposals on tariffs and customs illustrate the political, economic and reputational risk that the government's make-it-up-as-we-go-along approach poses to the United Kingdom. Today the Commons must reject any prospect of a no-deal Brexit and on Thursday they should make sure any extension of the article 50 deadline is used to deliver the clarity about Brexit that has been missing from the last two-and-a-half years of debate. Ireland 's ***agriculture*** minister has said the UK's decision to impose high tariffs on beef and cheddar in a no-deal scenario are "potentially a disaster" for Irish farmers. Michael Creed also said that the logic of introducing a different regime for Northern Ireland defied Brexiter logic and accused the UK of being "selective" about tariffs to put pressure on the Irish to buckle over the backstop. He told RTE radio's Today with Sean O'Rourke show: It is interesting in the context of what is published today the UK contemplating bespoke arrangements for Northern Ireland, if we had the bespoke arrangements that are in the withdrawal agreement we would avoid a hard border. He said the department of ***agriculture*** had modelled the impact of a full World Trade Organisation schedule would have add (EURO)1.7bn to the costs of products. Ireland is the fifth largest beef exporter in the world with a trade with 50% of the meat going to the UK, a market worth (EURO)2.5 billion (£2.15bn) Angus Woods, the Irish Farmers Association, national livestock chair told RTE. The idea that Irish farmers and businesses would be able to pay a tariff and compete with the likes of South American goods into the UK market just wouldn't work. It doesn't take a whole lot, targeting 50 or 60 container loads of the high value steak cuts into the UK market would be enough to drag the whole marketplace down and make it unviable for Irish farmers in the UK market. This is what the Malthouse compromise amendment says. At end, add "; notes the steps taken by the government, the EU and its member states to minimise any disruption that may occur should the UK leave the EU without an agreed withdrawal agreement and proposes that the government should build on this work as follows: 1. That the government should publish the UK's day one tariff schedules immediately; 2. To allow businesses to prepare for the operation of those tariffs, that the government should seek an extension of the article 50 process to 10.59pm on 22 May 2019, at which point the UK would leave the EU; 3. Thereafter, in a spirit of co-operation and in order to begin discussions on the future relationship, the government should offer a further set of mutual standstill agreements with the EU and member states for an agreed period ending no later than 30 December 2021, during which period the UK would pay an agreed sum equivalent to its net EU contributions and satisfy its other public international law obligations; and 4. The government should unilaterally guarantee the rights of EU citizens resident in the UK.". Hardcore Brexitologists will know that the amendment is actually based on the Malthouse compromise plan B. For more on Malthouse, you can read the full text here. You can read all the amendments today's motion on the order paper here (pdf). (Or at least all the ones tabled last night - John Bercow, the speaker, said yesterday he would also accept manuscript ones tabled this morning.) Conservative MPs will get a free vote on the Malthouse compromise amendment, Downing Street has decided. (See 8.55am, 9.11am and 10.32am.) This is from the BBC's Norman Smith. Here is Stewart Jackson, the former Tory MP who was chief of staff to David Davis when he was Brexit secretary, on the Malthouse compromise amendment (see 8.55am, 9.11am and 10.32am.) Turning back to the government's announcement about what tariffs would apply in the event of a no-deal Brexit, David Henig, director of the UK Trade Policy Project, has written a good blog with a preliminary analysis here. Here's an extract from his summary. A serious attempt to balance the different interests at play, UK producers and consumers, developing countries, and future trade agreements... The hit to UK producers will primarily come from their inability to export tariff free, which will significantly affect competitiveness, though in some cases increased tariff free imports will also affect this; Probably little effect on consumer prices overall, these are in any case downward-sticky when tariffs are reduced (quality at the same price tends to rise though), but cars likely to be a big exception, where prices will rise, and bikes may be an exception in the opposite direction. And here is the Times's Sam Coates on what happened at this morning's cabinet. The Telegraph's Steven Swinford says Theresa May has been told she will face government resignations unless she gives Tory MPs a free vote on the Malthouse compromise amendment - the one favoured by Brexiters (see 8.55am and 9.11am.) Last night Michel Barnier, the EU's chief Brexit negotiator, said it was a "dangerous illusion" to think that the Malthouse compromise plan was on offer from the EU. In his LBC phone-in Boris Johnson, the Brexiter former foreign secretary, said Theresa May's decision to give MPs a free vote on a no-deal Brexit tonight was "absurd". He said: I think this is a fundamental matter of government policy, whether or not you are going to disable your negotiators by saying you are willing to walk away from the table or not. If you are not able to walk away from a negotiation, what is your negotiating leverage? And, on a non-Brexit matter, as the Daily Mirror's Mikey Smith reports, Johnson triggered fury by saying that police spending on child sexual abuse investigations was "spaffed up a wall". In his speech to the European parliament Michel Barnier, the EU's chief Brexit negotiator, also said that the risk of a no-deal Brexit had never been higher. He said: We are at a critical point. The risk of no-deal has never been higher. That is the risk of an exit - even by accident - by the UK from the EU in a disorderly fashion. I urge you please not to under-estimate the risk or its consequences. Earlier in the European parliament's debate Melania-Gabriela Ciot - Europe minister of Romania, which currently holds the European council's presidency - said EU leaders wluld expect a "credible justification" for any extension requested by the UK and for its duration. She said: The UK government and the British parliament have to come out with a clear sense of direction as to where there is a majority and timing as to when it will materialise. In the meantime, the only certainty we have is an increased uncertainty for citizens and for businesses with an already clear economic impact in terms of level of activity, investment and - more importantly - jobs. Nigel Farage, the former UKip leader and chair of the Europe of Freedom and Direct Democracy group in the parliament, is speaking now. He says he warned Michel Barnier that the withdrawal agreement would not get through the Commons. The EU is now short of £39bn, he says. He says opinion in the UK is hardening against the EU. He says the UK does not want four more years of trade talks. And the EU does not want them either. He says the solution is for EU leaders to veto an article 50 extension at their summit next week. Then the two sides would be able to get on with their lives, he says. Farage urges EU leaders to rule out extending article 50. This is what Guy Verhofstadt said in the European parliament about extending article 50. I don't want a long extension. I say that very openly. An extension, where we go beyond the European elections, and the European elections will be hijacked by the Brexiters, and by the whole Brexit issues. We will talk only about that, and not about the real problems, and the real reforms we need in the European Union. The only thing we will do, we will give a new mandate to Mr Farage. That's exactly wants. Why he wants that? For two reasons. First of all, he can continue to have a salary that he can ***transfer*** to his offshore company. And the second thing is that he can continue to do his dirty work in the European Union, that is to try to destroy the European Union from within... What we need is now certainty from the House of Commons... And so I am against every extension, whether an extension of one day, one week, even 24 hours, if it is not based on a clear opinion of the House of Commons for something, that we know what they want. Guy Verhofstadt, the leader of the Alliance of Liberals and Democrats for Europe in the European parliament, and the parliament's lead Brexit spokesman, is speaking now. He starts by telling Henkel (see 9.45am) that Henkel needs to address his remarks to his Conservative party colleagues in the European Conservatives and Reformists group. He says a long extension of article 50 would mean Nigel Farage staying on as an MEP. He would continue to get his salary, which he could pay into his offshore company, and he would continue to be able to do his "dirty work" in the EU. Verhofstadt says he would be opposed to any article 50 extension unless the UK has decided what it wants. Hans-Olaf Henkel, the German MEP who is vice chair of the European Conservatives and Reformists in the European parliament, says the best solution would be for the UK to stay in the EU. He says the commission should help those in the UK who are campaigning for a second referendum. And it should offer reform on immigration rules. That would make a difference, he says. He says the EU will never be complete without the UK. Manfred Weber, the leader of the centre-right European People's party in the European parliament, and its candidate to be the next European commission president, is speaking now. He says Brexit has let down a whole generation of young Europeans. And he repeats the point Barnier made; the EU can only grant an article 50 extension if it knows what the UK wants. He says "the Brits" must clarify this at the next EU summit. Brexit was made by populism, by easy answers. But the Brexiters cannot provide any easy answers now, he says. Barnier is now speaking in English. People ask if he is disappointed after last night's vote, he says. But he says his answer is always the same. The EU remains respectful of the UK, and it will remain calm and united in these negotiations, defending the EU and its citizens. And that is it. Barnier has now finished. Barnier says there can be no further assurances to the UK. What will happen now? Barnier says there will be votes in the Commons on no deal, and on extending article 50. He says he hopes the UK will eventually agree on a constructive proposal. The EU needs an answer now, he says. He says the UK has to explain why an extension should be granted. He says the EU cannot grant an extension until it gets an answer. They have to tell us what it is they want for their future relationship. What will their choice be, what will be the line they will take? That is the question we need a clear answer to now. That is the question that has to be answered before a decision on a possible further extension. Why would we extend these discussions? The discussion on article 50 is done and dusted. We have the withdrawal agreement. It is there. That is the question asked and we are waiting for an answer to that. Barnier says the EU cannot grant an article 50 extension until it knows why the UK wants one. Barnier says the EU is not being inflexible in relation to the Irish backstop out of dogma. It is a matter of practicalities, he says. It is about protecting the single market. Barnier says the next stage of the Brexit negotiation, the one dealing with the future trade relationship, will be more important than the current one. He says if the UK wants an orderly Brexit, then the treaty already agreed is the only available one. In the European parliament Michel Barnier, the EU's chief Brexit negotiator, is speaking now. There is a live feed here. Barnier says last night's Commons vote just prolongs and makes worst the deep uncertainty about Brexit. Responsibility for the Brexit decision belongs solely with the UK, he says. This is from the former Ukip leader Nigel Farage. Boris Johnson tells LBC that MPs will be debating the "very good" Malthouse compromise amendment last night. Boris Johnson, the Brexiter former foreign secretary, is holding an LBC phone-in. Nick Ferrari, the presenter, reads out a quote from Johnson saying it would be easy to negotiate new trade deals. Johnson says he does not regret this. But only a handful of deals, to rollover the benefits of exiting EU trade deals, have been agreed, Ferrari says. Johnson claims there is still time to get a better deal from the EU. He says the EU always agrees deals at the last moment. Or the horses change in the final furlong, as he puts it. I covered a lot of EU summits, I have been to a lot of them in my time, I have seen how the EU works. The horses always change places in the final furlong, it's always at five minutes to midnight that the real deal is done. In Brussels the real fix is always in at the end. Rees-Mogg says the most likely thing now is the UK leaving on 29 March without a deal. But he says people who want to delay Brexit, like Yvette Cooper and Dominic Grieve, want to stop it entirely. And that's it. His LBC interview is over. Good morning. I'm Andrew Sparrow, picking up from Matthew Weaver. Jacob Rees-Mogg, the Tory Brexiter and chair of the European Reseach Group, the powerful caucus representing up to 80 or so Conservatives pushing for a harder Brexit, is on LBC now. Q: Some people are saying Britain has lost its Brexit. Is that right? Rees-Mogg says he does not accept that. If he did, he would not have voted against the deal last night. He says parliament has already voted to leave the EU. What MPs voted for last night was opinion, he says. The article 50 legislation and the EU Withdrawal Act were law. They are in a different category. Q: So if MPs vote for an extension, it will not necessarily happen? That's right, says Rees-Mogg. He says it is up to the EU to offer an extension. Q: What do you expect to happen now? Rees-Mogg says he expects the motion ruling out no deal to go through. But it does not really change anything, because it is not law. Rees-Mogg says voting to rule out no deal won't have legal force. Steve Baker, deputy chairman of the European Research Group, claimed Brexiters were "all really yearning to be able to vote for" Theresa May's deal last night. But he claimed attorney general Geoffrey Cox's verdict that the risk of staying in the backstop remained unchanged meant they had to reject it. He told Today: That final paragraph of his advice showing we would not have a lawful mechanism to exit the backstop, really blew up all prospect of us being able to vote for the deal. Asked what should happen now, Baker said: We have tabled an amendment related to the Malthouse B compromise. That means you throw three safety nets around exiting without a withdrawal agreement. The first is that you continue to offer plan A, which is that if we had alternative arrangements on the Irish backstop, we would approve the withdrawal agreement. The second is that we would offer to buy the implementation period for the financial settlement in the withdrawal agreement, so they get about £10bn a year and we all get a transition arrangement. And the third is that we take advantage of a wide-range of standstill agreements and arrangements... and ***notify*** that trade preference to the WTO to exit smoothy. Fellow Conservative Nick Boles dismissed the idea as "basically a no deal exit." He added the EU has made clear that it would not accept such options. He said: It is incredibly important for all of us to stick to things that actually can be deliver and not to try to come up with new schemes that which simply won't fly. Boles said parliament should use any extension to article 50 to "start voting on compromises". He added: We have not been given the chance ever, by this prime minister, to debate and vote on alternative compromises. We need to start doing that next week so the EU sees that we are actually making progress, that we are gripping reality not fantasy. Boles said the prime minister was entitled to try to get her deal through. But he added: What she is not entitled to do is prevent the rest of us from seeing if there are alternatives compromises that could attract the support of a majority. David Cameron has urged his successor to abandon her deal and search of "other alternatives" on Brexit. Speaking to reporters outside his house, he said: Obviously what needs to happen next is to rule out no deal, that would be a disaster for our country and to seek an extension and I'm sure that's what's going to happen next. What happened last night is that some people who have always wanted Brexit have voted against it again. And this is exasperating for the prime minister and I think she should feel free to look at other alternatives for partnership deals, and the like, in order to solve this problem, because you can't go on with a situation where people who want Brexit keep voting against it. Rebecca Long-Bailey, the shadow business secretary, has called for parliament to reach a consensus deal on leaving the EU. Speaking to the Today programme she called on the prime minister to give MPs a free vote on all of the options out of the current impasse. She said: There are very very common areas between Labour's position and the position that has been set out by a number of Tory MPs... to having a customs union deal and a strong single market deal. She also appeared to play down the option of a second referendum. Long-Bailey said: We haven't ruled out a people's vote, but our priority is securing a deal, but we also stated that we would keep all options on the table to avoid a damaging Tory Brexit and a no-deal Brexit. She added: We need to move the prime minister's red lines towards a deal that would secure a parliamentary majority. First we need to rule out no deal. Secondly we need to look at the extension of article 50 for a short period of time in order to give us the opportunity to renegotiate a deal. I'm sure that there will be a number of amendments put forward in the next few days outlining the direction of travel that parliament should take, because it is clear that the prime minister is not capable at this time of trying to find that consensus. Asked about another vote of no confidence in the government, Long-Bailey said: Of course it is something that we may consider in the future, but our priority at the moment is looking at ruling out no deal, making sure that we get that extension and we use it wisely to renegotiate the deal going forward. Tariffs will be slashed to zero on 87% of imports to the UK as part of a temporary no-deal plan to prevent a £9bn price shock to business and consumers, the government has announced today. But tariffs will apply to certain goods including beef, lamb, pork, poultry and some dairy products to "support farmers and producers who have historically been protected through high EU tariffs". MPs will be voting later on Wednesday to reject a no-deal Brexit after a humiliating 149-vote defeat for Theresa May's deal in the Commons on Tuesday. The government described today's announcement as a "modest liberalisation" of tariffs designed to minimise disruption to business and price shock in the supermarkets. Responding to the tariff regime, CBI director-general Carolyn Fairbairn told Today: This tells us everything that is wrong with a no-deal scenario. What we are hearing is the biggest change in terms of trade this country has faced since the mid-19th century being imposed on this country with no consultation with business, no time to prepare. This is no way to run a country. What we potentially are going to see is this imposition of new terms of trade at the same time as business is blocked out of its closest trading partner. This is a sledgehammer for our economy. On the new tariff regime, Barclay told Today it was a "modest liberalisation" of trade. "This is a modest liberalisation, it is a temporary measure, this is for a short term while we engage with business and see what the real-term consequences are," he said. The Guardian's Lisa O'Carroll tweets the details of the new tariffs: Steve Barclay (or 'Steve Brexit' as John Humphrys called him) is still promoting Theresa May's withdrawal agreement despite the two crushing Commons defeats. "The best way of getting Brexit delivered was the vote put before the House last night," the Brexit secretary said. Citing a point made by Ken Clarke, Barclay added: "Whatever deal you have you have to have the withdrawal agreement. The EU has been clear on that. And there is nothing in the withdrawal agreement that the Labour party in principle disagrees with." His comments suggest the government has not ruled out a third vote on the withdrawal agreement. Alun Cairns, the Wales secretary, is making similar hints according to Sky News. Angela Merkel has said that securing EU leaders' agreement on a Brexit delay up until the end of June will be "easy", according to senior diplomatic sources. Attitudes in some of the EU's capitals towards a possible extension of article 50 have recently hardened, with diplomats complaining that London had been "lazy" and taken a positive decision for granted. But the German chancellor let it be known at the recent EU-Arab summit in Sharm el-Sheikh that Berlin will not stand in the way, sources have disclosed to the Guardian. The Brexit secretary, Stephen Barclay, has been put up to face the media today. He is asked on the Today programme how he'll vote in the no deal vote. He dodges and says he'll wait to see what the amendments are. But faced with a choice between no deal and no Brexit, Barclay says he'd favour no deal. Stephen Barclay says he would prefer no deal to no Brexit. Britain will slash tariffs on a range of imports from outside the European Union if MPs vote to leave without a deal, PA reports. But some products coming from the remaining 27 EU member states which are currently imported free of tariffs will now face levies for the first time. Ministers said that, overall, the changes would represent a "modest liberalisation" of the UK's tariff regime. Under a unilateral temporary scheme announced by the government, 87% of all imports to the UK by value would be eligible for zero-tariff access - up from 80% at present - while many other goods will be subject to a lower rate than currently applied under EU rules. In special arrangements for Northern Ireland, the UK's temporary import tariffs will not apply to EU goods crossing the border from the Republic. Here is the Guardian's Rafael Behr on last night's defeat. And this is how his column starts. There might still be ways that Brexit can go badly; unexplored dead ends and byways of failure. But the road to success is now closed. Parliament's second verdict on Theresa May's deal is slightly less crushing than the first one in January. But a defeat by 149 votes, just weeks before Britain is due to leave the EU, indicates not only the last evacuation of any authority from the prime minister but a profound crisis in the project that is the only purpose of her government. She had one job, and she cannot do it. Vital questions about the future will now be settled in a state between despondency and panic. There is no strategy, no guiding intelligence. A plan must be salvaged from the wreckage of a bad idea badly executed. There was a moment, early today, when May thought she saw a way through. A path was briefly visible to the promised land of orderly Brexit. The prime minister had brought legal clarifications from Strasbourg to embellish her deal. But then the road was barred by Geoffrey Cox. The attorney general judged that the UK might still find itself in the notorious backstop - an EU customs union - with no unilateral means of dissolving the arrangement. Indefinite backstop is a deal-breaker for hardliners. Cox's judgment spread disappointment well beyond the circle of noisy Brexit ultras. There is a quieter tranche of MPs whose first preference is that Brexitjust be done with a minimum of trauma. Most aren't that bothered about the detail. But May's withdrawal agreement, the only existing mechanism to achieve their goal, is just too toxic after so much high-profile scorn. Yesterday, writing in the Guardian, former Australian prime minister Kevin Rudd warned that expecting the Commonwealth to fill the trade gap left by the EU, was "utter delusion". Today, one of Australia's top business leaders has cautioned that the trade uncertainty caused by Brexit is hurting its trade partners. James Pearson, chief executive of the Australian Chamber of Commerce and Industry, said the 300,000 businesses it represents were "exposed quite heavily" to export and import markets and the UK was a "significant" trading partner. He said: [MPs] need to resolve the issues as soon as practical so that we can get on with building and strengthening further the United Kingdom-Australia trade and investment relationship. It's got a long history, it's a very strong and profitable one and a beneficial one for the people and businesses of both countries, so we are looking forward to doing that once this uncertainty is resolved. Political correspondent Peter Walker, has this excellent guide to what happens next. What happens next? As promised in advance by Theresa May, the next step will be motions on successive days to see first if MPs want to rule out a no-deal departure and then, if they do, whether they wish to extend article 50 and delay the Brexit process. The Conservatives will have a free vote on no deal. May stressed that Wednesday's vote would not rule out no deal for ever - just for now. And if MPs decline to rule out no deal, she said, it will become official government policy. What does this mean for Theresa May? Whatever happens, it's not good news. Badly losing two Commons votes on your government's flagship policy is unprecedented for a modern prime minister, and in any other political era would herald their imminent eviction from Downing Street. There had been speculation that May could even resign if she lost again. While she has not, she is badly weakened, and the challenges will surely come. For now, MPs' focus is on seeking to shape Brexit, and few would probably want to immediately take on her onerous task. But - as with everything in this matter - events could move very quickly. How long could Brexit be delayed? That depends, not least on whether MPs support this. May is adamant that if there is a pause it should be brief and not one that would require the UK to take part in the upcoming European elections, taking place in 10 weeks' time. But any Commons motion on extending article 50 will be amendable, and parliament might take another view. Could May seek a softer Brexit? Seemingly not, at least not yet. After the vote her spokesman reiterated the prime minister's opposition to any Brexit deal that involves a customs union. Meanwhile the EU has indicated that it has no appetite for further talks. What will Labour do next? While pushing for a second referendum is still among the party's official demands, in responding to May's defeat, Jeremy Corbyn spoke mainly about again pushing Labour's Brexit plan - which involves membership of a customs union, or the idea of a general election. But again, things could change quickly, and those MPs who back a second referendum have not given up on the idea. Could there be a general election? That is what some Conservative backbenchers loyal to May were warning would inevitably happen if she lost the latest vote. This is likely to have been intended as an extra warning to would-be Tory rebels, one that went largely unobserved. An election could still happen, but that would involve extending article 50 for longer than the government wants. The pound rose slightly overnight as traders took the Commons vote as a sign that Brexit is now more likely to be delayed. It is sitting at $1.309 and (EURO)1.16. David de Garis, a director of economics and market at National Australia Bank, told Reuters that he expected today's no-deal vote to go against the government as well as Thursday's expected vote to extend the article 50 trigger. That would be "of some comfort to sterling", he said. But he added: "It's still a fast moving environment, with political pressure at understandably extreme levels." This graph shows the biggest government defeats in House of Commons. Tuesday night's comes in fourth; the largest remains Theresa May's first defeat on her Brexit plan in January. Theresa May looks downcast on the front pages of most of the papers today, which all focus on the defeat of the Brexit deal in the House of Commons last night. Our full wrap of how the papers covered the news is here. The interactive that allowed you to see how every MP voted on yesterday's motion seems to have had a bit of a malfunction when embedded in the blog. I've take it down, but if you'd like to search for your (or any) MP, you can do that here. And we will be updating the interactive with the results from all the Brexit votes this week. So, one to bookmark. Hello early-rising politics-watchers, welcome to our rolling coverage of today's politics news. After yesterday's thumping defeat of Theresa May's Brexit deal - which was defeated by 149 votes in the Commons - MPs are preparing to vote on another significant Brexit motion today. This time they will vote on whether or not a no-deal Brexit is possible. Donald Tusk warned that the outcome of last night's vote made a no-deal Brexit more likely, saying: "On the EU side we have done all that is possible to reach an agreement... With only 17 days left to 29 March, today's vote has significantly increased the likelihood of a no-deal Brexit." If MPs reject the possibility of a no-deal Brexit, they will vote on the possibility of delaying the UK's exit from the European Union on Thursday. Labour has said it will try to force the government to adopt its Brexit stance. After May was defeated, the Labour leader Jeremy Corbyn called for a general election. It's going to be another big Brexit day, in another big Brexit week. We're glad to have you along for the ride. Get in touch via Twitter, in the comments, or via email - [*kate.lyons@theguardian.com*](mailto:kate.lyons@theguardian.com) - if you have questions, thoughts, or witticisms to share. I'll be gently shepherding the blog along in the early hours before Andrew Sparrow takes over a little later.106074falsefalseTheresa May speaking in the Commons after the result of the final vote was announced.Taoiseach Leo Varadkar speaking at the American Ireland Gala Fund dinner at the National Building Museum in Washington DC during his visit to the US.Jeremy CorbynThe pound-US dollar exchange rateLiz Truss being interviewed outside the Houses of Parliament.Pro-Brexit campaigners outside the Houses of Parliament earlier today.Leo Varadkar speaking at the US Chamber of Commerce in Washington DC earlier today.The anti-Brexit campaigner Steve Bray next to pro-Brexit campaigners outside the Houses of Parliament.The parliament buildings, commonly known as Stormont, in Northern Ireland.Sabine WeyandMichael GoveA pro-Brexit campaigner outside the Houses of Parliament today. Philip Hammond delivers his spring statement.PMQsAnti-Brexit campaigners attaching flags to a lamppost outside the Houses of Parliament todayMinisters leaving Number 10 after cabinet today. Left to right: David Gauke, Amber Rudd, Matt Hancock and Natalie Evans. Boris Johnson in the Commons yesterday.Nigel FarageGuy Verhofstadt Michel BarnierSteve BakerDavid Cameron doorstepped by Sky News.Carolyn FairbairnAttorney general Geoffrey Cox snuffed out May's hopes of an orderly Brexit by advising that the UK might still find itself stuck in the backstop.Almost three years after the Brexit referendum, the country is still divided on the issue and the path ahead for Brexit is unclear.

**Load-Date:** March 14, 2019

**End of Document**



[***‘One Ton’ quadcopter to start ground tests in June; E Yo Copter plans to start ground tests of its massive jet-turbine powered quadcopter as early as June.***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:5W24-15X1-JCF2-H0MG-00000-00&context=1516831)

Flight International

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**Body**

E Yo Copter plans to start ground tests of its massive jet-turbine powered quadcopter as early as June.

The Monaco-based company claims the “One Ton” unmanned air vehicle (UAV) should be capable of lifting 860kg (1,900lb) of cargo slung underneath. The aircraft is intended to be used for military, parapublic and ***agricultural*** applications.

E Yo Copter One Ton hanging from the ***ceiling*** of the Xponential show in Chicago

Garrett Reim

The One Ton is powered by four German-made JetCat P550 turbine engines, which spin the aircraft’s rotors not with a shaft but by forcing exhaust out of two rotating pipes.

Each JetCat turbine produces 70hp (52kW). E Yo Copter says when the turbine is spinning at 80,000rpm the attached rotor spins at about 1,300rpm. The company claims the system produces no torque and saves weight by going without a turboshaft.

Each 3-blade set of rotors on the quadcopter are 2.75m in diameter. The entire aircraft is 6m across.

The UAV has an empty weight of 140kg (309lb). It derives its name from its 1,000kg maximum take-off weight. The aircraft carries enough fuel for a 1.5h flight.

The company is solely backed by its chief executive, Jean-Claude Tourn, who says he is looking to license E Yo Copter’s technology or form a joint venture with another firm to produce the UAV.

JOURNAL : Farmers Weekly

Demand for hybrid brassicas reached unprecedented levels in 2018 as livestock farmers sought solutions to meet forage shortfalls caused by the drought.

Bred in New Zealand and first grown in the UK about a decade ago, hybrid brassicas are fast-growing, kale x rape hybrids and offer the flexibility of single or multiple grazing.

Germinal GB carried out field studies across four UK sites to establish best practice, including one farm where the practice was to multi-graze hybrid brassicas.

See also: Break crops offer pest control after pesticide restriction

About the 2018-19 field trials

Four sites included Dorset, Norfolk, Yorkshire, Scottish Borders. Establishment was assessed on all four sites, but the Scottish Borders site was home to a multi-grazing trial.

Early and later sown crops were investigated

Yield and quality data, and relative value of leaf and stem, recorded (see table below)

Stem rejection and grazing preferences between varieties recorded

The multi-grazing site near Galashiels in the Scottish Borders investigated strategies for a second grazing.

Yield and quality of hybrid brassicas

Redstart, multiple grazing site in Scotland

DM (t/ha)\*\*

DM content (%)

ME (MJ/kg)

Protein

First grazing (leaf)

4.0 - 6.0

12-14

12-13

20-24

Second grazing

Leaf

4.0

12.0

12.2

24.4

Stem\*

4.0

15.9

11.7

11.6

\*Nutritional value of stems sampled in late February was 11.6MJ/kg ME and 17% crude protein, showing a higher than expected quality.

\*\*Overall cost of production at multi-graze location was calculated at 3p/kg of dry matter

Key learnings are around hybrid brassica establishment and repeated grazing.

Establishment

Key learnings:

Ensure soil fertility is optimum for best results (pH 6.0 – 6.2, P & K index 2-2+)

Direct drill to avoid fluffy soils but ensure good soil-to-seed contact (drill seed to a depth of 1cm)

Drill late April to early June (soil temp 10C min) at seed rate of 2-2.5kg/acre (5-6kg/ha)

Single-graze crops can be drilled up until early August

Lay out bales post-drilling to provide fibre (30% of DM intake) when grazing

Multiple grazing – first grazing

At the multi-grazing trial, the site was grazed twice. The field was drilled the first week of June.

The first grazing took place from the third week of August (later than initially planned due to the dry conditions) until November, with 246 finishing lambs in 2ha blocks across 9.4ha (they averaged 9.4kg/head liveweight gain).

Key learnings:

Budget approximately 2.5% of animal liveweight as daily dry matter intake

Measure crop available to budget accurately

Graze in blocks as opposed to strips to minimise stem damage

Include fibre (silage, haylage or straw) at 30% of DM intake

Move on to next block after leaf has been grazed (leaving stems), to accelerate the rate of regrowth

Avoid trampling or excessive damage to maximise regrowth

Multiple grazing – second and final grazing

The second grazing of the 9.4ha was done by breeding rams in 2ha blocks, from December to March.

Average daily growth rates peaked at 243g/day in January and an additional 160 hoggets were turned on in early March to maximise crop utilisation.

Key learnings:

Lay out more bales as fibre source

Allow 6-8 weeks for re-growth

If a third grazing is planned, manage second grazing the same as first.

Increase block grazing intensity or strip graze on final grazing

Graze leaf and stem to utilise crop fully

Do not graze later than March, to avoid flowering and the higher risk of toxicity

Additional fertiliser was not required between first grazing and regrowth in the trials, although some farmers may need to apply low levels between grazings. Research is on-going to determine any benefits from the application of interim fertiliser

Key benefits

Hybrid brassicas:

Sowing to utilisation period 10 to 12 weeks

Useful from summer grazing through to outwintering

Ideal break crop to minimise pest threat in grassland reseeding

Good winter hardiness

Multiple grazing:

Additional dry matter production from same establishment costs

Amplified break crop benefits

Higher soil fertility for following crops

Flexibility throughout the season for different stock classes.

JOURNAL : Farmers Weekly

Wheat growers should resist the urge to cut back dramatically on their key flag leaf fungicides later this month despite dry weather which has led to generally low disease levels.

Many growers have already or are looking to cut costs on fungicide timings if they have late drilled disease-resistant varieties, but the T2 flag leaf spray is too critical to force big changes.

Jonathan Blake, fungicide expert at crop consultant Adas, says some growers may look to cut rates, but the three-pronged fungicide strategy of SDHI-azole-multisite is needed for most crops at the T2 stage.

“When the full canopy is out then this is the optimum time for disease control, so it is too risky to cut back dramatically and then see three weeks of rain,” he tells Farmers Weekly.

See also: How to save up to £50/ha on your wheat fungicide programme

Wet spring in the west

Wheat’s most yield-damaging and wet weather-loving disease, septoria, is being seen at low levels in the very dry east of England, but at typical seasonal levels after a wet spring in the west.

Disease levels, of course, depend on drilling date, varietal resistance and geography, so fungicide rates could be trimmed in the drier east but are likely to be kept higher in the wetter west.

“Growers are still likely to need a half to three-quarter rate of an SDHI-azole product at T2 as we consistently get a good yield response at that stage,” adds Mr Blake, who is based at Adas’s Rosemaund site in Herefordshire.

The T2 timing is when the flag leaf, or last leaf to appear, is fully emerged and generally occurs in the last week of May in many areas of Britain.

Mr Blake points out that a dry spring in 2012 was followed by a wet summer, so cutting back on T2 fungicides too severely could be a risky strategy for 2019, as severe septoria can cut yields by up to 5t/ha or about half the expected final harvest yield.

Trimming back

Many growers in the drier east have trimmed back on earlier T0 and T1 sprays due to the low disease levels, but growers should focus on the threat of “losing control” of disease as the efficacy of both SDHIs and azoles against septoria is declining.

Mr Blake’s colleague Phil Bounds points out the importance of variety, as Extase, with the best resistance to septoria available, may need only a half rate of SDHI/azole compared with the disease-susceptible Santiago, which could well need nearly a full rate.

With Extase, he would advise cutting rates rather than omitting one of the three components of the T2 spray, and even suggests add a second multisite into the mix to give better protective action for all varieties.

However, drilling date and climate as well as variety will play a big part in deciding the right cocktail of the T2 fungicide spray.

“Late-drilled Extase in East Anglia will be a lot different from a September drilling in Herefordshire,” he says.

Septoria established

Examining an untreated fungicide trial site in north Herefordshire, Mr Bounds found septoria clearly well established on leaf 5 of susceptible Santiago while leaf 5 of Extase was clean of the disease, although it was present on leaf 6.

Herefordshire, with its annual rainfall of 600-750mm, way above East Anglia, has seen the increased popularity of good septoria resistance varieties such as Graham, Siskin, Sundance and Dunston in recent seasons to help fight the disease.

While advising caution over cutting rates, experts also advise against “chasing” fungicide resistant septoria by increasing rates of SDHIs and azoles above current farm practice.

Analysis by Adas of AHDB fungicide performance data shows that although septoria is becoming harder to control with SDHIs and azoles, growers should not be tempted to increase rates because this would not be economical and would encourage resistance.

Multisite fungicides – such as chlorothalonil, folpet and mancozeb – are not affected by resistance, but the first of these, which is the most commonly used, is set to be banned by the European Union after failing toxicity tests.

Alternative multisites

Chlorothalonil will be available for this season and a use-up period is likely to cover most of spring 2020, but experts are now looking at the use of alternative protective multisites.

In addition, Adas’ work has shown the advantage of using more than one multisite as all three mentioned work in different ways.

The loss of chlorothalonil will be partly compensated by the likely launch in 2020 of a two new fungicides – one with a different mode of action to the two systemics currently used, SDHIs and azoles, and also a new azole with very good activity against septoria.

The new mode of action product Inatreq (fenpicoxamid) from Corteva should be a welcome addition, as should the new azole Revysol from BASF, which is claimed to give septoria control as good as other azoles when they were first introduced.

Main SDHI/azole products which have been covered by the AHDB  fungicide performance data

Ascra – SDHIs bixafen and fluopyram + azole prothioconazole

Elatus Era – SDHI Solatenol (benzovindiflupyr) + azole prothioconazole

Librax – SDHI fluxapyroxad + azole metconazole

Disease rating for selected winter wheat varieties from the current AHDB Recommended List

Variety

Septoria

Yellow rust

Brown rust

Extase

8.1

9

7

Sundance

7.9

9

6

Graham

6.9

8

6

Siskin

6.7

9

5

Dunston

6.7

7

6

Costello

6.1

9

5

Diego

5.2

4

6

Barrel

4.5

9

5

Santiago\*

4.3

7

5

Disease resistance scores are in a 1-9 scale where 9 is good resistance and 1 is very susceptible.

\*Santiago has been removed from the current AHDB Recommended List

Average annual rainfall levels

Herefordshire – 650-800mm

Essex – about 500mm

The driest area in Britain is on the Essex coast where rainfall levels can dip below 500mm.

Fungicide resistance

“Septoria is becoming harder to control with azoles and SDHIs. However, farmers should not be tempted to increase rates, because this is not economic and would drive resistance faster,” says Paul Gosling, who manages fungicide performance research at the AHDB.

JOURNAL : Farmers Weekly

A farming charity dedicated to “the promotion of ***agriculture***” is facing criticism for hosting a vegan event headlined by anti-farming activists and sponsored by an organisation that describes dairy farming as “rape”.

The “Vegan Camp-out” event, which is billed as the world’s largest vegan camping festival, will take place at the Newark and Nottinghamshire ***Agricultural*** Society’s Newark showground from 30 August to 1 September this year.

The event will feature an “Activism Bootcamp” which attracts animal rights activists from across the world dedicated to spreading direct action against livestock farming and meat eating.

See also: How to deal with activists and difficult neighbours

Extreme animal rights groups from the UK and across the world, including Direct Action Everywhere, Viva!, the Hunt Saboteurs Association, Surge and Animal Aid, who all actively campaign against traditional livestock farming and legal activities like shooting and hunting, are expected to share their tactics on direct action.

The event will be headlined by vegan activists, including Earthling Ed, who fronts an anti-dairy campaign which claims that “a cow raised for dairy endures a cruel and violent yearly cycle of enforced pregnancy”.

Juliet Gellatley, founder and director of animal rights group Viva! which also sponsors the event, claims that dairy cows and sows are “raped” in livestock systems and campaigns against dairy, pig and poultry farming.

Countryside Alliance criticism

The Countryside Alliance (CA) urged the Newark and Nottinghamshire ***Agricultural*** Society to call off the event.

CA chief executive Tim Bonner said: “The society’s showground, which was created to promote farming in Nottinghamshire, is now being used as a training ground for extremists who campaign against livestock farming and the rural way of life.

“It is difficult to understand why the Society is determined to carry on hosting this event when presented with unarguable evidence that it involves the spreading of an aggressive anti-farming agenda.

“Animal rights extremists from all over the world will be gathering to share tactics and train activists.”

Mr Bonner pointed out that the dairy industry in particular, but also other livestock farmers and butchers, are coming under increasing attack from vegan activism.

Just last month 200 vegan activists invaded a farm in Lincolnshire close to Newark Showground and last week the media reported the invasion of a restaurant in Sussex by activists from Direct Activism Everywhere (DxE), a US inspired group of animal rights extremists.

DxE delivered a seminar entitled “Protest and Disruption” at Newark Showground as part of last year’s Vegan Camp-out.

Newark and Nottinghamshire ***Agricultural*** Society comment

Mr Bonner added: “The Newark and Nottinghamshire ***Agricultural*** Society needs to take its head out of the sand and cancel this event to protect the farming community, rather than the promoting extremists who want to end their way of life.”

A spokesman for the Newark and Nottinghamshire ***Agricultural*** Society told the Daily Telegraph: “As an ***agricultural*** society we are apolitical and deplore invective or criminal acts made against the farming community, who grow food for all of us whether omnivore, vegetarian or vegan.

“In a democracy we recognise the right of those making extreme opinions to express them, even if we disagree with them, provided they remain within the law.”

JOURNAL : Farmers Weekly

Workers in the ***agricultural*** sector are among the most vulnerable to being paid below the minimum wage and HMRC needs to be more proactive in punishing non-compliant businesses, a leading employment expert has warned.

Sir David Metcalf, emeritus professor of industrial relations at the London School of Economics, said a more proactive response was necessary to hunt down businesses that were actively breaking the law, as most investigations were currently prompted by employee complaints.

From last month, all workers aged over 25 have been entitled to a rate of £8.21/hour, and rates will be next updated in April 2020.

See also: What farm employers need to know about new payslip rules

HMRC data shows that just 33 businesses were investigated in the ***agricultural***, forestry and fishing sector in 2017-18 – with 11 of those found to be in arrears with employees – from a cross-industry total of 4,388.

Sir David highlighted immigrant workers in the horticultural sector – many of them working for gangmasters, often having poor English skills and little knowledge of employment law – as being among the most at risk, as they are unlikely to complain.

Some are being held in “debt bondage” by unlicensed gangmasters who bring them into the country with the promise of full-time work and then offer them only part-time employment.

This gives workers no disposable income after gangmaster-deducted accommodation and transport costs, leaving them with no funds to return home or become independent.

Sir David stressed that the vast majority of farmers operated within the law and some violations would be inadvertent, but there was still a minority of businesses that sought to deliberately avoid paying workers what they were owed.

Employers found in breach of minimum wage rules will be forced to reimburse employees and pay a fine of up to 200% of the amount they have underpaid, capped at £20,000 per employee.

Free and confidential advice for employers and employees is available from the workplace advisory service Acas and complaints should be reported to HMRC via its website.

JOURNAL : Farmers Weekly

A larger than usual gap of about £20/t between old and new crop wheat prices is causing a headache for arable farmers pondering their marketing strategy.

Futures prices currently stand at around £173/t for July 2019, the last month in which wheat harvested in 2018 is usually traded, while the November 2019 futures price is closer to £153/t.

The end of the grain season in late June usually sees near convergence between prices for the two crops.

See also: Russian dominance over world wheat markets slows

However, this year there are some added complications which make it a particularly difficult call as to which way things will go.

First, Brexit has stalled post-29 March grain export trade until it become clear on what terms that trade will be done.

This means that although demand has not necessarily fallen, trade has certainly been curtailed.

Cropping area confusion

Second, there is a marked discrepancy between the English crop areas shown by the Defra census for 2018 and what the BPS data says for that year.

This means that traders are less certain of how much wheat is left in the country and therefore how narrow the gap between supply and demand is.

The census showed a 1% rise in wheat area, to 1.668m ha, while the BPS figure recorded a drop of almost 3% to 1.56m ha – a 108,000ha difference.

Based on the estimated wheat yield of 7.8t/ha, this gap would account for 842,000t of wheat.

There are doubts about the reliability of both sets of data and AHDB Cereals and Oilseeds says Defra is carrying out an internal investigation into the June Survey and BPS data and methodologies.

However, prices have moved little over the week. Grain traders are sceptical on both numbers and prefer to go on their gut instinct, having a good idea what is left in store on farm, a feel for how well-supplied their domestic customers are and what is in merchants' stores.

Effect of ethanol plant closures

Third, there are significant changes in demand for grain compared with last year, due to the closure of the two north-eastern bioethanol producers and high use of grain for animal feed because of the dry summer and poor forage stocks.

Alongside this, use for poultry feed has regularly been growing to new record levels.

AHDB has created three scenarios using the two crop figures and its own views of stocks and likely use.

1. If the BPS figure is right

Using the BPS figures would lead to end-of-season wheat stocks of 1.278m tonnes.

“Worryingly, this will be below the minimum stock requirement used in the balance sheet (1.55m tonnes),” says analysis by AHDB’s head of arable market specialists David Eudall and senior analyst James Webster.

If realised, this could force certain deficit areas of the UK to import price parity towards the end of the season and keep cash prices supported, they say.

2. If the June survey figure is right

Using the June survey production figure gives an end-of-season stock figure of 2.127m tonnes.

This may be overstating stocks slightly, says AHDB, as if we do have the larger production figure we may be able to move more exports.

“But as we are currently uncompetitive on price, values in the far south-east of England would need to move lower to find competitiveness.

"The current market situation with stronger delivered premiums in the centre and North is not necessarily reflective of this outcome.”

3. If AHDB is right

The third scenario uses AHDB’s planting and variety survey areas, giving a theoretical end-of-season stock level of 1.758m tonnes, just above the minimum stock requirement and similar to last season’s closing stocks of 1.755m tonnes.

With the current ‘feel’ of the market, this last scenario is most appropriate at the moment, says AHDB.

Given discussions with the trade over the last week and current market expectations, a final stock range between the BPS scenario and that of AHDB is deemed most likely, say the AHDB analysts.

Future factors that could influence the market

Price-increasing factors:

Wheat users have a lot to buy to see them through the April-July period.

Fresh data emerges that shows supplies in the UK are lower than traders are currently estimating.

Price-decreasing factors:

There is an increased wheat area compared with last year. If expectations continue to build that this will yield well, the old-crop market will struggle to climb higher.

There is a risk that old-crop stocks left in the middle of July will have to be discounted to compete with new-crop when the European harvest begins.

The AHDB warns that more certainty is needed in predicting crop sizes in order to avoid price volatility and ascertain the requirements to trade.

“Now is the time for the industry to work together with Defra and AHDB to develop a more structured and detailed review of how we compile and distribute our production surveys. If we have any kind of confusion in the future, we will create more waste and inefficiency," it says.

JOURNAL : Farmers Weekly

Dairy farmers running Fullwood’s Merlin 2 milking robot can now monitor the performance of their herd through a new app.

The interface shows real-time performance data and historical milking records, both for individual cows and the herd as a whole.

It can be used to display parameters such as milk yield, number and duration of milkings per day and the time of last visit to make sure that cows are performing as expected.

These can be compared against a 10-day or 24-hour yield average and the information can be accessed from anywhere in the world, provided the user has wi-fi or a mobile data connection.

See also: Top tips for buying a used milking robot

The app is also able to alert herd managers to potential problems with the robot and gives users easy access to the robot’s cleaning records and maintenance schedules.

This includes any deviations in terms of cluster attachment timings and milk captured during the first two minutes of milking to provide an immediate warning of potential problems.

According to Fullwood, this helps make sure each Merlin is working as efficiently and hygienically as possible and should also help herd managers improve their work-life balance.

The M2erlinInfo app is free to download from Google Play and the Apple App Store.

It is compatible with the Merlin 2 robot but requires a communicator module to be installed.

JOURNAL : Farmers Weekly

Most arable and livestock production is expected to be lower than average for the next two seasons across the EU amid bad weather and significant price pressure.

The EU Commission’s Short-Term Outlook report covers production for the 2018-19 and 2019-20 seasons and suggests that Brexit uncertainty, lower growth in the major EU economies and further escalation in tariff wars will result in decline for some sectors.

Overall the arable sector – covering cereals, oilseeds and sugar – will contract to cover about 70.7 million ha across the two-years.

See also: Grower makes direct drilling work on the west coast

For livestock producers, beef and sheep are expected to see declines, while pigmeat will grow slowly, amid African swine fever risks and environmental constraints. However, milk production is forecast to rise.

The sector-by-sector forecasts are as follows:

Arable

Cereals

The outlook suggests that weather extremes are making forecasting more difficult.

Early dry weather and a mild winter in 2018-19 appeared to be a boon for the crop.

Now, though, the central swathe of Europe into Russia is experiencing dry conditions that may hold the crop back.

Global wheat and maize production are expected to fall, with EU cereals output forecast to plummet to a seven-year low at 290.5m t in the 2018-19 season.

However, production should recover the following year, but only to a projected 307m tonnes, which remains below the five-year average.

Oilseeds

The world market price for soya beans declined by 8% between March 2018 to March 2019, after the crop became the focus of US-China tariff battles and global production rose by 5%.

Overall the area under oilseed cropping has declined by 6% in 2018-19, due largely to drought across Europe affecting rapeseed crops.

Oilseed output is expected to recover in 2019-20, with only a minor production decline of 0.4%, yielding close to 33m tonnes.

Sugar

Bad weather in the 2018-19 campaign resulted in a 17% year-on-year fall in EU production to about 17.6m tonnes.

The knock-on effect is a 49% decrease in EU sugar exports to 1.7m t for 2018-19.

Despite a world market surplus, estimated at just 0.6m tonnes, white sugar prices have not recovered.

This is likely to result in a reduction in area of 60,000ha for the 2019-20 marketing year compared with the previous year – a decrease of close to 4%.

However, EU sugar beet yield are predicted to rise by 13% to average 74t/ha. Overall, sugar beet production for 2019-20 is forecast to rise by 9% in 2019-20 to 123m tonnes.

Livestock

Pigmeat

In 2018, the EU breeding herd declined by 3% year on year because of low pigmeat prices (-2%), higher feed costs and African swine fever (ASF) risks.

But the disease outbreak in China, and the resulting increase in demand for imports to fill the production void, are expected to raise EU exports in 2019-20.

After exports to China fell by 8% in 2018, analysts are predicting a 9% increase in the coming 12 months.

This should bolster prices, according to the outlook’s analysis, but it suggests ASF risks in Europe and environmental legislation will continue to hold back production across member states.

Sheepmeat

Sheepmeat production is expected to continue to fall by 1% in 2019, after a similar decline in breeding flock numbers and poor lamb survival figures in 2018’s adverse weather.

While prices were down by 4.3% in the first months of 2019, the reports suggests prices will firm through 2019 with the lower supply across the EU.

A lower level of imports from New Zealand, which has concentrated on Asian markets in the past few years, should also help stabilise prices for EU-produced sheepmeat.

Beef

EU beef production exceeded growth forecasts, with a 1.8% year-on-year increase in 2018.

However, the cold winter in northern Europe and the summer drought across the EU led to feed shortages, low calving rates and early cow culls.

EU cattle herds shrank by 1.3%, with 100,000 fewer beef cows across France, the UK and Ireland, and a reduction of 375,000 dairy cows in the Netherlands, Italy, Germany and France.

As a result, production is forecast to reflect the drop in numbers, with a decline of 1.3% in output.

The limited supply may put upward pressure on prices in 2019.

Milk and dairy

Despite the effect of the drought, a fall of 1.6% in dairy cow numbers and a 2% drop in breeding heifers during 2018, yield increases led to a 1% rise in milk production.

Output was driven by higher compound use that saw yields rise by 2%. The production increase is predicted to continue through 2019, with an expected rise of 0.7%, the report says.

As with other markets, the US-China trade battle has opened up potential export outlets for EU-produced dairy products.

Exports to China rose by 11% to account for one-quarter of the country’s dairy imports in 2018. Much of this (60%) was in whey powder shipments.

In 2019, further world import demand growth is expected and EU prices should remain stable as a result.

Read the report in full on the EU commission website (pdf).

JOURNAL : Farmers Weekly

Arla is holding its milk price for May at 30.23p/manufacturing litre, the fourth consecutive monthly hold for its 2,500 UK full co-op members.

This price is based on every other day collection of at least 1m litres of milk in the top quality band, at 4.2% butterfat and 3.4% protein. At a liquid base of 4% fat and 3.3% protein, it equates to 29.06p/litre.

The May price announcement also includes an unchanged organic milk price, at 41.98p/litre.

See also: Get your farming questions answered in Farmers Weekly's Business Clinic

The price hold is a challenge for other milk buyers as spring production ramps up and spot prices stand at just half the Arla price or even less.

Non-co-op milk buyers that have signed up to the dairy voluntary code of practice must announce their June milk prices by the end of this month

Overall, EU milk production is relatively stable and similar to last year, while GB production figures for the past three weeks show milk output running 4-5% higher than last year.

Farmer owner and Arla Foods amba board director Johnnie Russell said the organic market was experiencing pressure in some countries, but was overall stable.

“European markets are unusually quiet overall, with yellow cheese prices having reduced in the past month and butter prices remaining stable,” he said.

“We are now seeing a world commodity market where prices are higher than current European prices. This should be good news for export opportunities across our co-operative.”

INTL FCStone senior commodity analyst Peter Meehan said milk supplies were beginning to gain momentum across Europe.

EU-28 milk collections in February were unchanged on last year, which was their first month without a year-on-year decline since August.

“Higher milk fat and protein content pulled EU milk solid collections ahead of last year for the month by 0.2%,” said Mr Meehan.

Record milk production in the UK (+3.6%) coupled with strong numbers from Ireland (+2.5%), Poland (+4.0%) and Denmark (+2.0%) offset declines for France (-2.5%), the Netherlands (-1.8%) and Spain (-3.0%).

“Further afield, after a strong start to the New Zealand season, dry conditions resulted in its milk production posting a five-year low for March.

“Australian production was also sharply lower in February following a very challenging season for Australian dairy farmers.

“These supply concerns contributed to New Zealand’s GDT posting a record 10 events of gains in a row, having seen its last negative auction in November.

“European dairy exports, meanwhile, were somewhat mixed in February. SMP saw record volumes exported for the month (+24%) as did cheese (+6%). Exports of butter (-17%), infant milk formula (-8%) and whole milk powder (-34%), on the other hand, failed to keep pace with last year.

JOURNAL : Farmers Weekly

German agrochemicals giant Bayer has appealed against a US court’s decision to award US$78.5m (£61m) to a park worker who claimed using the company’s glyphosate weedkiller gave him cancer.

Last August, a court in California ordered Monsanto (since acquired by Bayer) to pay US$289m (£224m) in compensation to 46-year-old former groundskeeper Dewayne “Lee” Johnson, who was diagnosed with non-Hodgkin’s lymphoma in 2014 after years of spraying Roundup, the company’s best-selling herbicide.

In October, the court slashed the amount of money to be paid to Mr Johnson to US$78.5m, following an appeal by Bayer.

See also: Opinion – life without glyphosate is hard to contemplate

On Wednesday (24 April), Bayer asked a California appellate court to quash the award to Mr Johnson.

In a statement, the company said there was “no evidence” that its glyphosate-based weedkillers caused cancer. “Bayer stands behind these products and will continue to vigorously defend them,” the company said.

Bayer, which paid $63bn (£48bn) for Monsanto last year, said it would be pushing for a retrial if the decision was not overturned.

It said the judge had prevented jurors from hearing evidence during the trial from the US Environmental Protection Agency and foreign regulators which have concluded that glyphosate is safe and not carcinogenic when used according to the label.

13,400 glyphosate claims

Last month, a US court ordered Bayer to pay $80m (£62m) to retired Californian farmer Edwin Hardeman, 71, who claimed his exposure to the company’s herbicide caused his case of non-Hodgkin’s lymphoma.

Bayer is facing lawsuits from about 13,400 plaintiffs in connection with the use of glyphosate.

The company said: “Bayer continues to believe that it has meritorious defences and intends to defend itself vigorously in all of these lawsuits.”

JOURNAL : Farmers Weekly

Understanding the performance of a suckler herd is critical for making future decisions and setting targets to improve production and profitability.

One way of measuring this is through Key Performance Indicators (KPIs). These are numerical values that allow producers to set targets and measure against them to analyse business performance. Having a sound understanding of them can help beef farmers make better, more profitable decisions.

Below, farm consultant Rhidian Jones of RJ Livestock Systems, talks through some of the top three KPIs that suckler farmers who are new to recording and monitoring should assess. He also advises how farmers can ensure targets are being met.

See also: 5 minutes with Beef Farmer of the Year Andrew Laughton

1. Number of calves reared

Why:

The profitability of a suckler herd relies on producing a live, healthy calf. Therefore, the more calves reared, the more profitable the business should be.

How is it calculated?

Number of calves reared is calculated by dividing the number of calves weaned by the number of cows and heifers put to the bull, multiplied by 100.

Target:

Industry standards state a 94% target. However, this can be quite hard to achieve consistently year-on-year, so aiming for 90%-92% may be more realistic initial target.

If I’m not meeting the target, what can I do?

Go back and look at calving records. Have there been any previous fertility issues? Condition at bulling is really important, so think about whether this could be affecting things. Nutrition also has a big impact on fertility, so it is worth sitting down with your vet and nutritionist to discuss where things could potentially be going wrong.

2. Calving spread

Why:

A tight calving pattern highlights good fertility within the herd and – for those breeding their own replacements – gives more choice of earlier-born heifer replacements. These earlier-born offspring are more likely to reach bulling faster.

How is it calculated?

Calving spread is calculated by dividing the number of cows and heifers calved in the first three weeks by the number of cows and heifers put to bull, multiplied by 100.

Target:

Producers should be aiming for two thirds (65%) of cows to calve down in the first three weeks and a further 30% in the second cycle.

If I’m not meeting the target, what can I do?

If calving is spread over 20 weeks, it may be best initially to split the calving into two distinct blocks.

If it is 13-20 weeks then gradually shortening the bulling period can help to bring the calving spread under control as long as all other factors, such as cow condition, health and bull fertility, are favourable.

3. Cow efficiency

Why:

This is a relatively new measure that looks at weaned calf weight as a percentage of the dam. Monitoring via this KPI can help drill down into which are the most productive and profitable cows within the herd.

How is it calculated?

Cow efficiency is calculated by dividing the total weight of calf weaned (adjusted to 200 days) by the weight of cows that went to the bull, multiplied by 100.

Target:

There is no specific target for this, but anything approaching 50% is good – of course, the higher the percentage, the more profitable the cow is.

If I’m not meeting the target, what can I do?

Monitor calf growth up to weaning and also keep an eye on mature cow size to influence culling policy. Culling out any cattle that don’t meet a minimum target of efficiency will help to ensure the overall productivity of the herd.

4 top tips for getting started with KPIs

Implement a good, central record system

If you cannot measure, you cannot manage, so it is key to keep accurate records. A good starting place is to focus on bulling – keeping a record of heats and conceptions.

Weighing is also a useful avenue for data collection. If you’ve got the facilities, use them. When you’ve got really big beef cattle, you could easily find that estimates are as much as 100kg out.

Calving records are equally as important and should reference the cow ID, calving dates and any calving problems or other issues. Use the standard 1-6 calving score system to rank each birth, with one being no assistance and six being a caesarean.

Use the data to benchmark

There are lots of online platforms such as Farmbench, Measure to Manage and the Quality Meat Scotland measuring tools which can help farmers get started with simple benchmarking.

Doing this will not only help you to analyse your performance compared with the national herd, but also to compare your performance year-on-year.

Join a focus group

Wherever you are in the country, there will be a strategic network or monitor farm group that you can get involved in.

This will help you to compare within smaller peer groups and discuss ideas and practices which could help improve performance within your own business.

Pick out a few important KPIs to concentrate on

Knowing what to focus on and where to start can be overwhelming when it comes to selecting KPIs.

Use the areas of lesser performance highlighted through benchmarking to target specific issues, rather than trying to perfect every area of the business.

JOURNAL : Farmers Weekly

Farmers in mid Wales have joined forces for a major project to remove bracken and introduce grazing cattle on the Powys hills.

The three-year project aims to reintroduce cattle onto the commons and rebuild traditional stone walls.

It is also hoped that removing bracken will encourage wildlife and open up Welsh hills for walkers.

See also: Advice for farmers on multi-grazing hybrid brassicas

Bracken encroachment is a major problem on the 2,500ha of common land between Rhayader and Newbridge on Wye.

The uplands are managed by three grazing associations – Llanfihangel-bryn-Pabuan, Llysdinam and Llanwrthwl – who have applied for £695,000 of Welsh government and EU funding to tackle the issue after their Expression of Interest (EOI) stage was successful.

The application set out plans to use aerial spraying, bruising and weep wiping techniques to remove the bracken. Cattle would be reintroduced to help prevent the bracken returning by grazing.

Beef and sheep farmer Frances Gwillim, a non-active grazier, said that if the bid was successful, the benefits would extend much further than direct benefits to the graziers such as restoring wildlife habitats and employment creation.

“It will attract more people to the hills because access will be improved and tracks and walls repaired and, with improved habitats, more breeds of birds will nest there,” said Mrs Gwillim, of The Parc, Llanafan Fawr, near Builth Wells.

Bracken risks to sheep

There are plans to train people in new skills including stone walling and to develop a trial to investigate the hefting of hardy cattle onto the commons for habitat management.

Bracken control is vital as the invasive fern is a risk to sheep health, because it harbours ticks which infect flocks and cause illnesses such as louping ill and tick borne fever. It also threatens human health through Lyme disease.

By managing the bracken, the project will improve wildlife diversity by supporting several species including the golden plover, curlew and skylark.

JOURNAL : Farmers Weekly

Britain’s Fittest Farmer 2019 is being run by Farmers Weekly as a fun way of sparking a vital discussion about the physical health and mental wellbeing of the nation's farmers.

In February, we launched the competition by asking farmers from across the land to share how they keep themselves fit to farm and we were astounded by the number, variety and quality of submissions.

Among the 225 entries there were dairy farmworkers, arable growers, shearers, nutritionists, land agents, agronomists, shepherds, beef farmers, poultry unit workers and contractors.

See also: Farmer's son builds one of the best gyms in the world

Ages ranged from those in their early 20s to farmers in their 40s and 50s and even one applicant who is 69 years old.

We've had farmers from Cornwall right up to the Orkney Islands, and a particularly impressive number of Welsh.

Our judges had such a tough time whittling all these entries down to just 10 finalists, they agreed to invite seven men and seven women to the live final on 4 May.

The final

The day of friendly competition will put our finalists' all-round fitness to the test with a series of challenges set by farmer's son and personal trainer Tom Kemp at his Farm Fitness gym on his family farm.

"It's great to see a real mix of strong, functional all-rounders in this competition," says Tom, who is judging alongside Farmers Weekly's community editor Oli Hill.

"These finalists have some really impressive stories to tell and can all bring a lot of motivation for health and fitness within the farming community."

Meet our 14 Britain's Fittest Farmer finalists below.

The men

Toby Warner

Age: 24

Location: Pembrokeshire

About Toby:

Dairy farmworker Toby loves the physical and mental challenges of farming.

Originally from a beef farm in Wiltshire, he moved to a Pembrokeshire dairy farm at the age of 15 and discovered his love of dairying.

He's been a long-time gym-goer, but two years ago he started training for and competing in mixed martial arts (MMA), something he says has driven his fitness to the next level.

He also loves the social life that come with being a YFC member.

"I've always loved the gym and most sports and enjoy pushing myself to the limit, but I found I was instantly addicted to MMA," says Toby.

"I do a lot of grappling, sparring and intense fitness sessions, as well as lifting weights, and I love every minute of it."

Ed Freeman

Age: 49

Location: Essex

About Ed:

Arable farmer and contractor Ed has set himself the challenge of being as fit as possible ahead of his 50th birthday.

His fitness journey began three years ago when he took up cycling to lose some weight and ended up dropping 20kg.

Today he is part of a local running club and regularly takes part in road- and cross-country races.

He's so dedicated to exercise that he has been known to hit the gym at 5am to get some training in during the busy harvest time.

"I enjoy high-intensity sessions, gym work, running and cycling now and as I turn 50 in May, I’m quite sure I’m the fittest I’ve been my whole life," says Ed.

"My mental health has been greatly improved with my fitness. I find running before or after work greatly helps me unwind and relax – it’s my time to step away from the farm and think about other things.

"It’s easy to think there is no time to train during the busy periods of spring and harvest, but I have found making the time by training early or late has far outweighed the stress and tiredness of long days in the tractor seat."

Sean Cursiter

Age: 30

Location: Orkney Islands

About Sean:

Sean is working on his family's beef and sheep farm and also contract-shears about 12,000 sheep over the summer. He is proud to play rugby for Orkney's first team and keeps fit by training in his homemade gym in one of the barns on the farm.

"I am very aware of the mental stress that farming life creates, with the financial strain it causes, how unpredictable it can be, especially up in the north of Scotland, when winters are long and daylight hours are very short," he says.

"I have come to find that regular exercise – and in particular team sports – have helped to achieve mental resilience.

"I feel that with keeping my fitness at its peak, I have a lot more energy, I am more efficient and proactive."

Michael Osborne

Age: 27

Location: Isle of Mann

About Michael:

Michael farms at home and works for other farmers on the island.

To stay in shape he likes to start his day with an early morning jog and his evenings are spent either at the local boxing gym, training for amateur fights, or at rugby practice in preparation for his weekly Saturday match.

He also enjoys regularly participating in race meetings on his quad bike.

Michael has completed several 86-mile endurance walks and is gearing up for a 24-hour charity sheep-shearing event later this year.

"There is no health without mental health, and I love nothing more than testing my mental strength with additional fitness challenges," says Michael.

"Lone working on the farm can affect wellbeing, so challenging myself can only help to develop mental toughness and resilience."

Ed Clements

Age: 30

Location: Pembrokeshire

About Ed:

Dairy farmer Ed is known by his family and friends as "The Iron Farmer" because of his dedication to Ironman triathlon competitions.

When he's not milking the 200 cows on his family farm, he is focused on strength and conditioning training by lifting old tyres when sheeting the silage pit and knocking fence posts into the ground.

He works on his endurance by cycling, swimming and running twice a week.

"My favourite activity for unwinding after a long or stressful day on the farm is to head to the coast for a run," explains Ed. "For me it really does reduce the mental stress that can build up from the 24/7 farm, where we face constant mental and physical challenges.

"My diet is also very important in keeping me in shape. I need lots of protein after a big training session – a glass of my fresh cross-bred milk seems to do the trick."

Watch Ed's video entry below (music changed for copyright reasons).

Cameron Wilson

Age: 28

Location: Ayrshire

About Cameron:

Known locally as "Ayrshire's fittest shepherd", Cameron runs a flock of 700 sheep and does scanning and shearing for other farmers.

He enjoys competing in cross-country races and dabbles in Crossfit.

Not having much in the way of machinery on the farm means he does a lot of heavy lifting by hand and running to get from field to field.

"Running and working out is in itself is a great way to relieve stress," he says. "I am a firm believer that there is a direct link between physical fitness and mental health. I also have a lot of banter on Snapchat with other farmers.

"I am well known for my fitness and would love the opportunity to test that against other men and women around the UK."

Watch Cameron's amusing video entry below.

James Duerden

Age: 27

Location: Cumbria

About James:

James farms beef and sheep in the Lake District and loves all outdoor activities, including mountain biking and watersports. He's also an ex-professional rugby league player, and says the sport is his big stress release.

"Getting on the rugby field, you can completely sign out from work and I can focus all my attention on playing," he explains.

"Through rugby you create strong bonds with friends, as you have to work as a team, so we also socialise as a team.

"This means you have to have a very strong mental fortitude and when the chips are down and the odds are stacked against you, you have to keep going, no matter what."

The women

Claire Moreton

Age: 35

Location: Gloucestershire

About Claire:

Claire works on the family dairy farm rearing youngstock and helping her dad with the breeding of their British Friesians.

She stays fit by running up and down mountains carrying a weighted rucksack, riding horses and also teaches a spin class twice a week.

She has also competed in several SAS-style selection races. Having managed an eating disorder and depression for more than a decade, Claire loves getting stuck in with challenges.

"My mental health is highly important to me," says Claire. "This is why I seek out physical fitness activities that are social, so that I am always sharing the buzz from completing a challenge with others."

Watch Claire's video entry below.

Jemma Harding

Age: 39

Location: Dorset

About Jemma:

Jemma runs 400 ewes near the south coast and says working out in the gym is a great release for her stresses.

She makes time for five strength and conditioning sessions in the gym each week, which complements the physical work on the farm.

"I have suffered with post-traumatic stress disorder and mild depression after a serious road collision 10 years ago," she says.

"I find the gym is now my therapy – whatever I’ve been dealing with disappears as soon as I walk in. It also gets me off farm regularly and the group I train with are the most supportive, caring people I’ve ever met."

Watch Jemma in action below.

Vicky Willis

Age: 24

Location: Cheshire

About Vicky:

Vicky quit her job as an equine veterinary nurse to work on a 480-cow dairy farm. Doing all the morning jobs like milking and carrying bags of colostrum, she reckons she's burning about 1,000 calories before 10am.

She's a YFC member and plays hockey, netball and tug-of-war for her club. She also volunteers in the local gym and has hopes of becoming a personal trainer.

"Working on the farm has kept me really fit – it has made me a lot stronger than most girls," she says.

"I find the workouts in the gym make me fitter and stronger, and I use the same movements on the farm. Squats are useful to lift calves and protect my back, doing pull-ups to climb up onto a side in the parlour, for example.

"I want to show these hard-faced farmers that it’s okay to cry and be emotional – and, most importantly, it’s OK to talk."

Fiona Penfold

Age: 38

Location: Somerset

About Fiona:

Mum-of-two Fiona runs a Hereford cross Friesian beef suckler herd near Bristol.

She's a keen rugby player and enjoys travelling the country to take part in obstacle course races, qualifying for the world championships last year.

Fiona trains using typical farm objects and weights as her equipment and the hills around the farm are ideal for her sprint training.

"I train several times a week to be able to play rugby well and prepare me for the obstacle race season," she says.

"I have a positive mindset and healthy mind, but this is all dependent on my training. If I don't train, I'll find myself slipping into bad moods and depression.

"I suffered with bad mental health about 18 years ago for several years, so I know exercising is key to keeping it at bay."

Rhian Pierce

Age: 36

Location: Denbighshire

About Rhian:

A beef and sheep farmer from North Wales, Rhian also works part-time as an ***agricultural*** adviser for the RSPB.

She's been selected to run for Wales multiple times and also enjoys competing in triathlons. She's a dab-hand on the dance floor too, which also helps her keep fit.

"I love salsa and jive dancing and go once a month to social nights," she says. "Due to my petite size, I believe being strong enables me to farm efficiently, such as being able to catch and turn a sheep that weighs more than me during lambing."

Having suffered with both depression and an eating disorder in the past, she is continually striving to strengthen her mental fitness too.

"This comes through balancing my work-life ratio, ensuring I rest and sleep enough, socialise daily and am eating healthily," she adds.

Sarah Phillips

Age: 30

Location: Cornwall

About Sarah:

When farmer's daughter Sarah isn't working as a land agent, she spends all of her free time working on the family farm, helping to run the flock of pedigree Texel sheep.

She enjoys walks with her dogs, mountain biking, swimming and going to the gym to do a combination of weight and cardio fitness training.

She says any exercise – be it a long walk or an intense gym session – helps to improve her mood and unwind after a stressful day.

"Keeping fit and active keeps my mind healthy and an hour in the gym can lift my spirits no end," she says. "I also have two spaniels, so going out walking with them is great to keep on top of stress levels."

Cheryl Tanner

Age: 39

Location: West Glamorgan

About Cheryl:

Cheryl is a beef and sheep farmer from south Wales and also breeds and shows shire horses.

As a member of her local running club, she tackles a mix of track and off-road runs several times a week.

I am a member of my local running club and attend a track, hilly and tempo session every week I also try to get some long miles in when I have the time .

Last year I completed Snowdon marathon and a few 1/2marathons ,a couple of 10milers, 10k races and my first ultra marathon.

On my running nights off I attend my local gym to do some weight classes I also have a shire stallion to exercise every day. "

Last year she completed the Snowdon marathon, plus a number of half-marathons, shorter-distance races and  raced in her very first ultra-marathon – which is longer than the 26.2-mile distance covered in a standard marathon.

On nights off from running, Cheryl hits the gym to do some weight classes.

"I find that running is excellent for mental health," she says. "With the company of other people, you can forget about what's going on in your world, which can be quite lonely at times, and listen to others and what goes on in 'normal people's lives', as I call it."

"This also makes me appreciate life on the farm and be thankful that I'm not in the rat race that some people have to deal with every day."

JOURNAL : Farmers Weekly

British start-up firm Drone AG has launched a new app that automates crop-scouting drone flights.

The Skippy Scout can be used to check pest, weed and disease levels across a field without agronomists or farmers having to clock up loads of miles on foot.

Handily, the app will work with several off-the-shelf DJI drones, including the Mavic, Phantom 4, Inspire 2 and M200, some of which are available for little more than £500.

It’s currently only built to work on an Apple iPhone 6 or better, so Android users will have to wait a little longer for the software to be developed.

See also: How to avoid drone insurance and licensing pitfalls

To get it working, details about specific fields and target points of interest are entered on the smartphone, after which the drone sets off on its scouting mission.

High-resolution pictures are taken from just a few metres above the crop and the company estimates that it will cover roughly 2ha/min at a rate of two picture stops per hectare.

These are downloaded to the user’s smartphone as the drone flies and should provide far more detail that typical satellite images.

Algorithms are able to detect nutrient deficient leaves and calculate green area indexes across different patches of the field.

The app is also able to work out crop growth stages and, in time, will be able to identify specific weeds.

The service is subscription based with two pay-monthly pricing tiers – one for farmers that costs roughly £30 and another for agronomists that will be £50-£60.

JOURNAL : Farmers Weekly

A landmark Jaguar self-propelled forager recently rolled off the production line at Claas HQ in Harsewinkel, Germany – the 40,000th model since 1973.

The original SF60 that started the ball rolling back then is a world away from the milestone Jaguar 960, which has been given a striking paint job and features the firm’s Terra Trac unit bolted in place of the front wheels.

The German firm has also launched a new satellite-correction signal called Satcor, which is accurate to below 15cm. It supports both GPS and Glonass and is compatible with Class S7 and S10 terminals.

See also: High-hour horsepower: 26-year old Jaguar still going strong

JOURNAL : Farmers Weekly

The proposed merger between Sainsbury's and Asda has been blocked by the Competition and Markets Authority (CMA).

The move would have created Britain’s largest supermarket chain, with a 26% share of the groceries market.

See also:Competition watchdog ‘devastates’ Asda-Sainsbury’s merger

But the competition watchdog ruled consumer prices would rise and shoppers would have less choice.

In its final report after a year-long inquiry, the CMA added that competition, at both a national and local level, would have suffered had the merger gone ahead.

Speaking to the BBC’s Breakfast programme, CMA chairman Stuart McIntosh said: "[The merger] would reduce competition in supermarkets and online grocery shopping and at the companies' petrol stations.

"We think that is likely to lead to higher prices or other changes that would be unwelcome to shoppers, such as longer queues at checkouts."

Although Sainsbury’s has decided not to challenge the ruling, its chief executive officer Mike Coupe has rebuffed the findings.

Mr Coupe said consumer prices would have fallen and that the CMA had "effectively taken £1bn out of its customers' pockets".

He was referring to a pledge, made during inquiry, to introduce £1bn of price cuts for consumers if the deal went ahead.

Sainsbury’s and Asda also agreed to sell up to 150 supermarkets, some petrol stations and local stores to allow the merger to proceed.

"The conclusion that we would increase prices post-merger ignores the dynamic and highly competitive nature of the UK grocery market," Mr Coupe said.

But the CMA had dismissed the price cut claims saying promises were based on cost savings that were unlikely to be realised and any such moves would be too difficult to track.

The CMA’s block on the merger will come as a relief to farming groups, which feared price cuts would be passed down through the supply chain.

In its contribution to the inquiry, the NFU said: “Our members remain concerned that the proposed merger has the potential to negatively impact consumer choice, quality, product innovation and the profitability of SME businesses.”

The union added that NFU members had raised key concerns, including:

Consolidation and a substantive lessening of competition could affect consumer choice in the long term

The proposed merger could impact quality and innovation of products to market

Risk of anti-competitive behaviour

The proposed merger could impact to small and medium enterprise (SME) businesses

The Food and Drink Federation, which represents 7,000 food suppliers, voiced similar fears on “very serious concerns that the proposed merger would cause a substantial lessening of competition”.

Writing to the inquiry in February, the organisation said: “Buyer power continues to be a defining characteristic of the relationship between grocery retailers and their suppliers, and is the foundation of the Groceries Supply Code of Practice, which continues to play an important role in ensuring the fair treatment of suppliers to the UK’s major grocery retailers.”

JOURNAL : Farmers Weekly

The proposed merger of Asda and Sainsbury’s has been “devastated” by the Competition and Markets Authority (CMA), after it raised concerns about the effect on UK consumers and suppliers.

The CMA started a formal investigation into the implications of the plans in August 2018, four months after the news was first announced.

Farm leaders have stated the merger, which would create the biggest UK supermarket group in history with about a 26% share of the groceries market, would worsen the squeeze on suppliers and decrease their prices.

See also: Industry reacts to Asda-Sainsbury’s merger

In the report, released on Wednesday (20 February), the CMA looked into whether the merged company’s increased buyer power could result in reduced incentives or abilities to invest and innovate on the part of suppliers, or suppliers raising prices.

On the first concern, the watchdog found insufficient evidence to conclude this was likely to happen.

On the second, it found that suppliers did not expect to change their prices to rival retailers; a small loss of market share was unlikely to significantly increase procurement costs; and rival retailers were likely to reduce, rather than increase, their prices.

The investigation found that the deal could lead to a worse experience for in-store and online shoppers through higher prices, reductions in the range and quality of products offered, and a substantial lessening of competition at both a national and local level.

'CMA didn't buy it'

Patrick O’Brien, UK retail research director for data and analytics company GlobalData, said: “The CMA’s provisional findings on the proposed merger of ASDA and Sainsbury’s have devastated any prospect of the merger going ahead.

“The CMA has raised concerns about the tie-up in just about every conceivable way.

“It seems that the CMA didn’t buy the central strategy of the deal: that it would benefit consumers by using their combined might to negotiate down major suppliers and pass on much of the benefit to shoppers in reduced prices.”

The competition watchdog has set out options for addressing its concerns, which include blocking the deal or requiring the merging companies to sell off a number of stores and other assets.

However, the authority’s current view is that it is likely to be difficult for the companies to address the concerns.

Number of issues

A Food and Drink Federation spokesman said: “We are pleased to see that the CMA findings reflect the concerns of FDF members that the proposed merger would cause a substantial lessening of competition at both a national and local level.

“The CMA has correctly identified a number of issues with the proposed merger and with an ever-more consolidated grocery market.”

The CMA now welcomes responses from interested parties, including Asda and Sainsbury's suppliers, to its provisional findings by 13 March 2019 and to its notice of possible remedies by 6 March 2019.

The CMA’s final report will be issued by 30 April 2019.

JOURNAL : Farmers Weekly

Although last week’s rain has been very welcome for crops on lighter land suffering in the dry conditions, drought remains a concern in the South and East.

In the East, stress on winter cereals is becoming more evident on lighter, more drought-prone land, with winter oats suffering the most.

In the South West and North, rain has been more substantial, although winter barley crops have been so stressed in the north that the watering is unlikely to be enough to help them fully recover.

The rain will also increase the risk of disease, with rhynchosporium likely to kick off in the West if winter barley fungicides are delayed

West: Neil Potts

Matford Arable (Devon)

A more normal spring has helped to produce crops that are behaving and looking a lot more like they should compared with this time last year.

At the time of writing, the most forward winter barley crops are just beginning to show the tips of their awns through the flag leaf ligules.

A week of relatively wet weather and a fortnight since T1 applications were made means most of these crops will be due a T2 application sometime in early May.

See also: Rye grower reveals how he delivered impossible yield

There has been quite a bit of abiotic spotting this spring, particularly in the variety Cassia. With the recent wet week we can expect rhynchosporium to kick off again in crops if treatments are delayed.

Winter wheat crops are quite variable in their development, mostly reflecting drilling date. Some earlier planted crops in favourable sites now have the flag leaf tip just visible, meaning that growth stage 39 is likely to be reached a little earlier than is the norm.

Later drilled crops on colder or heavier sites, however, have only really just reached GS32, but these crops had final leaf three emerging at GS31, indicating that they have dropped a leaf in their development.

With a lot of wind through this spring there have been quite a lot of incidences of leaf tipping, which has given the affected crops an untidy appearance until the new leaf has got up above the damage.

Yellow rust has reared its ugly head in early planted, susceptible varieties this spring, but these crops have responded well to treatment and the infections have dried up rapidly.

With most oilseed rape crops over half way through flowering, the management of this crop is nearly all over. Crop structures and canopies are, on the whole, as good as they have been for several seasons so one might reasonably expect crop performance to be good.

I have, however, learned over the years that nothing can be taken as a given with this crop, and right up to the point of combining it will be impossible to accurately predict yields.

Spring barley crops are establishing well, but with a wide range of drilling dates, from late February through to late April after forage brassicas.

With one week of wet weather on them, many spring barley crops have already had more rain than they had for the whole growing season last year, so it will not be unreasonable to expect a better performance  this season.

North: David Martindale

Arable Alliance (Yorkshire)

Some much-needed rain finally fell last week, to the relief of everyone. Winter cereals on light land and thin soils were really struggling after a prolonged spell of dry weather.

The drought stress symptoms on winter barley in particular have been so severe that in some cases the recent rains are unlikely to be enough to help them fully recover. Poor nitrogen uptake has affected all winter cereals which has also exacerbated the problem.

In contrast spring-sown crops have suffered less in the dry conditions, but nonetheless have improved since last week’s rain.

T1 fungicides are being applied to winter wheat. With the range of disease resistance ratings in wheat varieties wider than ever, the level of fungicide input required has varied enormously.

The most susceptible varieties have had twice the level of fungicide spend compared with more disease-resistant varieties, so it really is worth using this genetic disease resistance by selecting more disease resistant varieties.

This will become more important looking ahead due to declining fungicide availability and efficacy.

Annual broad-leaved weeds such as charlock, cleavers and fat hen have also been controlled at the T1 timing.

However, there is a niggling suspicion that last week’s rain might cause a late flush of weeds, particularly in more open canopies.

Yellow rust has largely been kept under control from the T0 fungicides, but some mildew has begun to creep in at the base of wheat stems where crops are dense.

Winter barley canopies vary hugely, from those on sand soils where they are very open and thin to hybrid varieties on heavy soil types which have received organic manures – where the crops are difficult to walk through.

As a consequence, the late season plant growth regulator requirements have varied considerably.

Many crops have not required any further growth regulation and where they have been warranted the rates have been lowered compared with previous years.

T2 fungicide timing is approaching in winter barley and chlorothalonil will be part of the mix to prevent ramularia.

Oilseed crops are flowering and sclerotinia fungicides have been applied. In some cases, the crop does not seem able to reach full flower as the previous effects of cabbage stem flea beetle damage have meant more compensatory branching, which means flowering is going to be over a longer period.

Pod set on the main racemes has been variable as when these first flowers were open there were some frosts which appear to have affected early pod formation.

Spring barley crops look well and will soon be receiving their T1 fungicide. Weed emergence has been staggered due to the prolonged dry weather so herbicide timings have been delayed to account for this.

South: Tod Hunnisett

AICC (Sussex)

The talk of the moment has moved away from oilseed rape viability, Brexit and Chris Packham and moved on to the drought.

In our immediate vicinity, we have barely had enough rain to wet the concrete for well over a month. “It all needs a good drink” is currently the most popular phrase heard.

Having said that, the dry winter, the good establishment for both spring and winter crops and a mild February have allowed the crops to get a decent rooting system, and they are not suffering as much as they might be.

If the dry weather continues, it might give us the opportunity to pull back on septoria-aimed fungicide strategies, but we’ll still have to be wary of the rust risk, especially with varieties like Crusoe.

My fear is that we’ll go from a long period of dry to a long period of wet which means we may be fighting both. Memories of 2007 and 2012 come to mind probably best not to think about that right now!

Once again, oilseed rape has displayed remarkable tenacity. Yes, there are some crops that are not worth spending any more money on, but there is a lot more yellow about than I was expecting to see a month ago.

The results of this year’s harvest will bring about many discussions on its general future and, if we stick with it, what husbandry we will be attempting to make it work.

My unscientific, anecdotal observation is that the whole countryside seems to be about two to three weeks earlier this year than the last couple of years.

I wonder if that means sprayer operators will get the chance to sneak in a last-minute holiday in July? Probably not – something will come along to keep them busy.

East: Ben Pledger

Farmacy (Bedfordshire/Hertfordshire)

Crops on lighter land around here really did not like the Easter bank holiday weekend’s temperatures. Stress on winter cereals is becoming more evident on lighter, more drought-prone land.

The crops showing the most stress are winter oats. In places these are now nearly completely brown with stress induced leaf spot, with variances in stress levels easily identified by soil type.

Some spring drilled crops are also flagging to different degrees, with the least affected being ones where seed-beds were prepared over winter or in direct drill situations where moisture was conserved.

This year, more so than in the recent past, getting sugar beet up and away is a top priority with regard to getting it to a stage where it will harden to infection from virus yellows. Most of my beet is between cotyledon stage and four true leaves.

With the first reports of peach-potato aphid (myzus persicae) being found in crops, thoughts now turn to application of insecticide to take these out. Fortunately, thiacloprid has been granted an emergency approval for two applications in sugar beet this season, so the armoury has been widened from the single application of flonicamid.

Thinking about label restrictions, the first application to the crops if needed will be thiacloprid. Looking at all pesticide applications to beet this year, tank mixing and application intervals will need carefully thought to reach the desired outcome without unduly stressing the crop.

Depending mainly on drilling date, T1 fungicide applications have been or are about to be applied to wheat crops. Although conditions have been conducive for a low septoria season, the disease is still present in the base of a fair number of crops.

With leaf five now rubbing on leaf three, rapid ***transfer*** of this disease up the plant is possible, especially if the weather becomes unsettled and we get some rain, or even heavy dews.

SDHI fungicides are still being considered in these situations, especially as it will bring an element of drought tolerance to the crops as well.

JOURNAL : Farmers Weekly

Cull ewe prices look set to ease slightly in May after a strong April, say auctioneers.

A seasonal lift in averages has been helped by early spring grass that has added condition to cull sheep, with early-lambing units now having flock clearouts.

Average GB cull ewe prices have lifted £15 a head since February to £72, in line with seasonal trends.

But auctioneers say prices could be restrained through May during Ramadan, the Islamic month of fasting, ending with Eid al-Fitr on 4 June.

See also: Video: Guide to selecting lambs for slaughter and minimising losses

Longtown

A strong entry of 3,355 cast ewes and rams met a firm trade at Longtown last week (25 April), with light ewes averaging £61.39 and heavies averaging £92.99.

Sheep auctioneer Nick Woodmass, C and D Auction Marts, is seeing a much larger proportion of lowland sheep coming through the ring and noting a tightening in supply of leaner hill-bred ewes.

He said the lighter-weight hill ewes, typically having carcasses of 20-25kg, are the most sought after, although Texel-cross ewes at 30-40kg are still a good trade.

“Breeds like Cheviots, Blackfaces and Swaledales look the dearest and there are a lot of firms looking for the smaller carcasses,” he added.

Light sheep averages have lifted by £10 a head over the past two months, with heavy sheep averages up £5-£10 a head.

He added that numbers are relatively tight at Longtown, and peaked at more than 9,000 head late last summer.

St Asaph and Oswestry

Sheep trade has strengthened over the past month at Oswestry and St Asaph’s cull ewe rings, according to auctioneer Wyn Morton.

Early-lambing flocks across the Vale of Clwyd are now culling out after December/January lambing to produce some of the biggest entries of the year.

St Asaph’s cull ewe ring saw 1,541 head average £67 on Thursday (25 April).

The past six weeks have seen 800-900 head a week sold through Oswestry. Last week (24 April), an entry of 871 ewes and rams hit an average of £64 (+£6 on the week).

“Strongest demand is on good, lean ewes – there is a shortage of them,” said Mr Morton. “Buyers aren’t keen on anything too fat.”

He added that supply often rises to meet demand in April, but Islamic fasting through Ramadan could put a little downward pressure on cull sheep values unless numbers tightened.

JOURNAL : Farmers Weekly

A dairy farmer’s son who was disinherited after a “personality clash” with his father has won a £2.7m slice of the family land and business.

Andrew Guest, 52, started working on Tump Farm, in Sedbury, Monmouthshire, straight after leaving school aged 16. He worked there for 30 years, but a dramatic falling out with his father, David, saw him cut out of the will in favour of his younger brother.

See also: How to make a pre-nuptial agreement smooth and secure

Now, a High Court judge has intervened, ordering David Guest to hand his oldest son almost half the farm and dairy business, valued at more than £6.2m.

Judge Jonathan Russen QC said Andrew had spent the best years of his life working on the farm for “little financial reward” and did not deserve to be cut off without a penny.

David changed his will last year, removing Andrew and leaving the farm to his younger son, Ross, 40, the court heard.

In a letter attached to the will, the father said he had “lost all trust” in Andrew and that he had “never promised” him any sort of inheritance.

Son given ‘assurances’

However, the judge ruled David had given Andrew “assurances” that, if he worked hard, he would inherit a substantial share of the farm.

Andrew began working on the farm in 1982 and told the court he worked up to 60 hours a week for little pay. But his parents said he had been given a job, a rent-free home and “pay and perks” for more than 30 years.

David said Andrew had been working on the farm “for the benefit of the family”.

The couple’s lawyers argued Andrew “had his chance and blew it” and they were entitled to leave the farm to whoever they wished.

They were backed up in court by Ross and their daughter, Jan, who even accused Andrew of “filching £5 from their aunt Sally” when he was aged 12.

But the judge said Andrew had “stuck with it for over three decades” even though his relationship with his father “was not the easiest”.

“He would not have done so had David not encouraged the idea of an inheritance,” added the judge.

Family ‘fallen out’

The judge said Andrew and his parents had “fallen out so badly” it would be impossible for him and his wife, Tracey, to move back to Tump Farm. They have now moved to the Tewkesbury area, where he works as a senior herdsman.

The “level of mistrust” between them meant he could not continue farming alongside his father and brother and the only option was a financial “clean break”.

Judge Russen awarded Andrew 50% of the value of the dairy business and 40% of the freehold value of the land and buildings.

The judge observed: “It will probably be necessary for the parents to sell Tump Farm, or a substantial part of it.”

JOURNAL : Farmers Weekly

In our latest round-up of everything from the world of dealers and franchises, there have been a few notable sales agreements and acquisitions by well-known brands.

Ripon Farm Services

Established machinery dealer Ripon Farm Services is due to expand following the purchase of neighbouring John Deere dealer RBM ***Agricultural***.

The two companies will merge and trade as Ripon Farm Services, with all 84 staff of RBM being retained. The merger will give Ripon a presence in Lincolnshire and Nottinghamshire.

See also: On test: Valtra's a104 Hitech4

Allflex

Fabdec has been appointed as the main dealer for Allflex’s automated milking parlours and SenseHub livestock monitoring systems. Shropshire-based Fabdec will provide sales, installation and support throughout a UK network of sub-dealers.

Kubota

Staffordshire-based JA Bloor Agri Services has been added to Kubota’s growing dealer network.

Covering Staffordshire, Derbyshire and the surrounding area, the dealership will take on the sub-50hp tractors along with Kubota’s larger M-series and RTV range.

Bobcat

Loader specialist Bobcat has appointed Grays Machinery, based in Beadle, as its new dealer for North and West Yorkshire. It will be responsible for the sales and service of skid-steers and compact loaders, mini excavators and telehandlers/attachments.

Further south, AMS Bobcat based in Scunthorpe has had its area extended to include South Yorkshire, alongside its current stomping grounds of Lincolnshire and the east of Yorkshire.

Agrifac takes on Hardi

On 1 March Agrifac's UK sales arm took over the business of Hardi UK, with both brands owned by parent company EXEL Industries Group.

The two firms will continue to trade separately, with Agrifac providing local support – consisting of sales, marketing, service, parts, finance and administration – for Hardi machines.

Spare part support will be taken care of by Hardi North until June to avoid any glitches in the supply chain.

Massey Ferguson

Agco brand Massey Ferguson is celebrating the 125-year anniversary of it longest-serving machinery dealer, Peacock and Binnington.

Based in Brigg, north Lincolnshire, it sells the full line-up of MF machines and is one of the brand’s top four sellers in the UK.

To celebrate, Massey will be building 125 individually numbered limited-edition tractors with anniversary badges and black bonnets, exclusively available to Peacock and Binnington customers. The dealership has also produced a gold-coloured 7726S as a flagship for the year of celebrations.

Opico

South-west dealer C&O Tractors has expanded its Opico range with the addition of He-Va cultivation kit and Sky drills, available to its customers across Dorset, Wiltshire, West Sussex, Hampshire and the Isle of Wight.

Kverneland

The decision by R Hunt ***Agricultural*** Engineers to cut ties with KV kit has meant that C&O Tractors will now sell the implements from more of its depots covering the vacant area.

Products will continue to be sold through its Funtington, West Sussex depot, in addition to them now being available at its Newport, Isle of Wight and Wilton, Salisbury branches, too.

JOURNAL : Farmers Weekly

Sheep industry leaders have expressed their frustration after the UK government confirmed it will not be introducing a change to sheep ageing rules this season.

The National Sheep Association (NSA) said it was disappointed to receive confirmation from Defra, and devolved administrations, that the change from toothing to a ***calendar*** date in the carcass splitting decision for transmissible spongiform encephalopathy (TSE) controls, has now been officially delayed and will not take place this season.

See also: Sheep industry to save £24m after carcass-splitting rule change

The ageing issue is hugely important to sheep producers because carcasses of sheep which are regarded as 12 months or over are subject to splitting, which can bring a significant reduction in the price paid to the farmer or crofter.

Checking for tooth eruption has cost the UK sheep industry some £24m a year in time and reduced value, the NSA says.

Chief executive Phil Stocker said: “There will be some farmers out there who have bought lambs and fed them with the expectation of the move to the 30 June date, and the only silver lining is that people now know what they are working with for the remainder of this season and any uncertainty is now past.”

NSA is pushing Defra and the Food Standards Agency for a timetable to ensure this change is properly worked on, with the aim of finalising the policy by late summer before the 2019 store lamb sales.

NFUS 'pushing for change'

NFU Scotland said it understands that Scottish government has put draft legislation in place, that would allow a move to a fixed date on which to base age that can be quickly put in place if required. The union says it’s also pushing for the change to be introduced for next season.

NFUS livestock committee chairman, Jimmy Ireland said: “Farmers and crofters in Scotland want to move away from the practice of checking teeth to a system which provides greater certainty for those marketing lambs.

“While the change has been delayed, NFU Scotland will be seeking an agreement on how to administer a change, so that it can be implemented as soon as reasonably possible.”

JOURNAL : Farmers Weekly

Farmers in England looking to unlock cash for major investments or retirement are likely to benefit from proposals in the forthcoming ***Agriculture*** Bill, which is currently making its way through Parliament.

The Bill, which will be the beginning of British ***agricultural*** policy replacing the European Common ***Agricultural*** Policy, will also pave the way for the replacement to the Basic Payment Scheme (BPS), called the Environmental Land Management Scheme (ELMS).

It is expected that Wales, Scotland and Northern Ireland will implement similar schemes under their own devolved powers.

See also: Outlook 2019: Farm policy and support payments

The transition from BPS to ELMS is expected to begin in 2021 and complete by 2027, with BPS payments gradually reduced year-on-year and environmental payments increased.

However, the Bill also makes provision for farmers to have the opportunity to take the payments from multiple future years as a single lump sum.

With the Bill not yet enacted in law, much of how this will be administered remains unclear, but George Chichester, director in the farming department at Strutt & Parker, says this could be worth a payment of about £750/ha for a farm not in a severely disadvantaged area.

He said: “Some might decide to choose to take the capital sum and use it to fund improvements in their business.

“Others could decide to cease farming altogether and plough their money in to their pension or use it to reduce debt.”

However, he stressed that the government had not yet given any detail of how the payment would work or its likely value and said until more information was provided farmers would not be able to accurately decide if taking the cash as a capital sum was the right idea.

Mr Chichester said there were at least seven more questions which needed to be answered before farmers could make an informed decision on whether the lump-sum payment was right for their business:

The tax implications of taking the sum

Whether it would be treated as capital, income or taxed as a premium

If the payment amount would be capped at a certain level

The eligibility date for the sum

Whether it would be based on historic claims or on a future date

What would happen to farm sales spanning the period between the date when the eligibility was crystallised and the date on which the payment was made

The implications for landlords if the tenant took the capital sum and retired

How far is the ***Agriculture*** Bill away from becoming law?

The Bill has passed through the majority of the scrutiny it will receive from the House of Commons but still has to go to the House of Lords.

They are likely to then make changes, which will have to be ratified by the Commons or amended.

Once both houses have reached agreement, it can then receive royal assent and pass into law. The progress of the Bill can be tracked on the Parliament website.

However, the progress of the Bill has been halted by the failure of the Government to pass a Brexit withdrawal agreement.

Tom Bartosak-Harlow, director of external affairs with the CLA, said: “MPs last debated the ***Agriculture*** Bill almost three months ago, but it has been firmly stuck in the Brexit logjam since then.

"It is not alone, with all Brexit legislation effectively on indefinite hold until the Prime Minister has secured agreement amongst MPs for a withdrawal agreement from the EU.

He said the deadlock showed no sign of being broken soon and it could be several weeks before the Bill returned for further debate.

"However, as soon as an agreement is reached we can expect the Bill to return very quickly,” Mr Bartosak-Harlow said.

JOURNAL : Farmers Weekly

Supply of arable land remains tight across the UK with farmers holding onto their assets amid the uncertainty of Brexit and the future of subsidies, agents have said.

Buyers are still keen for good-quality land, particularly in the right location, and investors with rollover money from development are pushing up prices.

More farmland is expected to come onto the market over the next few months, after a slow start to the year, but no big changes in supply, demand or prices are predicted in 2019.

See also: Unique Lincs farm company sale includes tenancy ‘forever’

Though the market tends to be quiet at the beginning of the year, with most sellers preferring to launch properties in the spring, the first quarter of 2019 saw just 10,400 acres publicly marketed across Great Britain, according to Savills.

This was the lowest acreage recorded since the agent’s analysis began in 1995.

“There are some good buyers out there getting increasingly frustrated by the lack of stock to look at,” says Alex Lawson, director of national farms and estates.

“We are preparing a number of properties for sale now and it will be interesting to see how they fare.

“Farms are both businesses and homes, so the head and heart are involved in sales decisions. People are getting fed up of putting their lives on hold for the Brexit process.”

Depending on location, prime arable values have remained stable at about £7,500-£8,500/acre.

Key investors

Grade 2 combinable crop land in mid-Anglia is still achieving on average £8,000-£8,500/acre, though smaller blocks can see prices 10-15% lower, says Simon Gooderham at Cheffins.

Overseas investors and rollover buyers are supporting the market for larger blocks of land, while parcels smaller than 200 acres are seeing more interest from local farmers.

“Values are fairly stable and supply is tight. My prediction is that this will continue throughout the year,” Mr Gooderham says.

In the East Midlands, Bletsoes has sold arable land between £6,300 and £10,500/acre, depending on demand and buyer type, with the average reaching about £8,000-£9,000/acre.

Fierce competition

Since autumn 2018, Woolley & Wallis – covering Wiltshire, Hampshire, Dorset and the New Forest – has seen prices decrease from £10,000-£12,000/acre to £9,500/acre for larger blocks, or less for smaller parcels.

“This is by no means the collapse some had forecast,” says Richard Nocton. “There is an abundance of available cash funds chasing too few farms, and supply is likely to remain tight. Competition from rollover buyers can be fierce as opportunities remain few and far between.”

The open land market will remain slow, but “off-market” deals could see strong prices paid in certain hotspots, he said.

Healthy appetite

Prices for arable land range from £6,000-£15,000/acre in Yorkshire, depending on its quality and location, says Tom Watson of Cundalls.

“There is still a healthy appetite for the right land, which continues to make good money,” he says.

“Supply is low because those people thinking of retiring and cashing in have already done it and others are sitting back and waiting to see what happens with Brexit and subsidies.”

What’s on the market?

Gloucestershire estate

Westbury Farm Estate, near Cheltenham, is for sale for £11.5m as a whole or in two lots with Savills.

It has 1,122 acres, including Grade 3 arable land and woodland, and sporting potential.

The unit includes six residential dwellings and a range of farm buildings, as well as grain storage.

Shropshire farm

Halls is selling 317-acre Rodenhurst Hall, near Shrewsbury, for £5.5m.

It comes with a six-bedroom farmhouse and Rodenhurst Business Park, a 59,000sq ft area of buildings currently let for commercial use, with the potential to generate gross income of £211,000/year.

The farm has supported pigs, beef, sheep and arable crops – including potatoes – on Grade 2 land.

JOURNAL : Farmers Weekly

Potato and root crop specialist DeWulf has launched what it claims is the world’s first three-row mounted belt planter.

It is a variation on the firm’s Structural 30 trailed planters – the latest version was launched in late 2017 – and uses an ultrasonic sensor to provide automatic depth control unaffected by undulations and adjustable from the control box in the cab.

Being mounted means the three-row planter is more manoeuvrable than its trailed counterparts, making end-of-row turns easier and giving growers the option of reducing headland sizes.

See also: Video: Potato planting races ahead in the Suffolk sunshine

It retains many of the trailed model's features, including the Wave Belt concept with its undulating bed to make planting of steep slopes simpler.

A working speed of 12kph is possible, says DeWulf.

Prices start from 50,000 (£42,850).

JOURNAL : Farmers Weekly

Work is underway to create a comprehensive digital map of all underground pipes and cables, to reduce the risk of them being struck by mistake during construction work and farming operations.

The government’s Geospatial Commission says the Underground Assets Register will show where all electricity and phone cables, and gas and water pipes are buried.

Although different organisations have their own maps, there is no single source of utility pipes which creates an increased risk of potentially lethal accidents and can slow development projects.

See also: Farm fined £22,000 after worker ruptures gas pipe

It is estimated that accidental strikes of underground pipes cost the economy £1.2bn/yr, with tens of thousands of incidents happening each year.

Mapping work to test the feasibility of the project will start with two pilots – one in London and one in north east England.

If the pilots are successful, the idea is to create a UK-wide map that workers will be able to check on a mobile phone or laptop before they start work.

A government spokesperson said the map would not be publicly available for national security reasons.

However, the people behind the map would be working closely with the farming community in the development of the programme, as they were aware than landowners were key stakeholders.

JOURNAL : Farmers Weekly

The RSPB and a number of other environmental groups have resigned from the government’s pesticides forum, claiming voluntary efforts to reduce the use of chemicals in ***agriculture*** are failing to deliver.

The charity, along with the Wildlife and Countryside Link and the Pesticide Action Network (PAN) UK, have written to Defra to announce their formal resignation from the Pesticides Forum and the Voluntary Initiative (VI).

The two groups were established by the government in the 1990s in a bid to reduce the environmental damage caused by pesticides.

See also: Video – grower reacts to planned ban on chlorothalonil

But the RSPB says the use of pesticides has risen from 45 million ha back then to 70 million ha today.

In a letter sent to Defra secretary Michael Gove, they state: “We have participated in these industry and government led groups for two decades to encourage them to take meaningful action to reduce the impacts of pesticides.

“However, they have consistently demonstrated a lack of balance and, importantly, have failed to support those farmers who are leading the way by reducing their reliance on pesticides.

“Meanwhile, the area of UK land being treated with pesticides has risen by more than half since 1990, the average number of times key crops are treated has increased, as has the toxicity of the chemicals being used.”

Vital pesticides banned

The groups say that in light of recent evidence about the impacts of pesticides on the natural environment, they can “no longer stand by”, claiming the two government initiatives “bolster the positions of vested interests”.

In a recent survey, 78% of people said they wanted the government to provide more support to farmers who are working hard to reduce their pesticide use.

In the letter, the groups praise the government for supporting EU restrictions on the use of neoncotinoid pesticides, which have been linked to a decline in bee colonies and banning metaldehyde slug pellets.

In contrast, both decisions have deeply disappointed farming organisations, including the NFU, and farmers, who are very concerned that they are losing vital crop protection products.

IPM techniques

The RSPB and green groups have called for the voluntary pesticides bodies to be replaced with mandatory measures which would actively discourage pesticide use and support farmers who adopt non-chemical alternatives.

They say other steps should include:

Increased support for research into Integrated Pest Management (IPM) and better support for farmers to adopt IPM and organic techniques, for example through the Environmental Land Management scheme.

A pesticide-use reduction target alongside an improved monitoring system which measures the impact of pesticide use on human health, the environment and wildlife.

A consultation on the introduction of a pesticide tax to drive more sustainable use of pesticides and reinvest revenue in sustainable ***agriculture***.

The Wildlife and Countryside Link is the largest environment and wildlife coalition, reprenting bodies including the Wildlife Trusts, Rewilding Britain, Friends of the Earth and the National Trust.

JOURNAL : Farmers Weekly

After frosty mornings and no rain, all our crops have had a stuttering start to their growing season.

T0s consisted of the dependable and relatively cheap chlorothalonil (CTL) with a trace element mix.

Oilseed rape and barley have had their final nitrogen applications, but wheat will get another dose (four-way split).

See also: How to grow septoria-resistant wheat in the West

Wheat T1s were Keystone (isopyrazam and epoxiconazole) and CTL as well as chlormequat plant growth regulator.

Just what will replace CTL when the controversial EU revocation comes into effect remains to be seen.

Dirty versus 'green'

With this situation in mind, are so-called “green” varieties a way of reducing our dependency on fungicides?

How reliable are the scores of six, seven or even eight for septoria resistance? What yield penalty will be traded off?

“Dirty” high-yielders seem to have the best response from fungicides. So as long as you keep on top of them, are they still the sustainable way to get a barn full?

I was fortunate enough to take part recently in a webinar back at my old college, Askham Bryan near York, with Dr Sarah Kendal of Adas.

It was quite a whirlwind as we responded to questions from all and sundry. Although the main thread was about the YEN, we might have rambled far and wide without clear direction from Dr Emily Pope of the AHDB.

It was certainly enjoyable to be a participant; I hope the audience felt the same!

Training

Recently I had to take my PA6 knapsack sprayer certificate to pacify the farm assurance brigade.

I was surprised how much I learnt about the humble sprayer that we’ve all being using for years, incorrectly it seems.

It was also enlightening to realise how many different types of users, including gamekeepers, caravan site managers and local authorities, need the training.

And it was good to see a wide range of environmental issues covered.

Spring always signals the start of new life, so it is great to report the arrival of our second grandson in early April. Mother and Oliver Henry are doing fine.

Thanks for all the kind messages. I’m not sure if his big brother knows quite what has happened yet!

JOURNAL : Farmers Weekly

We have recently received some good rain on my piece of Africa. We have had an extremely dry season so I am very grateful for it, albeit a bit late for the summer crop.

The winter cover crop that I aerially seeded over the maize is looking good thanks to both the rain and short maize plants, which are allowing good sunlight in.

Farming in South Africa has its challenges. Apart from the weather, we also have to deal with a corrupt and incompetent government.

See also: The secret to Norfolk farm’s record-breaking sugar beet yield

The reality of this incompetence was reinforced this last week with the implementation of "load shedding".

Load shedding is a fancy term for rolling blackouts. South Africa essentially has one electricity supply company, Eskom.

A state-owned monopoly is a recipe for disaster, especially in a country where there is a temptation to dip into the cookie jar.

Quite honestly, I think that the politicians and their connections have been so peckish that all of the cookies are long gone together with the jar.

Eskom has an installed generating capacity of 46GW. At the moment, the country only uses about 27GW.

Not meeting demand

From these numbers there is huge surplus capacity in the system, but thanks to corruption and poor management, the demand cannot be met.

The latest excuse is that the cyclone in Mozambique blew over a transmission line from a hydro-electric dam there, but this only accounts for 1.1GW and Eskom is load-shedding 4GW. The numbers don’t add up.

Lately I have had three power cuts per day – two-and-a-half hours each time.

This adds up to almost one-third of the day lost, which has serious implications to pumping water for cattle.

It has been hot lately so I have had to install bigger pumps to keep the cattle watered.

We are having a national election in six weeks’ time. The ruling party, Nelson Mandela’s ANC, currently enjoys 62% support.

One would expect its power to be cut every time the Eskom power is cut, but I wouldn’t hold my breath.

JOURNAL : Farmers Weekly

Following a weekend of the most driving, torrential rain we have ever experienced, spring has finally sprung and a collective Hallelujah can be sent up.

An astounding 129mm of rain fell in a 48-hour period and we were genuinely concerned that it might never stop.

I recently heard that rainfall has increased 5% as a result of our changing climate and I felt every bit of Mother Nature’s fury last weekend.

The rain has been replaced by sunshine, and with 19C and more over Easter weekend, we have seen another tilt on the climate spectrum.

We all have to shoulder the challenge of climate change and reversing it will require collective action from every single individual, be it farmer, teacher, parent or politician.

See also: What is the ideal DM to milk solids ratio to survive price volatility?

Spring calving finished on 1 April after a busy 10-week period that kept the biggest surprise to last.

About 10 months ago we let off the newly purchased two-year-old Hereford bull with the milking herd to serve any late repeats.

His name was Günter, so called by the au pair from Stuttgart who was living with us at the time. As a back-up we sent in a 15-month-old Jersey cross homebred bull – effectively an enthusiastic teenager.

Unfortunately the renowned German efficiency never materialised as not a single Hereford calf arrived. However, the teenager seems to be a fertile guy alright.

There is a slight concern now, with the Hereford lined up for a bit of light work at the end of the breeding season, and we might have to trial him with a couple of cows over the next few days to see how many go in-calf.

The stark reality is that good looks don’t always deliver.

The herd are really motoring this year with a low replacement rate of 20% allowing the powerhouse of mature cows to shine.

Milking once a day, the herd is producing 1.91kg of milk solids per cow at 4.78% butterfat and 3.82% protein and we are incredibly happy with how the cows have transitioned since calving.

Being paid based on milk solids resulted in a March milk price of 38c/litre, which equates to 33p/litre in sterling.

Gillian O’Sullivan is a dairy farmer from southern Ireland Read more.

JOURNAL : Farmers Weekly

Orkney has a reputation for changeable weather, and people say it can have four seasons in one day.

This can be frustrating at some times of the year but when the weather changes quickly for the better, we don’t complain.

On 3 April we woke up to strong northerly winds and driving rain which made it one of the worst days of the whole winter. A week later and it was all forgotten.

A few days of good drying weather and the county came alive with muck spreaders, ploughs and seeders.

Three weeks later we are wanting rain again, now that sowing is done. Thankfully, we did have some recently.

See also: Five top tips for compact calving

Last year our spring barley was damaged badly by grub (leatherjackets). It was obvious they did the most damage in the parts of the field which had the least compaction.

It was my own fault for power harrowing too deeply and leaving the seed bed too soft. This year I rolled the ploughing land before power harrowing, and rolled again soon after the seeder.

Time will tell whether that is enough to keep the leatherjackets from doing too much damage.

Calving has just finished today. Other than one weekend when the tractor broke down, two calves died, a caesarean was required and a cow was down with phosphorus deficiency, things were reasonably straightforward.

From an early age I always had an interest in keeping records of my Dad’s cows, and this has only got worse with my own. So this is 2019 calving at Millburn:

The bulls were in for eight to nine weeks. The cows scanned at 95% and have finished the calving at 93%.

Of these, 66% calved in the first three weeks, 29% in weeks four to six and 5% in the last three weeks, and they have an average calving interval of 365 days.

Furthermore, 88% of the cows calved unassisted and 84% of the calves found the udder by themselves.

Thankfully, the calves have been lively and it is mostly older cows with bigger udders which required assistance. Either that or it was me giving the calf a wee help so I could get to bed.

Steven Sandison farms Simmental and Salers cattle on Orkney, read his bio

JOURNAL : Farmers Weekly

As farmers we are sometimes over-defensive of our own particular production systems and blinkered as to the flaws.

On my own farm I enthusiastically believe a mixed farming system brings benefits by broadening crop rotations and boosting soil organic matter on our lighter soils, but I tend to overlook that added complexity equals additional costs.

My way of farming is also totally unsuited as a universal blueprint for roll-out across the whole UK.

See also: How to save up to £50/ha on your wheat fungicide programme

In a similar vein I'm concerned that 'direct drilling' systems are being pushed by some converts as a universal cure-all for arable farming's woes.

I appreciate how minimalised soil disturbance and ground cover brings benefits for soil biology and how direct drilling reduces establishment costs, but it is important to recognise this farming system also has drawbacks and higher yields are not guaranteed.

Positives and negatives

A key benefit of direct drilling is in retaining soil moisture in drier seasons, but conversely in wetter times slugs can run riot and ground compaction may need to be tackled.

Headland establishment and weed control are also particularly challenging in wetter conditions.

Cover crops, often integral to direct drilling systems, may bring potential wildlife benefits, but can also act as a green bridge for crop diseases, blur the rotational benefits of break crops and can be expensive to establish.

Unutilised mechanical cultivations are also a key IFM principal to physically kill weeds and pests and reduce resistance build-up pressure for agrochemical actives.

Some of the cleanest farms in my neighbourhood are those still ploughing all their seed-beds.

Perhaps direct drilling's biggest Achilles heel is a total reliance on glyphosate for cover-crop destruction and grass weed control and regrettably the daily onslaught of bad news headlines suggest that this 'king of actives' has a time-limited future.

Perhaps we all need to be less evangelical about our farming methods and co-operate more to merge the best parts of all our diverse systems to develop a more resilient, centre-ground paradigm.

For farmers thinking about making the radical jump to a solo direct drilling future, I would urge caution – a direct drill purchase now could soon transmute into an expensive pile of scrap metal.

David Butler farms just south of Marlborough in Wiltshire in partnership with his parents. He also runs a contracting company and farms about 870ha of combinable crops alongside a herd of 280 dairy cows.

JOURNAL : Farmers Weekly

I recently spent a day with an inspirational organic farmer in west Wales who is flying the flag for sustainable farming.

A real example of challenging the norm but having the evidence and business success to show for it.

Their understanding and relationship with the customer, their adaptability, and the numerous different crop types and varieties grown to order, all show they are prepared to take a calculated risk and try new things.

See also: Can arable farming and wildlife conservation work together?

All the while being commercially very aware and wholeheartedly committed to soil health and improving productivity from the soil.

It really made me look at our business and ask: how connected am I with the consumer?

How do I set a price or react? What different crops can I and do I grow, and who is the customer? Is there a penalty with scale?

As we adapt our farming practices it’s been a healthy experience to visit a few organic growers and other integrated farming systems and understand their business models. It’s been eye opening for me for all the right reasons.

Lambing success

We welcomed 15 visitors from the Bristol and London Defra offices last week. It was a great chance to connect and engage with decision makers and advisers.

We presented a real working farm with lambs being born, timber being processed, and grain being out loaded. Questions and discussion aplenty and some positive feedback received.

With the final 100 ewes to lamb, our partnership working with Tony Dawkins is a great success.

Cover crops bring great benefits to the arable rotation and wider soil health, but I’m also interested in how this helps Tony commercially going forward.

With ewes in better shape pre-lambing on the cover crops than they are on grass, good lambing percentage and cracking lambs to date, he is really pleased.

We need sheep as a tool on this land and the duel benefits are already being realised to both businesses. The sheep have put a real heartbeat back into the farm.

JOURNAL : Farmers Weekly

I wouldn’t be involved in the farming industry if I didn’t mention the weather, so it seemed quite fitting that the day we started outdoor lambing the snow gates opened. How very typical.

However, I think it’s fair to say, apart from the random and adverse weather of two days last week, we have been rather fortunate so far this lambing season.

The grass started to grow last month due to the mild March and we were able to get an application of fertiliser on it, in readiness for the ewes and lambs and spring turnout of cattle.

The home farm lies rather wet in winter and soils are loamy, so we are usually a couple of weeks behind with fertiliser applications and cultivations.

See also: 16 ways to reduce lamb mortality

Growth appears to have been stunted a little due to the recent cooler nights, but I am hopeful we will start to see growth rates accelerate again over the next couple of weeks.

Included within this year’s total ewe flock were 500 in-lamb yearlings or ewe hoggs. This has been slightly more labour-intensive for us, but the kind weather is allowing the day-to-day lambing tasks to remain relatively organised. We are on target to achieve a good ewe-to-lamb ratio.

The Texel-cross lambs are motoring on the younger leys we reseeded last year and we are hopeful we will have a good number of fat lambs to sell in early June.

Lambing is spread out over two sites, with fairly equal numbers of sheep and cattle on each holding. We are fortunate to have a reliable young stockman located at the other farm, which has allowed Josh to be based at our home farm for the duration of lambing.

You soon learn from renting blocks of land how valuable time is, particularly with livestock, and any time spent on the road to and from holdings is expensive.

This year the set-up is working well, cutting down travelling and allowing attention to be focused on the smaller details, thus minimising lamb losses. Fingers crossed, we will see a similar lamb trade to last year.

Read more about Monmouthshire livestock farmer Livy Braid

JOURNAL : Farmers Weekly

The south-east coast of Ireland is home to our family dairy farm, where my husband Neil and I have taken over the reins from my father Michael.

Neil and I are not natural-born farmers, but came home to farm following the sudden death of my brother 10 years ago.

That unexpected turn of events was the catalyst for our farm to change from milking twice a day to once a day. This spring marks our eleventh season of milking once a day.

This simple system suits the challenging layout of our steep farm and grants us the incredible flexibility that’s needed with having three young children.

See also: What to consider before switching to once-a-day milking

Seasonal calving on a grass-based system is always a game of cat and mouse with Mother Nature in spring. Thankfully, February was very kind, with cows out grazing day and night – except during Storm Erik.

March already appears to be bringing the lucky dip of extremes, with snow, intense rainfall and low temperatures experienced so far.

The huge benefit of early-grazed grass in the cow’s diet can be seen in the herd’s milk solids, with butterfat of 5.4% and protein of 3.77% on our most recent milk collection.

All the effort that goes into grassland management pays off when you see the cows grazing contentedly and get the bonus of high milk solids, especially when the milk payment structure here in Ireland is based on butterfat and protein content.

Some 80% of our cross-bred herd calved in the first four weeks accompanied by the usual heavy workload and broken sleep.

Fortunately, we have been lucky to have a great student from Dublin for 16 weeks and she has taken to milking cows, feeding calves and mucking in as well as could be expected.

Those long days are easier to manage when things are going in your favour, but one thing I have learned in the past few years is that farming rarely goes smoothly 100% of the time.

We have a long way to go yet before we finish calving and the hurdles of bad weather, scour, mastitis or other health issues could still be looming.

Gillian O'Sullivan is a dairy farmer from southern Ireland Read more.

JOURNAL : Farmers Weekly

Officially I am unemployed from all off-farm activities.

I have sat down to pen my last article for Farmers Weekly only days after I gave up my post as NFU Scotland vice-president on Friday 8 February.

It has been a great honour to serve Scottish farmers over the past two years and I’ve been lucky to see many parts of Scotland for the first time.

I’d like to offer my thanks for the support I’ve received from members and staff over this period.

The role of vice-president has been an eye-opener in terms of the time and commitment.

See also: Fit2Farm: How to recognise and deal with stress

At times it was very difficult for me to run my business as a sole trader at home and I found moving focus between union work and the farm very challenging.

At our AGM I shared some of the mental issues that began to plague my thoughts in a negative manner as a farmer and a representative for our industry.

It was a difficult subject to share, but it was a great relief for me. I have been totally overwhelmed by the feedback from many people of all ages who listened.

I would recommend anyone who is struggling themselves at all to please listen to it on the NFU Scotland Facebook page as it was recorded live.

As I look to the year ahead, one thing I want to improve is staff management.

We have regular staff meetings and we tend to talk about the same issues every month, with little change.

I came across an interesting slide online about managing change. The five areas of change are listed as vision, skills, incentives, resources and action plan – miss one out and you fail.

My other observation lately is clutter. Our lives are full of it, whether it’s the office, workshop or the dairy.

Tidiness is a reflection on ***discipline***, so I can assure you West Galdenoch will be receiving a massive clearout over the next few months.

Lastly, I would like to thank Farmers Weekly for the opportunity to share my story over the past three years and for the many comments I received from farmers reading it.

Gary Mitchell is a Farmer Focus writer from South West Scotland. Read his biography.

JOURNAL : Farmers Weekly

If New Year is the time for reflection then spring is definitely a time for renewal, and with that comes optimism, making this my favourite time of year.

Not surprisingly, it’s also proving to be a busy time with several new farm projects under way.

First, we have been working with a prototype straw shredder which we hope will produce a better-quality bed inside our arks, especially in the farrowing area.

Straw costs are rising and the quantities being made available to us annually are falling, so ensuring we make the most of our bedding is essential.

See also: Expert tips on reducing heat stress in pigs

Unlike most other shredders, this one delivers the straw using sprung fingers that gently flick the straw off a sideways-mounted moving bed. The guts of the machine, where the bale is ripped apart, are housed up inside and away from our livestock, which is definitely a feature I like.

The second big development has been the creation of purpose-built shuffle foster pens. We have used modern insulated plastic farrowing arks and attached large piglet-proof hurdles to create a 12 sq m run.

Litter sizes are getting bigger, so it’s essential we can move surplus piglets off any overloaded sows and on to foster mothers.

By carefully selecting lactating sows that otherwise would have been culled, we wean their piglets at three weeks of age and replace the litters with younger litters. This creates the extra rearing capacity we need to shuffle foster.

The system only works when it’s done with a high level of care and attention, so providing good fit-for-purpose equipment is only the start. Our stockmen are doing a great job of the rest.

It’s very important that the pen is piglet proof and that it can all be kept hygienic with effective washing carried out between each occupation.

The sow feeding station is an 80kg capacity ad-lib farrow feeder that gives us the option to use it as a manual drop feeder when required.

It’s coupled to a water tank that both the sow and piglets can drink from – it’s all working very nicely so far.

 @robonthefarm1

Rob manages an outdoor pig operation in north Norfolk.

JOURNAL : Farmers Weekly

Dead crows have been hung outside the home of Chris Packham after he supported a legal challenge to restrict farmers shooting “pest” birds, such as woodpigeons and crows.

The BBC Springwatch presenter posted a picture of two dead crows hanging from his front gate in Hampshire, saying he had contacted police and his lawyers.

[*https://twitter.com/ChrisGPackham/status/1121369400437817344*](https://twitter.com/ChrisGPackham/status/1121369400437817344)

It comes after Natural England announced it had revoked the general licence and farmers, gamekeepers and pest controllers would now have to apply individually to shoot 16 species of birds.

See also: General licence to shoot woodpigeons to be revoked

Crows were included on the list, a species that regularly pecks out the eyes of lambs.

“I’m not going to be intimidated,” Packham told the Guardian. “People like me with Asperger’s are not affected by this sort of thing. It doesn’t weaken our resolve.”

Industry condemnation

Farmers and industry organisations condemned the actions of whoever hung the crows from Mr Packham’s gate.

The British Association for Shooting and Conservation (BASC) tweeted: “We absolutely condemn such behaviour @ChrisPackham.

“We are clear - there is no place for illegality in the countryside.

“Will you also condemn the illegal behaviour of those who target legitimate rural businesses, such as those who release pheasants from game farms?”

Natural England also tweeted: “Hello @ChrisGPackham – of course we don't condone this type of behaviour, it's never justified no matter how strongly people feel about an issue.”

[*https://twitter.com/sunkfarmer/status/1121482514495954950*](https://twitter.com/sunkfarmer/status/1121482514495954950)

Hampshire Police has confirmed it is investigating a report of criminal damage at a property in Marchwood, in the New Forest.

Mr Packham had successfully campaigned with the newly formed group Wild Justice for an end to the general licence, which allowed certain bird species to be shot if they are causing damage to property, crops or livestock, or health and safety issues.

On Friday (26 April), Natural England opened an online system for farmers, gamekeepers and pest controllers wanting to shoot pigeons, crows, magpies and other pest species to apply for individual licences.

Two petitions

A petition on the website Change.org, asking the BBC to sack Mr Packham, has attracted more than 100,000 signatures in 72 hours. “As an employee of the BBC, Chris Packham should remain impartial and keep his views and beliefs to himself,” says the petition.

An opposing petition on the environmental website 38 degrees, which was started three years ago and urges the BBC not to sack Mr Packham, has reached a similar number of signatures.

A Farmers Weekly poll which asks if the BBC should sack Mr Packham has received more than 75,000 votes, with more than two-thirds (71%) saying the BBC should keep employing him.

Meanwhile, on Thursday (25 April), zoologist, wildlife researcher and presenter Megan McCubbin also posted a picture of two dead crows hanging from her gate.

[*https://twitter.com/MeganMcCubbin/status/1121435194588848128*](https://twitter.com/MeganMcCubbin/status/1121435194588848128)

JOURNAL : Farmers Weekly

Farmers are holding back on investment in farm infrastructure and delaying taking part in agri-environment schemes, as they wait for greater clarity on the future nature of post-Brexit farm support.

A survey of its consultants by Savills, looking at the impact of the planned transition from direct payments to a support system based on “public money for public goods”, found that farmers were instead focusing on diversification.

See also: Brexit uncertainty makes breeding choices tricky

According to the findings, renewable energy, building conversion and “other” diversifications were seen by the consultants and surveyors as the areas farmers are most likely to be investing in during the so-called “transition” period (from 2021 to 2027).

[*https://infogram.com/print-farmers-are-more-likely-to-invest-in-diversification-than-farm-kit-post-brexit-1h7v4pvmyzo84k0?live*](https://infogram.com/print-farmers-are-more-likely-to-invest-in-diversification-than-farm-kit-post-brexit-1h7v4pvmyzo84k0?live)

But the survey predicted reduced investment in farm infrastructure and machinery, with the majority of consultants saying such spending was “less likely” rather than “more likely”.

Where farmers were prepared to spend on their core businesses, the survey suggested that farm buildings were given the highest priority, followed by precision technology, machinery and drainage.

“This suggests a potential conflict between the priorities for on-farm investment and the assets that are most likely to be invested in,” said Savills head of rural research, Emily Norton.

“Farmers are focused on short-term income mitigation, rather than long-term productivity improvements.”

Agri-environment

Looking at farmer involvement in agri-environment schemes, two-thirds of the professionals consulted believed many of their clients who are not yet in schemes “are waiting to see what the new Environmental Land Management (ELM) system involves, rather than applying to Countryside Stewardship now”.

The new ELM system will not start until 2025 and, even though direct payments will start to be phased out from 2021, the consultants believed only one-third of farmers will be joining current agri-environment schemes to help offset any income loss.

One of the main reasons for this was a fear that, should farmers start to make environmental enhancements now, it could undermine their chances of being paid for delivering public goods in future.

This is despite assurances from Defra secretary Michael Gove, and Gavin Ross, head of ELMs at Defra, who have both insisted that farmers committing to existing schemes now will not be penalised when the new system starts.

“These reassurances do not appear to be having the desired effect and government should do more to confirm the structure of the new scheme as soon as possible,” said Ms Norton.

Those farmers who are already in schemes are mostly intending to renew or extend them, the survey reveals, while others are proactively trying to evaluate the natural capital value of their holdings and considering what public goods they may be able to provide.

The survey was carried out between 21 December 2018 and 11 January 2019.

It involved interviews with Savills’ consultants and surveyors providing advice over 809,000ha, half of which was occupied by nearly 3,500 tenants.

JOURNAL : Farmers Weekly

A record number of farmers took part in this year’s Big Farmland Bird Count (BFBC) and they spotted more species than on any previous counts – an indication that farmland bird life may be recovering.

More than 1,400 farmers took part in the count and they recorded 140 species across one million acres.

The most commonly seen species were blackbirds and woodpigeons, seen by more than 75% of participants.

Robins and blue tits were seen by more than 70% of the farmers.

See also: Pilot project offers grants to reduce rural flood risk

A total of 30 species from the Red List for Birds of Conservation Concern were recorded, with five appearing in the 25 most commonly seen species list.

These included fieldfares, starlings, house sparrows, yellowhammers and song thrushes, with the first four seen by 30% of the farms taking part.

The five most abundant birds seen were woodpigeons, starlings, lapwing, black headed gulls and rooks.

A total of 148,661 were found, making up nearly 50% of the total number of birds recorded.

The  Game & Wildlife Conservation Trust (GWCT) organised the event – now in its sixth year – which took place between 8 and 17 February.

In a first, the NFU also sponsored this year’s count.

Farmers from every county in England took part and there were also responses from Northern Ireland, Scotland and Wales.

A number of farmers from Austria also submitted results.

Norfolk had by far the most returns, with 145 farmers completing the survey.

This was followed by Suffolk with 92, Herefordshire with 63, and Hampshire with 60.

Conservation work

The survey areas included important environmental features such as hedges, woodland ponds, grass margins, ditches and trees.

Most survey sites were next to winter cereals, grassland or overwintered stubbles.

The BFBC aims to demonstrate the benefits that years of important conservation work carried out on farms is having on reversing dwindling farmland bird numbers.

Jim Egan, from the GWCT’s Allerton Project, said: “Counting birds on farm is a great way to recognise what species are there as well as being an opportunity to take time out and see the benefits of work such as wild seed mix and supplementary feeding.

“We want landowners to be proud of their efforts.

"We will make sure that the public and policymakers hear about what can be achieved on Britain’s farms.

"The BFBC is a very positive way to showcase what can be achieved.”

JOURNAL : Farmers Weekly

A crowdfunding campaign launched by a start-up seeking to develop software that automates crop scouting using phones and drones has to date raised more than £110,000, with strong support for the project coming from farmers.

Drone Ag, which is based on a farm in Northumberland, is looking to raise £250,000 by the last week of May and is seeking support from farmers and tech investors.

Funds will be used to develop its Skippy Scout software, designed to allow checks on pest, weed and disease levels across a field without agronomists or farmers having to walk them.

See also: Peer-to-peer lending: What you need to know.

Instead, farmers can use an app on their mobile phone to fly a drone over a field taking images at various points, with the pictures downloaded straight to the phone for analysis using AI technology.

The company says faster crop scouting can lead to better control of pests and improved nutrition, reducing costs and chemical use and ultimately increasing yields.

***Agricultural*** revolution

Jack Wrangham, company founder, said about half of the 100+ investors who have signed up so far are farmers, who typically invested £1,000-£2,000 each, although the minimum investment required was £10.

He believes the industry is at the start of a major ***agricultural*** revolution, with drones set to play a key role.

“I think for a lot of farmers, their ears are pricking up now, and they are starting to think about ways they can be as efficient as possible.

“Brexit has been a key driver, so farmers are starting to look at technology and how it can help.

“This is a really good way for farmers who perhaps don’t want to invest large sums of money to get involved and show support.”

More than 200 farmers have already registered to trial the first version of the mobile phone app, with the goal being to roll out a second enhanced version by next spring.

Crowdfunding support

Crowdfunding is becoming increasingly common in the ***agricultural*** world and there seems to be an appetite among farmers to invest in technologies that will help them as ***agricultural*** subsidies are phased out.

Earlier this year, the Small Robot Company attracted hundreds of thousands of pounds of investment from UK farmers keen to buy into its vision of replacing big tractors with small farmbots.

JOURNAL : Farmers Weekly

Those letting out land for solar farms need to be very careful when considering offers to extend long leases, advisers warn.

Leases are typically for 25 years but landlords are being approached for extensions from year five or even earlier, says Wiltshire-based land agent George Paton of WebbPaton.

Solar tenants are offering anything between £2,500 and £5,000/MW as a one-off payment to add 15 years to a 25-year lease, which he says is far too little.

The tenants also often want an option to add batteries on the solar sites.

“Recently we have seen solar tenants become very pushy with landowners, using scaremongering tactics that rents will not be as good when the lease ends,” Mr Paton says.

Hold out for more

“What is being offered is nowhere near enough – farmers should hold out to negotiate a higher amount,” he says.

“The early German solar farms are now over 40 years old so the apparatus is proven that it will last for a long time.”

See also: Tips to help keep biomass boilers running trouble-free

Mr Paton gives the example that on a 20MW solar farm, the tenant has probably spent £20m on the apparatus and is earning an annual income of £1.8m to £2m from the electricity.

By the end of the lease the apparatus will have been paid for and the site’s income will outstrip the servicing costs, he says.

“My view is that solar operators will be paying their landlords much larger sums than £2,500 to £5,000/MW towards the end of the current leases to retain these sites.”

Solar site finders who initially identified suitable farms often sold the planning permission and the grid connection for between £100,000 and £200,000/MW to the current solar operators and renewable funds, says Mr Paton.

“Landlords should in my view be receiving similar figures for extensions to solar leases, and if they wait I am sure they will.”

Tax considerations

Solar rental income is taxed at 22%, 40% or 45%.

The longer the lease, the more likely that Inheritance Tax (IHT) or Capital Gains Tax (CGT) could be an issue.

Reliefs from IHT and CGT as well as Entrepreneur’s Relief may be restricted, depending on the land use and the proportion of total income made up by rental income.

Adding battery facilities

Where tenants want to add battery systems to existing solar sites, landowners need to check their lease terms.

Mr Paton says many of the leases he has negotiated do not allow this without the landowner’s permission and an additional payment.

Landowners should be asking for an additional £2,500 to £3,000/MW a year (RPI indexed) before agreeing to the inclusion of batteries, he says.

“Unlike standalone battery sites, existing solar sites have a significant amount of the infrastructure such as substations and grid connections already in situ, so the rents should be higher than for battery-only sites.”

Where new solar sites are being proposed, a similar additional rent of about £2,500/year should be factored in if a battery option is to be included. This is in on top of the £1,000/acre rent which is easily achievable for new sites in southern England, says Mr Paton.

JOURNAL : Farmers Weekly

A new cab is the centrepiece of JCB’s latest-generation Loadall telehandlers and it promises to take comfort and practicality up several notches.

Though the old version was perfectly functional – and posted a respectable score against its rivals in our recent multi-machine test – it has been kicking around for more than a decade and now looks pretty old-fashioned.

In particular, the rest of the pack waved goodbye to a slab-faced windscreen and upper cross-member years ago and, as a result, deliver decent forward views.

See also: Telehandler test: JCB 541-70 AgriPro

JCB 542-70 AgriPro

Engine 4.8-litre four-cylinder JCB EcoMax

Power 145hp

Transmission DualTech VT

Top speed 40kph

Turning circle (diameter) 7.4m

Max lift 4,200kg

Max reach 7m

Hydraulics 140 litres/min

Cab noise 69dBa

Price £98,540

Such was the disparity between the low-tech JCB cockpit and Manitou’s equivalent that the Staffordshire-based builder felt compelled to throw a full £8m at the job; £6m of which went specifically towards cab improvements. The fresh design will be built at the firm’s new £50m Cab Systems factory near its base in Uttoxeter.

Despite the cabin shortcomings of the Series 2 machines, sales have hardly been hobbled – JCB is reckoned to have claimed a near-monopolistic 57.5% of the telehandler market last year.

Added to that, the loader market is booming, thanks largely to improved prices in the livestock sector. Sales have climbed from 2,800 back in 2016 to 3,500 last year and JCB is on course to build its 250,000th Loadall in the next 12 months.

JCB Loadall Series 3

Old model

New model

Lift capacity

Lift height

536-60

538-60

3,800kg

6m

531-70

532-70

3,200kg

7m

541-70

542-70

4,200kg

7m

535-95

536-95

3,600kg

9.5m

New cab

Four models are available in JCB’s AgriPlus, AgriSuper and AgriPro specifications.

Updates centre around a new curved front windscreen that provides unobscured views through the whole lifting arc.

In all, JCB reckons there is 14% more upward visibility – the only interference being the slanted protective frame over the top of the roof.

Views downwards are better too, though this is more to do with binning the traditional dash and its mishmash of dials and rockers in favour of a big armrest and 7in screen combo.

This new arrangement sees all of the controls lined neatly to the side of the joystick, with the tablet-style screen controlled through a rotary knob.

Though the changes to control layouts might seem drastic to long-time JCB users – the likes of steering mode is now (shockingly) shown in the screen – the most common parts remain unchanged.

There’s been no tampering with the electro-hydraulic joystick and, as we’ll explain later, little to report in the engine or transmission departments, either.

The cab frame is also 35mm wider – its outer edge now sits pretty much in line with the walls of the tyres – and 145mm longer, so it generally feels quite a lot bigger. There’s a new pivoting steering column and wheel as well, which has been pinched from the Fastrac tractors and big loading shovels.

Other changes worth noting include better seals around doors and windows, which has contributed heavily towards the reduced cab noise.

It’s down to a whisper-quiet 69dBa, which gives decent-spec cars a run for their money.

There is also a rather neat pivoting grab handle on the B-pillar, a hands-free phone kit, auto cab temperature control on top-spec models and better windscreen wipers, completing a pretty high-spec package.

Improved lifting

Both the cab and machine as a whole are heavier, which means JCB has been able to beef up lifting capacities on the 6m, 7m and 9.5m models.

The improvements are pretty marginal – check the range box for a better idea of their new capacities – with the maximum increase about 200kg.

The upshot is that the EN15000 limiter shouldn’t disable hydraulic functions quite as frequently – an improvement that will be noticed most readily on the muck heap.

Engine and transmission

JCB remains the only mainstream telehandler maker to build both of the key drivetrain components.

Engine-wise, there’s the same 4.4-litre and 4.8-litre EcoMax engines serving up anything from 75hp to 145hp across the four models.

They are apparently able to deliver pretty impressive fuel consumption figures of 5.7 litres/hour, too, according to JCB’s own tests.

These blocks can be married to a selection of transmissions, including a new 40kph powershift with four-speed torque converter lock-up.

There is also the six-speed auto powershift and the firm’s novel DualTech VT hydrostatic/powershift hybrid, which both max out at 40kph.

Spec details include regenerative hydraulics that use gravity to lower and retract the boom (saving hydraulic capacity for other operations), a mode that allows independent control of engine revs and forward speed, and a new twin-line hydraulic braking system.

Air brakes will be available on the options list later this year.

When is it available?

The machines got their first reveal at last month’s Lamma show and dealers have been busy putting in their orders.

The company says prices are roughly 4% higher than equivalent models sold last year. As an example, the smaller 538-60 Super starts at £85,323, with the larger 542-70 AgriPro costing £98,540.

JOURNAL : Farmers Weekly

A worrying new hazard has started appearing in the sunken lanes of mid-Hampshire: the deaf jogger.

I was once a keen jogger myself. No, really. I completed the Great North Run in June 1983, fuelled by stotties and Newcastle Amber, in a highly respectable 2:27:29.

Granny Flindt made sure that the photo of me crossing the line under the huge digital timer was always on show in her kitchen, while conveniently forgetting to mention to awe-struck visitors that it was only a half-marathon.

See also: Read more from Charlie Flindt

Jogging had its hazards back then, of course: aches, strains and sore nipples. As the Run itself passed through Gateshead, I tripped, and my face-saving (literally) forward roll drew cheers from the roadside crowd who had inexplicably gathered to urge all 21,500 of us on.

Severe chafing

Just after the finish, the folly of running over 13 miles in rugby shorts became apparent – huge, bleeding chafes on both inner thighs. Hazel’s commitment to rubbing in intimate ointment was admirable over the next couple of months.

But what was different about jogging back then? I did all my training round the suburbs of Newcastle upon Tyne with nothing stuck in my ears. Part of the joy was the sights, smells and, yes, sounds of the streets and parks.

How different it is now, and how much more dangerous. Consider jogger number one, whom I met the other evening as I was on my way home quite late in the loader tractor.

She was on my side of the lane, coming towards me, and there were the tale-tale audio cables leading down from her ears.

I was about to pull out to go past her when a car came down the hill behind her, quite fast. As a result, I had to pull back over to her side of the lane.

Collision course

Thanks to her earpieces, she was completely unaware of the car behind her, and looked a bit baffled as to why I appeared now to be heading straight for her.

I pointed vigorously in explanation at the car over her left shoulder. She thought I was telling her to cross the road, so she did, right into the path of the car. Brakes were applied, there were awkward apologetic waves, and we all went our ways safely – but only just.

Jogger number two was going the same way as me, up Roe Hill, the narrowest lane on the farm. A right hard nut he looked, too, whippet-thin, all in black, shaved head glistening with sweat in the evening sun.

Jogging pace

I changed down and slowed in the Deere until I was 20 yards or so behind him. And for a minute or two, that’s how it stayed.

Now, I know the recent dealer service on the Deere had left it purring even quieter than ever, but I couldn’t work out why he hadn’t noticed me.

Finally, he glanced over his left shoulder, and I saw the in-ear wireless speakers. At the same moment, he spotted my green-and-yellow beast.

In a slight panic, he tried to reverse up the steep grassy bank, but his feet slipped unceremoniously from under him. He ended up sitting at the bottom of the bank, legs sticking straight out across the tarmac. Thank the Lord I was lagging behind. There were more nervous smiles of apology.

Both of these moments could have gone horribly wrong, and both could have been completely avoided had the joggers kept their ears free from these must-have gadgets, so they could hear the world around them. If I’d worn them in Gateshead, for goodness sake, I’d have missed all that cheering.

JOURNAL : Farmers Weekly

The Hangar field seems to feature in this column a lot these days. Mind you, there’s a perfectly simple explanation for it: I’ve had to spend an awful lot of time out there recently. And it’s worth doing a thorough history of the Hangar from the end of August 2018, because it raises an interesting question.

It was sown with oilseed rape on 24 August into hot ground that got a well-timed downpour and a good roll within a couple of days.

We couldn’t have asked for a better start. But by 7 September, Tod the Cropdoctor’s verdict was simple. Despite well-timed pyrethroid application, both the Hangar and Kilmeston Road fields were done for.

See also: Read more from Charlie Flindt

So we shrugged our shoulders, agreed that early September was not too late to re-drill, reallocated the seed that was due to go into Blackhouse Road to those failed fields, called up the contractor, and he did them again.

Once again, the seed-bed was perfect, warm and moist and rolled to perfection (even if I say so myself).

But at this point you have to pause and start adding up the unintended extras – not just on a cost basis, but in environmental terms.

That second drilling involved more driving over fields, more evil diesel – stuff that wouldn’t have been needed if the first crop hadn’t failed.

Revised plans

We then spent a couple of months watching the resown fields, and while about two-thirds of Kilmeston Road will be worth combining, the Hangar failed again – despite more doses of pyrethroid.

It had gone green for a bit, and we all agreed, unconvincingly, that we’d won the battle, and slapped a winter dose of N on it. But as soon as we turned our backs, the plants vanished.

By early spring, the colours on the farm map had been revised, and the Hangar went from the yellow of OSR to light blue for spring barley.

We had a bag of Planet left over from the frantic February barley frenzy, so an extra tonne was sourced (and treated and delivered, using those pesky chemicals).

Tod and I sat down and discussed the new fertiliser programme. Would the first N dose we put on the OSR count towards the spring barley? Was it still in the seed-bed, or in the droppings of the birds which might have eaten the beetles that had eaten the crop?

But first, the stragglers of the oilseed rape and the assorted weeds that had thrived in the open cover had to be eliminated.

And that means a good tank of the ecowarrior’s worst nightmare: glyphosate. Three weeks later, the whole field was a crisp, even brown, ready for some late barley, and in I went with the little Horsch for another diesel tank’s worth of drilling.

Unintended consequences

The next day, I was back again, this time with the 8m rollers, and used another half tank of the devil’s red stuff to smooth it down a bit, bash the stones in, and make the seed slightly harder for the birds to find.

Yes, Mr and Mrs Rook and their thousand closest neighbours were working the rows of barley within hours, and the only answer to that was to shoot a couple and dangle them from long sticks on the prominent brow.

As I folded up the rollers to head home, I wondered about all that extra glyphosate, diesel and pyrethroid. All that extra soil cultivation. All those dead rooks. And, of course, the effect on the bees when we all give up on oilseed rape altogether.

Was that really what the ecowarriors wanted when they banned neonicotinoids?

JOURNAL : Farmers Weekly

As many dairy and beef systems have intensified, so too has the need for effective fly control programmes that combine cleanliness with chemical, biological or physical controls – or all three, depending on the farm situation.

Flies start breeding from the end of March, so vet Tom Jackson recommends getting started on controls right now.

“I don’t think any farm can get to a point where there are no flies, and no need for chemical, biological or physical controls, but it is certainly possible to reduce populations and the volume of chemicals needed.”

See also: When to treat grassland weeds for best kill results

“Start as early as possible in the season: if you can get control of flies before they begin breeding, it will be more effective than waiting for them to establish their populations,” says Mr Jackson, of Shropshire-based LLM Farm Vets.

“It is a long way back once the breeding population has got out of control. Although you are never going to reduce fly populations to zero, if you can keep them under control you will be in a much better situation as the season progresses.”

Problem flies

The main types of fly causing economic loss in UK herds are stable, horn, house, face and head flies.

While the threats from each variety are different – ranging from the spread of diseases such as summer mastitis and New Forest Eye (infectious bovine keratoconjunctivitis) to constant irritation leading to feed inefficiency and weight loss – the control methods are the same.

However, basic control measures will have particular strengths in specific situations. For instance, biological controls are more suited to intensive housed systems than to cattle at pasture.

Options for controlling flies

Chemical pour-ons

Several pour-on products applied to the backs of animals are available, based on synthetic pyrethroids such as permethrin and deltamethrin.

In an average summer, three or four treatments are usually required.

Ear tags containing cypermethrin are also available.

Effectiveness

Very effective – most will kill flies on contact.

Pros

Cons

Ease of use

Most have zero milk withdrawal requirements and can be used during pregnancy and lactation

Effective against all the major fly pests

Provide little protection to the udder area

Potential issues with resistance

Use of synthetic compounds may come under pressure in future

Cost

The cost is weight-related to avoid overdosing. The cost for a 650kg cow can range from 58p to £1, depending on the product.

Tags are available at £2.70 and give season-long coverage, although in heavy infestations two tags might be necessary.

Chemical sprays

An insecticide is applied as a water emulsion via a knapsack sprayer or spray arch.

Effectiveness

Very effective but there is risk of insecticide washing off during heavy rain.

Pros

Cons

Insecticide can be applied to specific parts of the animals, such as the udder area, during periods when animals are at high risk from disease

Good handling facilities are essential

Applications are weather-dependent

High labour requirement – fortnightly applications are usually needed

Difficult to apply spray evenly

Cost

£35 will cover 50 litres of spray, which works out at less than 10p per treatment for each cow.

Biological

Fly parasites are introduced on to farms by trained veterinary technicians to inhibit the breeding population of nuisance flies.

The parasites actively search for nuisance fly eggs.

Female parasites pierce the nuisance fly pupae to lay their eggs. The parasite larvae hatch and eat the contents of the nuisance fly pupae before progressing to parasitise more nuisance fly larvae themselves.

This helps to control the nuisance and biting fly populations at source.

Effectiveness

This method is effective in intensive housed systems, calf sheds and parlours.

Parasitic flies can be killed in cold weather, so the programme should be carried out annually. Over time there should be a reduction in overall fly population, leading to reduced quantity of parasites required.

Pros

Cons

A sustainable approach to fly control

Fly population is naturally reduced over time

Used as part of a wider fly control strategy, it reduces use of synthetic products

Fly parasites should be distributed every two weeks to help build up a population of fly parasites

Not as effective in extensive grazing systems where cows are at grass for longer periods

Cost

Friendly Flies supplied by LLM Vets are sold in bags. One bag costs £49.50, including support from technicians.

As an estimate, one bag is required per 100 cows but this is dependent on farm size, cleanliness and the severity of the fly problem.

Bags need topping up every two weeks.

Walk-through fly traps

They are relatively uncommon in the UK, but are widely used on cattle farms in the USA.

Cattle walk through a structure with walls and a roof: the wall contains traps and flies are collected directly from cattle as they pass through the funnel (using dark-coloured brushes to force the flies towards the light of the roof) and they become trapped inside a false ***ceiling*** within the structure.

Other options include a vacuum method that blows air to dislodge flies from animals as they walk through the structure and flies are then sucked into the machine.

Effectiveness

Repeated use of a mechanical trap can reduce the overall local population of horn flies.

Pros

Cons

A non-chemical method of control

Cattle must be “forced” to pass through a walk-through fly trap regularly, so it may be effective only where cattle are being handled regularly

Cost

These are typically home-made constructions, so the cost depends on materials used.

Stockholm tar

The product is applied to the udders and flanks of susceptible animals.

Effectiveness

A well-proven fly repellent for the prevention of summer mastitis.

Pros

Cons

Provides a physical barrier to flies

Natural product

Can be used only on non-lactating animals

No control against attack to the head and body of the animal

Messy to apply

The tar must be applied regularly, every 4-7 days, which can be time-consuming, especially if animals are away from yards

Cost

About £19 for 1kg.

Cow brushes with insecticide applicator

Insecticide applicators are incorporated into cow brush frames. As the animal passes under the horizontal brush, insecticide is applied through nozzles on to its back.

Effectiveness

Application rates and timings are highly variable, which means flies often receive sub-lethal doses of insecticide and this can lead to resistance.

Pros

Cons

Cows love brushes

Brushes can be sited either in buildings or on field sites

The legs of the animal receive no insecticide so this method is not effective against stable flies

Cost

A pair of manual brushes with an insecticide dispenser costs about £160.

Water sprays and misters

Very fine spray nozzles mounted above milking parlour doors deliver a clean water mist across the face of the door when necessary.

Effectiveness

Best results are achieved when water misters are used in enclosed collecting yards.

Pros

Cons

Total water requirement is modest owing to the fine droplet size

The physical barrier is effective over short time periods

Flies on the underside of cows are unaffected

Operators will get a misting too

Cost

Prices for farm power misters start at about £1,000, but cheaper alternatives can be sourced from Amazon – or made by drilling holes into alkathene pipes and feeding them with running water.

Fly hot spots

The first line of defence in all situations is to prevent fly eggs maturing; prioritising sanitation is key to this.

Fly eggs and larvae thrive in warm, moist organic matter such as undisturbed muck heaps, so aim to reduce these fly development sites, Mr Jackson advises.

Watch out for:

Areas in housing where the muck scraper can’t reach

A calf hutch is another high-risk area for cultivating breeding sites

A build-up of muck under troughs and in the corners of buildings

Manure storage areas – to deter flies in stored manure, keep it very dry and compacted or held in a lagoon at very low dry matter

Hay and straw stacked outside can act as fly development sites

At pasture, a build-up of muck at boundaries and under trees can harbour flies. Don’t overstock these areas or graze for too long to reduce the risk.

JOURNAL : Farmers Weekly

Farmers in England looking for guidance on applying for the mid-tier Countryside Stewardship Scheme (CSS), are being invited to attend one of a series of local briefings.

The farm advice programme is managed by Natural England and provides advice to farmers, land managers and their advisors on environmentally sustainable land management practices.

It involves attending a three-hour group session which covers how the scheme works, who is eligible and what the environmental priorities are within a specific region.

See also: Countryside Stewardship – tips for 2019 scheme

Booking details

More than 50 events are scheduled over the next month, which need to be pre-booked.

Farmers can find their nearest venue and who they should contact to book their place, on the Defra website.

Potential applicants will also be able to arrange a one-to-one consultation to discuss their own application.

The deadline for requesting an application pack is 31 May 2019 and completed applications must be received by 31 July 2019.

JOURNAL : Farmers Weekly

British milk production is forecast to hit a 29-year high in the coming season, which starts on 1 April.

Overall production for Great Britain in 2019-20 is forecast by AHDB Dairy to be 12,590m litres - up 0.7% on the 2018/-9 season.

If this proves to be the case, the figure will be the highest since 1990-91.

See also: Eight rises in a row for global dairy auction price

AHDB analysts based the estimate on recent milk yields, which had risen after drought-hit farms were forced to switch from forage to concentrate feeding.

The extra energy and protein pushed up yields between November and February to record highs, 2.4% above the same period a year earlier.

Confidence that milk yields will remain high has been bolstered further by a relatively mild winter.

“The warmer weather has diminished earlier concerns over feed availability and cows are reported to be in good condition,” according to an AHDB report.

“Spring yields are strongly influenced by the weather, so providing conditions remain normal, yields are likely to remain high,” the report added.

The increased yield is more than offsetting the continuing decline in herd numbers and, overall, the stage is set for volumes to reach a record high.

Expert market insight from Peter Meehan, INTL FCStone senior commodity analyst

European dairy markets remained volatile over the past week, with butter and skim milk powder (SMP) quotations both seeing declines.

The European butter quotation posted its eighth consecutive drop last week, now down 9% since the end of January, while the SMP quotation saw back-to-back weeks of declines.

Dairy futures markets were somewhat mixed over the same period.

EEX butter futures’ March 2019 to October 2019 contracts gained 3% last week, while EEX SMP’s March 2019 to October 2019 run fell by 2%.

European SMP’s drop coincides with New Zealand SMP also softening in recent weeks.

While last week’s GDT auction recorded its eighth increase in a row, SMP saw its second decline in as many events.

The apparent weakness in global SMP prices comes about despite record exports from the EU in January (+53%) suggesting there is still good global demand for SMP.

Meanwhile, milk collection numbers released last week showed record milk production for the UK (+3.6%) in February, while Dutch collections continue to struggle (-1.8%).

NZ production also fell back in line with last year as a result of the hot, dry weather the country has experienced since late January. US milk production also saw its 24th straight month of gains (+0.3%).

JOURNAL : Farmers Weekly

Farmers, game keepers and pest controllers are at risk of breaking the law if they continue to shoot birds like the woodpigeon and carrion crows from 25 April 2019, without first applying for an individual licence.

That is the consequence of a surprise move by Natural England to revoke the three general licences which currently allow the shooting of up to 16 bird species for reasons such as protecting crops and livestock, and limiting the spread of disease.

See also:  A guide to effective bird scaring kits for farmers

Natural England insists it is working “at pace” to bring in alternative measures, but it has so far failed to specify what circumstances this may cover, or what conditions may be attached.

The decision to revoke the general licences, which was announced on 23 April 2019, without consultation, comes in the wake of a legal challenge by conservation group Wild Justice, led by celebrity naturalist Chris Packham.

Last month, Wild Justice sought a judicial review of the general licensing system on the grounds that the culling of certain bird species was being sanctioned by Natural England, without first having satisfied itself that alternative non-lethal means, such as scaring, had failed to work.

It argued that it was inadequate to simply leave it to individuals to make this assessment.

Natural England has now admitted as much, stating that users of the general licence “could be acting unlawfully”.

As such, it is conducting a review of the licensing system and says it aims to “put in place alternative measures to allow lawful control of these bird species over the next few weeks”.

Until then, “anyone needing to control one of these 16 bird species, where there is no reasonable non-lethal alternative, will need to apply for an individual licence”.

The announcement has triggered an angry response from farming and countryside groups alike.

Tenant Farmers Association chief executive George Dunn said it was unacceptable that “such precipitous action should be taken without proper consultation, risk assessment and due regard to the businesses that will be affected”.

“Why has it been deemed necessary to remove the existing licences before you have got the new licences in place?” he asked in a letter to Natural England.

"It was clear that populations of the 16 bird species had not suffered since the general licence system had been introduced in the 1990s, so what was the justification for changing it?"

New licensing system on the way, but will it work in practice?

The current general licensing system allows for the shooting of 16 bird species in order to prevent serious damage to livestock or crops, prevent the spread of disease, preserve public health or to conserve other species.

Natural England insists that, over time, “many situations currently covered by the three general licences will be covered by new licences”.

As examples, it singles out damage to livestock from carrion crows and the preservation of public health from the impacts of feral pigeons.

But it makes no mention at this stage of allowing the shooting of wood pigeons to prevent crop damage. It does, however, say it is “prioritising circumstances that are likely to be of the greatest need and impact at this time of year”.

It intends to start issuing new licences on the website gov.uk “from the week commencing 29 April”, when more details will be available.

“If people need to take action in the meantime, they will need to apply for an individual licence, using a simplified process which will be available on gov.uk from 25 April,” said a statement.

“Anyone exercising lethal control of birds after Thursday 25 April 2019 without taking the above steps will not be covered by a general licence and could be committing an offence.”

The Countryside Alliance also slammed the decision.

“Whatever Natural England’s legal advice, the withdrawal of open general licences at incredibly short notice is completely impractical and irresponsible, and will result in thousands of people unknowingly breaking the law,” said chief executive Tim Bonner.

"It could not have come at a worse time, with new born lambs vulnerable to attack from crows, crops needing protecting from pigeons and red-listed bird species susceptible to attacks from corvids."

Natural England’s interim chief executive Marian Spain said: “We recognise this change will cause disruption for some people, but we are working hard to ensure it is kept to a minimum.

“We will bring forward interim measures as quickly as possible as the first stage of our planned review of the licences.”

JOURNAL : Farmers Weekly

Being prepared to take a step backwards has allowed Merseyside grower Olly Harrison to make the transition to no-till despite farming on the west coast.

Mr Harrison, who farms on heavy silty clay on the edge of Liverpool, says the key to making direct drilling work is to min-till until the soil structure is right, rather than diving straight in.

However, even though he now primarily direct drills, he is still prepared to cultivate to correct issues where necessary.

See also: How an Essex farmer grew a crop of mammoth millet

“A lot of people get a no-till drill on demo,” Mr Harrison says. “After a year they will say it didn’t yield well, and wasn’t good on the headlands, but it’s more long-term than that.”

As a result of his gradual transition, he is achieving an average wheat yield of 8t/ha while saving about £100/ha compared with a conventional system.

Cutting costs

Mr Harrison started moving away from ploughing as a way to cut costs in the face of low wheat prices.

In 2004, when wheat was worth only £60-80/t, he focused on trying to get crops into the ground cheaply and growing them for as little as possible.

Having someone sat on a plough was seen as an unnecessary expense, so Mr Harrison switched to a one-pass cultivation system using a spading machine and seeding with a Kverneland Accord drill.

After he had used this system for a while yields began to drop, mainly because of compaction in certain areas, but they were also probably held back by growing continuous wheats, he admits.

About nine years ago he became interested in moving a step further and going to direct drilling, and bought a Moore Unidrill no-till drill.

On some of the 485ha cropping area the drill worked straight away, but on other land Mr Harrison found his yields were capped.

Double cropping target

One of Olly Harrison’s long-term targets is to try to grow two crops a year on some of his land despite being in the wetter west.

Having a 1MW biomass boiler installed on the farm allows him to combine his crops two weeks earlier, as grain drying has zero cost because he can utilise heat from the boiler.

So far he has tried planting a crop of spring barley after a winter crop, but thinks mammoth millet could be a good option in the future.

Two years ago, he tried drilling spring barley on 9 July after combining the previous winter crop on 7 July.

The spring barley barely yielded 1t/ha, and although it didn’t receive any inputs, it cost more to grow than it would have made as the wet summer that year hampered the yield.

However, millet, with its late drilling date of May, could be a better option as a second crop.

Mr Harrison has tried growing the niche crop three times with reasonable success, despite growing it further north than is recommended.

“We tried millet and it did fantastic, but then in October there was a storm and it knocked it over and shed all the seed on to the floor,” he says.

As well as requiring little in the way of pesticides and only a small amount of fertiliser, millet produces a large amount of straw which is perfect for feeding the biomass boiler.

A late-drilled millet also provides some soil cover, so at a price of £240/t it does not need to yield highly to be a worthwhile exercise for Mr Harrison.

Soil structure

As poor soil structure was likely to be the reason for yields not increasing past a certain point, he made the decision to take a step backwards and invested in a 3m Claydon strip-till drill to get the soil structure right first.

“The idea was to phase in the Moore drill, but the Claydon ended up being so successful that we got lazy and bought a big one,” he says, with the upgrade being to a 6m model.

“Yields were doing well and going up. I wanted a Dale-style opener to fit on it, and thought about doing it myself.”

But after five years the Claydon started to become a victim of its own success. The more friable the soil became over time, the more the Claydon disturbed the soil structure.

“Last year was such a wet winter and we really mauled some crops in,” he says.

The Claydon drill moved too much soil during the winter when it was wet, and this was then baked rock-hard during the hot dry summer.

To correct this, Mr Harrison bought a Sumo to do repair work on the headlands.

“I’m not religious about direct drilling,” Mr Harrison says. “I will correct things if its needed. You have to be determined to make it work, but you also need to be sensible.

This autumn, Mr Harrison again used his Sumo to do repair work where needed, varying from small areas to whole fields, and says it is now impossible to see where it was used. But he believes establishment without it would have been poorer.

In the future, he is likely to use a sub-soiler and then drill with a John Deere 750a, as this has better trash coping capabilities and should also sort out any areas of brome which have crept in.

Early OSR drilling

Drilling usually starts after the first week of September and is all completed by 1 November, as rainfall is too high to allow for late drilling.

As well as avoiding high rainfall, drilling oilseed rape particularly early is critical because of Mr Harrison’s proximity to Liverpool.

With the farm’s fields abutting the suburbs of the city, pigeons coming from the city centre pose a major threat to his crops.

“We are the first bit of farm around here. There’s safety in numbers but all of our neighbours have given up growing rapeseed.

“Unless we get rapeseed up and away fast, pigeons get on it and that’s it.

“It needs to be bushes going into the winter,” he says. “We have done trials and nothing grows OSR better than behind the Sumo.”

Cultivating land ahead of OSR is key as this helps warm up the soil and ensures the crop gets away quickly.

“I’m not religious enough about direct drilling not to do anything else,” he says.

Regional focus – the west

The grower: Olly Harrison farms 485ha at Water Lane Farm at Prescot, Merseyside, growing winter barley, oilseed rape, winter wheat, spring beans and linseed, as well as sunflowers for charity.

Regional problem: Direct drilling is often seen as the preserve of the east due to the increased rainfall experienced on the west side of the country, which forces growers to drill early.

Solution: Despite a yearly average rainfall of about 40in and heavy, silty soil, a long transition via min-till has allowed Olly Harrison to move to direct drilling. However, he is not afraid to take a step backwards when needed, ensuring his soils are not allowed to remain compacted after drilling into less-than-ideal conditions.

JOURNAL : Farmers Weekly

Horsch has announced that it will now offer its Power Disc coulter on the highly regarded Pronto drills, as well as the original Serto models.

See also: 6 options for 6m mounted tine drills

It has become a popular choice for Serto users, especially those working heavy land, and will now be an option on 3m, 4m and 6m Pronto models in 2019.

A parallelogram pivot can apply 150kg of pressure per coulter to penetrate heavier soils – a design that Horsch says offers a more consistent sowing depth and is particularly useful for high-speed drilling in a variety of conditions from after ploughing to direct sowing.

JOURNAL : Farmers Weekly

Scottish beef farmer Niall Jeffrey, at Bielgrange Farm, Dunbar, is one of 28 Agri-Epi satellite farmers trialling new technology as part of the UK government’s Agri-Tech Strategy.

Mr Jeffrey, who owns and contract farms about 400 Aberdeen Angus cross sucklers as well as 300ha of arable land, became involved with Agri-Epi three years ago and has tried a variety of tech solutions.

He has found several to be beneficial to measuring and improving efficiency.

These include:

The Ritchie Beef Monitor

Afi Milk Silent Herdsman Collars

A weighbridge

EID tags

A WhatsApp group

A drone

Below he gives his verdict on each one and explains how other beef farmers could benefit from using them.

The Ritchie Beef Monitor

What is it?

A water trough which weighs cattle every time they drink. It can be used in cattle from 350kg to finished weight.

See also: More case studies and advice on beef farming in our Know How centre

Data can be exported via Bluetooth, with weight reports available to view on a phone, computer, tablet or at the weigh head itself.

This spring, the Bielgrange weigh head will be fitted with a 3G SIM card allowing the data to be automatically uploaded to the cloud.

New software will also be available allowing data to be analysed and automatic alerts produced if, for example, animals are underperforming or are nearing finishing.

How is it being used?

The crate has been used to weigh cattle from 480kg to finish weight to monitor when animals are ready for slaughter.

Because of the size of the weigh crate it is not possible to use it for animals under 350kg as there is the potential for more than one animal to fit in the crate.

Before he had the crate, Mr Jeffrey was weighing his cattle every three weeks in the run up to finishing, with heifers being finished at 580kg and steers at 680kg.

It used to take more than three hours to weigh 100 animals before EID tags (see below), but it less than 1.5 hours with EID tags.

This summer, Mr Jeffrey will be using the weigh crates out in the field where he will be strip-grazing his heifers at 400kg.

It will be solar-powered and will be used to monitor daily liveweight gains at grass.

How can it help improve performance?

It allows farmers to keep track of animals that are nearing finishing and can also highlight where an animal is not performing as it should.

Cost

£4,500

Mr Jeffrey's verdict

The potential for the beef monitor is great. If you are a farmer who doesn’t weigh cattle in the run up to finishing, then to go from not weighing to using one of these, it is a huge leap but will help you hit market spec.

For us, the new software will help in the breeding analysis. In the future, they are looking at a camera fitted above the water trough to assess body conformation as well as installing an auto shedding gate.

Afi Milk Silent Herdsman Collars

What is it?

A neck collar used to monitor heat and health by assessing activity, eating and rumination.

It uses long-range wireless technology to send information back to a touch screen cloud-based application. Information can also be viewed on a phone, PC or tablet.

How is it being used?

It is being trialled on 150 suckler cows for oestrus detection. The spring-calving herd is mated by natural service in the summer at grass.

The cows must be moved back inside before 180 days post-bulling.

The sensors in the shed can pick up the stored information in the collars, allowing bulling dates to be viewed.

How can it help improve performance?

This was introduced to the farm last year. From the data he was able to determine which cows were not in-calf after repeat bullings or no bullings detected.

These females were then taken out of the calving group and placed on a different ration.

Farmers using AI for breeding would also benefit as they would be alerted to cows in heat.

Cost

£60-80 per collar.

Mr Jeffrey's verdict

Calibration is needed for suckler cows; however, the potential is there for really helping fertility.

It could help me build a more accurate picture for breeding selection.

It could also help ease management by allowing me to group animals based on their calving date, as we calve through a single shed.

For farmers using AI the potential for more accurate heat detection is huge. It could do away with the need for synchronisation.

Weighbridge

What is it?

A split-cell weigh bridge used for accurately weighing feed to each group of cattle. It is also used to calculate crop yields at harvest.

How is it being used?

Cattle are fed a straw-based ration including bruised barley and distillers’ dark grains.

The weighbridge was installed eight years ago and allows accurate measurement of all feed.

The farm does not have a mixer wagon as it is a straw-based ration, so all the feed is mixed on the floor using a forklift.

How can it help improve performance?

Feed gets weighed every day before going to different groups of animals.

This allows Mr Jeffrey to calculate how much they are eating and to fine-tune diets based on growth rates.

Cost

£7,000

Mr Jeffrey's verdict

An invaluable bit of kit which we not only use for accurately weighing feed ingredients for different groups of animals, but also to monitor crop yields from our 300ha of arable.

EID tags

What is it?

All cattle are tagged at birth using EID tags. Mr Jeffrey started using EID before becoming an Agri-Epi satellite farm.

How is it being used?

Ear tag numbers don’t have to be recorded by hand as it can all be done using a stick reader, which saves labour and improves accuracy.

Farming over three holdings, Mr Jeffrey also says it is useful for location reports.

Cost

An extra £1 over the normal price of a tag.

Mr Jeffrey's verdict

EID is invaluable as it makes data management easier and more accurate.

WhatsApp group

What is it?

A free messaging app for phones and PCs that allows group messaging.

How is it being used?

Mr Jeffrey has set up a group including three members of staff as well as himself and his father. WhatsApp is used to log information.

For example, staff members will log what’s been treated, any health issues, animals seen bulling, missing tags etc.

Cost

Free

Mr Jeffrey's verdict

WhatsApp is invaluable for us. It helps us communicate, especially with us farming across three different sites.

I quite often scroll back through messages and use it as a log for treatment dates, for example. It’s a quick and easy way to record information.

See also: Seven top tips for communicating with farm staff

Drone

What is it?

A drone can be used for aerial imagery of fields and stock.

How is it being used?

Mr Jeffrey got the drone last summer and has used it on the grass fields to map grass weeds.

In the wheat growing season he hopes to send it up three or four times to assess variation within a field. This will highlight areas for further investigation on the ground.

How can it help improve performance?

In grass fields, by mapping grass weeds it can aid spot spraying which will reduce herbicide use and could help protect clover in the fields.

In crop fields, where there is poor establishment, it can help identify areas of compaction or problems that are not readily seen by walking the crop.

Cost

£1,500

Mr Jeffrey's verdict

It’s a useful bit of kit, but it doesn’t eliminate the need to walk the crop and investigate the issues.

The potential for labour saving is there as, rather than walking the whole field looking for issues it can highlight areas to investigate.

JOURNAL : Farmers Weekly

Edward Parsons is looking to get more out of his soils by chopping straw, adding manure and varying his seed rates, and he is reaping the benefits as wheat yields have edged above 10t/ha, including in last summer’s drought-affected harvest.

He is also carefully tailoring nitrogen fertiliser rates across his Wiltshire loamy chalks to make the most of his soils in fertile valley bottoms and saving money by cutting rates on his thin chalky slopes.

Add in his move away from ploughing and towards variable-rate phosphate and potash applications, and his soils have never looked better and yields are responding.

Farm facts

Templemans Farm, Redlynch, Salisbury

355 hectares of predominantly arable land of loamy chalks with clay caps.

Growing winter wheat varieties Crusoe and Basset, together with winter and spring barley and break crops of linseed and oilseed rape.

“Our soils are really looking good and we are pushing to get more out of them with our yields ahead and more consistent,” he tells Farmers Weekly.

See also: Tips on assessing the health of your soil

Price premium

Mr Parsons' average winter wheat yields have not fallen below 10t/ha over the past five years, giving gross margins well above £600/ha, while he nearly always gets a price premium for producing 13% protein Crusoe milling wheat.

He and his agronomist Richard Cromie are keen to manage inputs to achieve maximum yields, and that means adapting the lessons of crop consultant Adas’s Yield Enhancement Network (YEN) competition.

Results from high-yielding YEN crops suggest a close relationship between overall biomass, or total crop weight, and final grain yield, so they are using YEN data to improve the farm’s soils which are at best 250mm deep before hitting solid chalk.

Mr Cromie says: “What we are trying to do is to find out the high yield areas and the low yield areas so we can manage inputs to get maximum yields.”

Variable rates

Mr Parsons moved to variable-rate phosphate and potash in 2004 on his 355ha Templemans Farm, Redlynch, six miles south east of Salisbury, and then soon took up variable rates for nitrogen and seed.

His land gets generous applications of chicken muck and other manures ahead of his break crops of oilseed rape and linseed, and only first wheats are grown in a rotation that also includes winter and spring barley.

He is growing 125ha of winter wheats consisting of breadmaker Crusoe and biscuit wheat Basset, but both varieties are become more disease susceptible.

The aim is to drill in early October, late enough to prevent lush disease-susceptible and weak-strawed crops, but early enough to allow autumn drilling across the heavy sticky clay caps on the farm.

Delayed drilling

The delayed October drilling is aimed at preventing early disease development such as Crusoe’s weakness to brown rust and Basset’s susceptibility to septoria.

“Two weeks difference in drilling date can make a big effect on disease levels so we are aiming to go as late as possible,” Mr Cromie says.

Drilling rates are a modest 275-300 seeds/sq m with the aim of producing 600 ears/sq m at harvest rather than the 800 ears seen by some record-yielding crops.

“We are not producing overly thick crops but the grain weighs like lead and so give us a good specific weight,” Mr Parsons says.

Managing inputs

The nitrogen fertiliser strategy is particularly aimed at managing inputs to apply the solid ammonium nitrate at the right time for the crop’s development.

The first nitrogen dose is a relatively modest flat rate of 50kg/ha at the end of February to help with tiller survival, which may edge up to 70kg/ha to encourage backward crops.

Two further doses of 100kg/ha each have different aims. The first at end-March is at a variable rate and looks to manage the biomass. This rate can be varied across the field from a restricted 75kg/ha for forward crops to 125kg/ha to encourage backward ones.

The second dose at end-April is looking to feed for yield and this time the variable rate strategy is reversed: backward crops get a lower 75kg/ha and forward crops with the greatest yield potential receive 125kg/ha.

Milling premium

The milling wheat Crusoe often receives a further 50kg/ha at the flag leaf stage in late May – but only if the cost is worthwhile – the milling premium needs to be at least £8/t to pay for the cost of the extra nitrogen and its application.

Mr Parsons is looking for more information about soils – clearly chopped straw, muck and non-inversion cultivation is helping – and so Mr Cromie’s agronomy group Crop Management Partners is launching its Soil Wise service.

This package will offer clients the ability to improve their soils by looking at soil analysis, water infiltration rates and biological activity in soils.

For the future, Mr Cromie believes growers may have to look at more disease-resistant cereal varieties with the loss of some key fungicides and as resistance to other fungicides builds up.

Fungicide loss

This is highlighted by the banning of the widely used multisite protective fungicide chlorothalonil which is likely to be restricted from the middle of 2020 onwards, leaving a hole in the arable grower's armoury.

This is a serious loss as chlorothalonil, which has been used since the 1960s, has not shown any sign of diseases becoming resistant, making it very useful in the fight against fungicide resistance.

If disease control becomes more difficult in the future, this may encourage a switch from the farm's more disease-susceptible varieties such as Crusoe and Basset to more resistant ones such as Zyatt and Firefly.

Crusoe is rated just a 3 for brown rust and Basset 5, where 1 is very susceptible and 9 shows good resistance, and while Crusoe has good resistance to septoria at 6.5, Basset is a lowly 5.1.

Disease levels

Nick Lewis of the agrochemicals and seeds group Bayer says disease levels are currently bubbling away despite the dry spring and their development will depend on the weather in the coming few weeks.

He adds that disease control is key to maintaining a good green canopy to help increase yields, especially in wet weather which encourages the spread of the wet-loving septoria.

“We can control drilling date and the choice of variety, but we can not control the weather,” he says.

The T0 fungicide spray applied on the farm in late March was chlorothalonil plus an azole, and the T1 is set to be an SDHI-based mix on the two disease susceptible varieties.

Mr Cromie says the loss of chlorothalonil and the loss of efficacy of both SDHIs and azoles is likely to put even more importance on drilling date and variety choice in the future to control disease.

Winter wheat disease resistance – AHDB Recommended List

Variety

Septoria

Brown rust

Crusoe

    6.5

     3

Basset

    5.1

     5

Zyatt

    6.4

     6

Firefly

    7.0

     8

Note: 1-9 scale where 1 is very susceptible and 9 is very resistant

JOURNAL : Farmers Weekly

Consolidating cow numbers has helped one Hampshire herd shoot up 14 places in the NMR annual production report, to clinch fifth place.

In what was a tough year for dairy farmers across the UK, with a never-ending winter and scorching summer, the 280-head pedigree Holstein herd managed to lift production 391kg to 12,742kg a cow at 3.89% fat and 3.07% protein.

Farmer Joe Ives, who describes the system on the tenanted farm as labour-intensive and fairly low-tech, believes much of this achievement is due to attention to detail from his eight-strong team.

“I was surprised to hear that we had ranked in the top five of the report. We don’t have fancy buildings or a new farm, so I think it is good to show what can be achieved on a very normal farm,” he says.

See also: Shropshire herd climbs to National Milk Records top spot

“It’s all about marginal gains and trying to get everything we do right. Everything you do, or don’t do, has a knock-on effect.

“We try to be in the top 5% of everything – the main thing is you have to make a profit.”

Joe's father, Bill, who took on the tenancy in 1958 after being inspired to a career in ***agriculture*** by a stint in the country as an evacuee, says two things are key: breeding and feeding.

See also: 4 tips on improving lifetime daily yield in dairy cows

Farm facts: Park Farm, Basingstoke

244ha tenanted land on the Herriard Estate, Basingstoke (117ha grass, 53ha wheat, 74ha maize)

Team of eight staff

Arable business run alongside dairy by Bob Ives

Pedigree Holstein herd, milked three times daily

Surplus pedigree stock sold at market and privately

Bull calves sold to Meadow Quality pre-42 days

BVD and Johne's-free

Destocking

One of the factors that allowed an increased attention to detail last year was a big drop in cow numbers.

By retaining surplus stock that would usually be sold, Joe had increased the herd to 400 head in 2016 to help spread the business’ costs across more cows when the milk price plummeted to 19p/litre.

Following two big sales at Sedgemoor auction market early last year, the herd was cut back to 280 in the milking herd, which Joe says undoubtedly helped them achieve the attention to detail and cow comfort that has contributed to high individual yields.

“At 400 cows, it was unsustainable with our buildings and took its toll on labour and the cows themselves,” says Joe.

“What we are trying to do is allow every cow to reach its potential.”

Joe credits four key areas of management for improving milk production:

Nutrition

Breeding and fertility

Youngstock management

Cow comfort and health

Nutrition

Working closely with Mike Bray from Kite Consulting, the team have devised a simple nutrition plan based on just two total mixed rations (TMRs) – one for dry cows and one for the milking herd, with no concentrates fed.

The milking cows are fed TMR once a day, which comprises grass and maize silage, rapeseed meal, sugar beet, soya, caustic wheat, molasses, minerals, MegaLac and Bergafat. It is one-third grass and two-thirds maize. In total, they are aiming to feed 62kg of fresh matter at 44.9% DM.

The dry cow ration is based on well-chopped straw (to prevent sorting), maize silage and a dry cow blend.

“The dry cow ration has been brilliant,” says herd manager Sally Bowden. “We very rarely get the vet out to a calving – we don’t get problems like DAs [displaced abomasums] anymore.”

Bought-in feed costs total 8.01p/litre and to the end of February, margin over purchased feed (MOPF) was 20.85p/litre. Bill says MOPF has been a key measure to him ever since he had 20 cows, as it gives a good indication of what is available to pay all the other bills.

Grass is farmed in rotation with wheat and maize and Joe's brother, Bob, and his son work in tandem with Joe on the arable side. Five- to six-year grass leys are grown alongside the permanent pasture.

Bill says Joe is “very particular” about silage quality, with quality grasses grown, and when it comes to cutting, they do it in the afternoon to keep sugars high, and focus on good consolidation and sealing the clamp well.

“I try to make sure every single bite that a cow takes is consistent,” says Joe.

Breeding and fertility

The Gladwake herd contains plenty of good cow families and top genetics. Through involvement in Hampshire Cattle Breeders Association, Bill travelled a lot in the 1980s and bought cow families with American genetics from Germany in the 1980s.

The herd contains several cows from the Primrose, Roxy and Darkeye families.

Joe employed Lilian Love last year and Mrs Love, who previously visited the farm as an AI technician, has been focusing on herd fertility.

The calving interval is 397 days and is still relatively high after having higher numbers of cows in the herd, says Joe. But cows are now getting in-calf quickly, with an average of 2.6 straws to conception.

Replacement heifers from the classified herd will have two to three goes with sexed semen before switching to conventional semen.

Conception rate is currently 65% at first service. For the past six months, sexed semen has also been used on a number of cows.

An Aberdeen Angus sweeper bull is used on anything that doesn’t hold to AI and beef calves are sold privately.

Perhaps surprisingly, given their NMR ranking, milk yield is not a factor when it comes to their mating programme. Bill explains: “The milk is there already – we want a cow that’s going to last.”

Longevity and fertility are paramount in the mating programme they run with Worldwide Sires, alongside type, udder and good legs and feet.

Joe is aiming to get six-plus lactations from cows or sell them as a good condition barrener.

Youngstock management

Last year was the first time hutch-reared heifers entered the milking herd.

Since making the switch to rearing calves in individual hutches in February 2016, health has significantly improved in the youngstock and growth rates have increased.

Also beneficial to health, Joe believes, has been the transition from computerised calf feeders to individual feeding. While it takes more time, he thinks moving away from the group system has reduced respiratory issues and disease build-up to a nominal level.

Mrs Love, who oversees youngstock management, has also switched milk powder, to Trouw Nutrition’s energised calf milk replacer, which she is pleased with.

“It is critical to get these calves off to a good start and not let them get knocked back,” says Mrs Love.

Youngstock are weaned at 70 days, providing they are eating 2.5kg of rearer nut and calf mix a day, and moved to a calf rearer, where they will graze for a season.

Joe values the scale when it comes to first service and won’t serve a heifer until she weighs 400kg.

“If they are too small, we can’t expect them to produce milk, grow and calve again,” he says.

Cow comfort and health

Reducing numbers allowed the team to get on top of any health issues with individual cows, allowing time to be devoted to body condition scoring and feet as a starting point.

Crucial to this is keeping milking time down, Mrs Bowden says. From leaving their shed to returning, cows only stand for about an hour during each milking and investment has been made in rubber matting in any standing areas to ease pressure on feet.

Last year, foot scores improved greatly, with more than 90% of the herd consistently scoring 0s and 1s.

In-house mobility scoring takes place monthly, foot-bathing takes place five days a week, and one of the team, Ric Mariano, looks after all foot-trimming.

The Park Farm team work in close partnership with their vet, Maarten Boers of the Livestock Partnership, and Mr Boers is in regular contact with Mike Bray on the nutrition side, so that cow management is fully aligned.

“Mastitis has always been our Achilles' heel,” says Joe. However, this is something the team has worked hard to stay on top of through breeding and strict milking protocols.

“We now use selective dry cow therapy and our antibiotics use generally is less than half the dairy target set,” says Mrs Bowden. At the end of March, there had not been a mastitis case on the farm for three weeks.

She says the cows just don’t drop in milk production and she is regularly drying off cows giving 35 litres-plus.

The cows are run as four groups:

The high-yielders

Pregnant high-yielders

Heifers

Freshly calved cows

All groups, apart from the calving cows, are in sand-bedded cubicle housing at stocking rates of about 90%. The high-yielding group of 80 cows are in sheds that previously accommodated 130 cows; so they have plenty of space.

Joe says having plenty of the home-made wooden cubicles and ensuring there is plenty of feed space is important, because the sheds are old with narrow, blind alleyways, which need scraping three times daily.

The future

Despite their sudden climb to the top of the rankings, the Ives family don’t plan on standing still just yet.

They hope to invest in housing to improve cow comfort and reduce the need for cows to move between groups, and move away from feed bunkers to a central passageway to improve cow performance even further.

JOURNAL : Farmers Weekly

A PIN code locking system has been installed on John Deere’s Greenstar cab displays and StarFire satellite receivers to curb the appeal of these products to thieves.

See also: GPS equipment worth thousands stolen from tractors

These items are easy to sell on due to their universal size and connection to any Greenstar-ready machine across the world. They also take a matter of seconds to remove. Previously the only way to keep it safe was to store all hardware out of sight when leaving the tractor unattended.

The new PIN for both the receiver and display is tapped into the screen and is now available for JD’s 4240 and 4640 universal displays and StarFire 6000 domes and is part of the 19-1 recent software update.

This follows John Deere’s universal keys recently being fitted with transponders, so even though any Deere key can open the cab door, only the correctly coded key can start the tractor.

JOURNAL : Farmers Weekly

Kuhn has added the option of Suffolk coulters to its Venta pneumatic seed drill range.

The new models will be badged 1010 and are otherwise the same as before, with a HR power-harrow underneath and either 1,500-litre or 1,800-litre hopper on top.

The power-harrow unit can be uncoupled in less than 10 minutes, says Kuhn.

The drills are available in 3m, 3.5m and 4m working widths and the 1010 Suffolk coulter versions join the 1020 series with double-disc coulters and 1030 series machines with the firm’s Seedflex precision coulter bar.

See also: Driver's View: Henry Muntz's Weaving GD drill

All come with a volumetric fluted metering unit with large splines for larger seeds (wheat, barley, peas and beans) and small splines for smaller seeds such as oilseed rape.

Seeding rates can be set from the tractor cab at between 1kg/ha and 430 kg/ha and down pressure of each coulter unit is 35kg.

Starting price for the Venta 1010 series is £21,947.

JOURNAL : Farmers Weekly

Ammonium nitrate prices remain competitive for May, with imported material standing at £242-£250/t compared with UK produce at £259-£265/t.

These are spot prices for full loads on normal 28-day payment terms.

Imported prices have weakened slightly from last week, while CF ran on into May with its April price list.

See also: 6 steps to improve your fertiliser use efficiency

The urea trade is in an unusually wide regional price range of anywhere from £250/t to more than £270/t, with buyers in the West and South West paying up to £20/t more than those in the keenly priced East.

It has been a tricky season for urea use, which traders estimate is back by 15-20% compared with last year. Deals are available on limited stocks as importers do not want to be left holding this price-volatile material at the end of the season.

New-season ammonium nitrate prices are generally not expected until June, as manufacturers need to build up stocks after a tricky production season.

The past few seasons have offered a benefit to growers who placed early orders, and the feeling in the trade is that the market will open slightly above last year’s level.

There are no early offers for urea imports beyond the end of the current use season, with changing oil prices and the threat of EU import tariffs making potential trade risky.

Replacing urea at current world prices would put it on farm at about £260/t. Traders say it would have to be £225-£230/t to tempt growers to buy.

Fertiliser update (£/t delivered May 2019\*)

UK 34.5% N (Feb)

£259-£265

Imported AN

£242-£250

Granular urea 46% N

£253-£275

Potash MOP

£275-£280

Phosphate DAP

£380-£395

Phosphate TSP

£320-£330

20:10:10 (blend)

£260-£267

25:5:5 (blend)

£242-£252

All illustrated prices are based on full loads for cash payment on 28-day terms. \* Unless otherwise indicated

JOURNAL : Farmers Weekly

Natural England’s recent decision to revoke the general licence for controlling certain pest bird species came as a surprise and has stirred up controversy between farmers and environmental groups.

The decision was announced on Tuesday 23 April, with a statement from Natural England saying that the three licences sanctioning such activity would expire just 36 hours later.

See also: New individual licences available to shoot pigeons and crows

“The change follows a legal challenge to the way the licences have been issued, which could mean users who rely on them are not acting lawfully,” it said in a statement.

The general system of licencing, which has been in operation since the 1990s to allow just about anyone to shoot pigeons, crows and magpies, was  challenged by conservation group Wild Justice, led by TV naturalist Chris Packham.

Having raised £36,000 through crowdfunding, it argued that Natural England was falling foul of the law by failing to ensure non-lethal methods of control had been fully tested first, as demanded by the Wildlife and Countryside Act 1981.

Timeline of events

22 March – Wild Justice declares it has requested a judicial review of the general licences for killing 16 bird species in the High Court.

23 April – Natural England announces it is to revoke three general licences allowing the killing of certain birds to protect livestock and crops, avoid the spread of disease and aid conservation.

24 April – An online petition is launched to get TV presenter and Wild Justice director Chris Packham sacked by the BBC.

25 April – General licences GL04, GL05 and GL06 revoked.

25 April – New individual licences made available, allowing the control of certain birds to protect livestock, stop the spread of disease, conserve flora and fauna and protect public health.

26 April – New general licence for killing carrion crows published, with others to follow.

Farmers vs green lobby

Despite promises from Natural England that it was “working at pace” to come up with alternative measures, the move led to outrage in the farming and gamekeeping community.

Farmers were quick to explain the reality of crow attacks on newborn lambs, the impact of marauding pigeons on crop yields and the damage done to songbird populations by corvids.

The green lobby countered by saying it was farmers who were to blame for the demise of songbird species due to habitat loss over many years of “industrial-type farming”.

A petition was launched by a member of the public to get Mr Packham removed from his presenting role at the BBC, saying he should “remain impartial and keep his views and beliefs to himself”. So far it has attracted more than 127,000 signatures.

At one point, some disgruntled individual or individuals even left dead crows at the front gate of Mr Packham’s New Forest property, frustrated by his role in the affair. He has subsequently been targeted with death threats and the delivery of human excrement through his letterbox.

Individual licences

Things have settled down a bit since then – with Natural England making individual licences available on the evening of Thursday 25 April, to allow the control of some pest species to continue.

But attempts to actually use the system initially met with limited success, with reports of the forms not downloading, the website crashing and email addresses not working, making it difficult for people to lodge their applications.

General licences

And then, late on Friday evening (26 April), the first of the promised new general licences appeared (GL26), covering the killing and destruction of nests and eggs in relation to carrion crows attacking livestock, obviating the need to apply for an individual licence for this specific instance.

But Natural England has set out the timetable for further licences to be issued, with a general licence to kill magpies and carrion crows for the purpose of conserving wild birds next in line, followed by a general licence to kill woodpigeons, rooks and Canada geese to prevent serious damage to crops.

Another tranche of general licences will be issued in mid-May, including one to control feral pigeons to prevent the spread of disease, and licences to take crows, rooks and magpies to prevent damage to foodstuffs for livestock.

According to a guidance note issued by Natural England on Friday (26 April), those wishing to resume the control of certain bird species have three options:

Wait until one of the new general licences becomes available to cover your circumstances (carrion crows attacking lambs is already published).

If you need to act sooner, then you will need to apply for an individual licence, available on the Gov.uk website. You will need to wait for the licence to arrive before starting to kill birds.

If you need to take urgent action before the new licence is received, you can do so in some circumstances, but will need to use a ***notification*** system, as advised by Natural England.

How has licence changed?

The new general licence is much more prescriptive, spelling out that those who use it must have already taken reasonable steps to prevent predation, such as keeping livestock indoors, removing sources of food that might attract corvids and using scaring devices, including active human scaring.

“Users are advised to keep a record of problems and the use of non-lethal methods, but do not need to submit records to Natural England,” it says.

“Any person using this licence must be able to show, if asked by an officer of Natural England or the police, what type of livestock any action under this licence is protecting and what lawful methods have been, and are being, taken to prevent predation of such livestock.”

In other words, people using the new licence to shoot carrion crows must be able to show that it is a last resort. Failure to comply with this may still be an offence under the Wildlife and Countryside Act 1981.

The new general licences are also much more specific to particular bird species and particular circumstances.

For example, previously, 13 species could be shot or destroyed under the old GL04 licence relating to damage to crops and livestock, and the spread of disease.

But now jays, parakeets and lesser black-backed gulls have been taken off this list. In future, these may only be shot for reasons of protecting songbirds (jays and parakeets), and public health (gulls). Collared doves have been removed from all lists.

Review of licence system

Natural England says the new licences are an interim measure and any new conditions or restrictions they contain are solely for the purpose of addressing points raised by the recent legal challenge.

It will be conducting a wider review of the licensing system, in the summer.

The new general licences and application forms for individual licences are available on the Gov.uk website, but more details can be obtained by emailing [*enquiries@naturalengland.org.uk*](mailto:enquiries@naturalengland.org.uk) or phoning 0300 060 3900.

Natural England estimates that more than 50,000 people rely on general licences for controlling certain bird species.

Is everyone happy?

NFU deputy president Guy Smith said the introduction of the new general licence to control carrion crows was welcome news for farmers, enabling them to protect livestock that are particularly vulnerable to crow attacks.

He urged Natural England to press on quickly with issuing licences to protect young crops from pigeons.

“This situation has left farmers and growers with a complete lack of clarity over the licencing regime and it is having significant impacts, particularly at this time of year, when livestock and crops are especially vulnerable,” he said.

Conservationist and Wild Justice director Mark Avery welcomed the fact that collared doves, Indian hedge crows and sacred ibis had dropped off the lists altogether, and generally the number of birds which can be killed for specific reasons is going to be much tighter.

“If you are a farmer, you should be fairly pleased with how things look like they will end up,” he said. “If you are a nature conservationist, then you will be pretty relaxed about all of this and see it as a move in the right direction. But if you are a gamekeeper, then you are potentially seeing large amounts of your day-to-day casual killing of bird species being taken away from you.”

The National Gamekeepers’ Organisation has described the new licence for carrion crows as “hurried, botched and completely unfit for purpose”.

It complained the new 11-page licence was too restrictive, especially the notion that killing crows could only be a “last resort” and the fact it requires people to have tried non-lethal methods first.

JOURNAL : Farmers Weekly

Farmers wanting to keep tabs on their ATVs and other nickable items will be interested in the latest GPS tracker kit from Czech firm Nam Systems.

The working parts of the portable Tick Tracker are hidden in a waterproof plastic case that is tucked in a discreet hidey-hole on the machine, or fixed to a metal frame using the built-in magnet.

The package contains internal GPS and GSM antennas, a 2000mAh lithium-ion battery that can last up to a year (when set to provide once-a-day location reports) and a receiver coil for wireless charging.

Users get a ***notification*** on their smartphone or tablet when the battery level drops to 5%.

See also: Ultimate guide to farm security kit

To extend the battery life, the GPS device can be switched off remotely and it's possible to reduce the frequency of position updates from every 5secs to daily.

The unit also contains a tri-axis accelerometer to detect any movement that might signal a thief trying to remove the tracker.

If this is the case, it will ping an alert via GSM or GPRS signal to any toggled smartphones or tablets. Users can then check the position of the tracker to an accuracy of 2.5m.

The app also shows a history of location reports and can be used to check battery level and adjust the frequency of the alerts.

The item is sold in the UK by Backwatch Safety Products, which charges roughly £170 (including 12 months' service).

JOURNAL : Farmers Weekly

A new range of McCormick X5 tractors features extra transmission options designed to make the machines more fuel-efficient during day-to-day tasks.

There has also been an engine upgrade, with the previous Perkins unit ditched in favour of a 3.6-litre Deutz four-cylinder. This offers 99hp for the smallest X5.35, 107hp for the mid-ranking X5.45 and the flagship X5.55 gets 113hp.

The two transmission options for the tractors are a 12x12 shifter available with synchro shuttle and power shuttle, and the 24x24 box available in the same variants. There's an optional creep box too, adding a further eight gears in both directions.

See also: Buying a 150hp tractor

The dry clutch synchro shuttle is McCormick's simple mechanical option, whereas the wet clutch power shuttle has adjustable drive take-up and offers fingertip forward and reverse selection along with electro-hydraulic pto clutch control.

If more ratios are needed for field work, the newly released H-M-L option has three-speed powershift with power shuttle and 36 forward speeds in all.

A new Eco Forty feature will reduce engine revs on the road once the transmission hits 40kph to save fuel and reduce noise, while the pto can be specced with eco settings for both 540 and 1,000rpm shaft speeds.

The 62-litre/min hydraulic pump supplies three double-acting spool valves fitted as standard and the rear linkage can hoist 4,500kg. A push-back pick-up hitch is also part of the package.

In the cab, an air suspended seat, air conditioning and tilting/telescopic wheel are all standard fare, with prices starting at £52,000.

JOURNAL : Farmers Weekly

A milk buyer has introduced discretionary pricing on the eve of government reforms that are aiming to outlaw the practice altogether.

Medina Dairy, which is supplied by 156 producers in the south of England, Yorkshire and South Wales has drawn criticism from producers and the NFU for ditching its basket price mechanism.

See also: Poll: Dairy farmers, are you in favour of upcoming milk contract reform?

Producers of Watson’s Dairy and Buckley’s Dairy’s processing operations, acquired by Medina in 2004 and 2007, respectively, were given just three weeks’ notice of the changes while retaining a 12-month notice period.

NFU fallout

The move was a prime example of why Defra’s proposed dairy contract reform was necessary, according NFU dairy board chairman Michael Oakes.

“This case has generated quite a few phone calls, which goes to show that we need to reform contracts and do things in a fairer way,” said Mr Oakes.

The NFU chairman and Arla dairy farmer added that according to the existing Medina contract, the change was permitted.

“These guys have had no choice, no negotiation and hardly any warning,” he said, adding that NFU representatives would be in contact with the processor to discuss the decision.

Producer reaction

Producers contacted Farmers Weekly  to express their disappointment that Medina had chosen to end its basket pricing mechanism.

The contract was a step backward for the processor and his business, according to Doncaster dairy farmer Martin Drake.

“From today, the earliest I could leave my contract is 1 April 2020, but I only received three weeks’ notice of a big change to my contract.”

“This new contract really means all of the power is with the processor.

"What redress do we have?”

“There is absolutely nothing I can do if there is a 10p/litre cut next week. This sort of contract is going to be detrimental to our business,” added Mr Drake, who farms 170 cows in South Yorkshire.

Processor response

Medina, which currently pays a liquid milk price of between 27.77p/litre and 28.28p/litre for March, defended its decision.

It said discretionary pricing would allow the business to respond more efficiently to rapidly changing market conditions.

It also cited a number of problems with its basket pricing mechanism in recent years, including having to remove Dairy Crest when it sold its liquid business to Muller in 2015.

Other reasons included Arla changing its pricing to a manufacturing litre and becoming less relevant in a UK context and the mechanism leading to unnecessary supplier notices being served each time it needed updating.

Medina commercial director Terry Ziton stated that the milk buyer felt now was the right time to take control of setting its own standard litre price.

“We remain fully committed to providing all our supplying farmers a fair and competitive milk price,” he added.

Defra has stated it is still committed to contract reform despite the resignation of farming minister George Eustice, however, no change is expected until after Brexit is settled.

JOURNAL : Farmers Weekly

A rise in the amount of farmland for sale in England is being forecast as more landowners look to sell up ahead of direct subsidy payments being phased out during the Brexit transition period.

With only scant details available about Defra's planned replacement – the Environmental Land Management system (ELMs) – internal research by Savills reveals that 22% of its surveyors and consultants have met clients who are intending to sell vacant possession property.

A further 15% said they had clients who intend to sell let property, again citing uncertainty about what will replace direct payments.

See also: Environmental land management scheme - what we know so far

However, a fifth of consultants said that other potential land sellers had shelved their decision to sell until more detail emerges about the future policy, meaning the total increase in sales is likely to be limited.

But land buyers are also likely to be in shorter supply, with the survey revealing that 32% of Savills professionals have met clients who have postponed the decision to buy vacant property, and 41% the decision to buy let property.

Impact on tenants

Policy uncertainty is also having a significant impact on the rental sector, with Savills forecasting a rise in short-term deals between tenants and landlords until more details are known about ELMs.

This means contract farming agreements, share farming and stubble-to-stubble contracts are likely to be more popular, while break clauses and shorter term lengths are becoming more common in tenancy agreements.

Most professionals believe that Defra's proposal to "de-link" direct payments, where farmers can claim several years' subsidy payments at once, should help provide older farmers with sufficient capital to retire.

They are forecasting increased rates of retirement in the tenanted sector, particularly among ***Agricultural*** Holding Act (AHA) tenants, with the number of surrender deals being negotiated already falling as parties postpone negotiations until the proposals are fully understood.

This process could be made easier by recent proposals for tenancy reform, which include a plan to enable AHA tenants with no successor to offer their tenancies on a 25-year term to new entrants.

JOURNAL : Farmers Weekly

The National Trust will fund places on the Prince’s Farm Resilience Programme for up to 60 of its tenants across the UK.

Organised by The Prince’s Countryside Fund, the programme offers business skills training on topics including business planning, understanding accounts and budgeting, managing farmed environments and exploring new opportunities.

Each farm also receives one-to-one support as part of a business “health check”, identifying strengths and weaknesses and benchmarking against similar farms.

See also: 5-step guide to preparing a budget for your dairy farm

The 60 places are likely to be for tenants based in north-west England, north Wales, the Midlands and south-west England, though these details are still to be confirmed.

The scheme will launch this summer and places will be allocated on a first come, first served basis.

The National Trust has been commended on its plan by George Dunn, chief executive of the Tenant Farmers Association (TFA), who first suggested the idea.

Mr Dunn said: “We have been working hard behind the scenes with both the National Trust and the Fund to bring this to fruition and we are delighted that an agreement has been reached to pilot this initiative.

“While these areas focus predominantly on upland areas, the expectation is that, subject to the success of the pilot, further areas and farm types will be looked at.”

For more information about the Farm Resilience Programme visit The Prince's Countryside Fund's website.

JOURNAL : Farmers Weekly

The inventor of the original shearbucket has returned to the market with a revised design that has twice the capacity and apparently delivers a cleaner cut.

William Taylor’s alternative silage grabber uses horizontally actuating jaws to bite into the clamp face, rather than having to drive a traditional shearbucket’s knife edges into it.

It can also be used to strip a round bale of wrap and net ready to feed.

A lot of development work has been put into the geometry of the jaws and hydraulic rams. Mr Taylor says this has helped produce a cleaner cut by reducing the scratching and scraping of the pit wall compared with a traditional shearbucket.

It’s also easier to get it positioned against the clamp, as the jaws open out to 180deg.

See also: Tips for buying a second-hand tub feeder wagon

The biting mechanism can be built to suit any size of machine, from dinky handlers and tractor loaders up to industrial-grade loading shovels feeding huge dairies.

The current prototype uses two 4ft 6in heads, so can carry twice the material of an equivalent shearbucket. It weighs 1t, though it may be less by the time the full production version is built.

The increased capacity means tractors and telehandlers will have to make fewer trips between the pit and mixer wagon, which should save on fuel, tyre wear and engine hours.

The new machine is currently in prototype form, so is running second-hand cutting heads, but Mr Taylor is looking for a manufacturer to take on his patent-protected design.

The prototype been busy working on a 200-cow dairy near Coleraine, Northern Ireland, for the past couple of years. Apparently, the operator is saving almost an hour a day thanks to the reduced time it takes to fill the diet feeder.

Mr Taylor has a track record in this market, having invented the first shearbucket in 1994 before setting up licensing agreements with several companies until the patent expired in 2014.

JOURNAL : Farmers Weekly

A New Zealand shearer has set a world record for the highest number of merino sheep shorn in an eight-hour period.

Breaking the record in Western Australia, Lou Brown sheared 497 sheep in eight hours – an average of one ewe every 58 seconds.

Hundreds of fans came to Rockliffe Farm, near Kojonup, 250km south of Perth, to cheer him on.

See also: Video - step-by-step guide to best shearing technique

The previous world record of 466 ewes was set in 2003 by fellow Kiwi Cartwright Terry, who acted as Mr Brown’s mentor and inspiration since he started shearing, aged 12, on his stand.

“I had my birthday in his shed and I took a photo of him shearing and he signed it, and I slept with it next to my bed for years,” said Mr Brown.

“He’s been a huge part of my shearing career; he was in my support team talking to me all day.

“He helped me through it all – he gave me confidence. Since I started shearing, he’s filled me with knowledge so I could pull something like this off.”

'Like running two marathons'

The rules state that each ewe must carry a fleece with an average weight of 3.4kg and must be shorn with no more than 18 strokes of the handpiece.

Mr Brown managed the record in four time periods of two hours each, with two breaks of half an hour and one of an hour.

Although he lives in Australia, he regularly travels back to New Zealand to shear, as the pay is better.

His magnificent feat has been described as like running two marathons in one day.

Industry guidance on shearing as new season begins

As shearing season gets under way across the UK, sheep farmers and contractors are being urged to do their bit to uphold standards.

The National Sheep Association (NSA) has been working with industry partners to produce a new set of guidelines for anyone working in a shearing shed.

The guidance has been published to help offer practical advice following the release by animal rights organisations last year of a series of videos which claimed to show animal cruelty during shearing.

NSA, NFU Cymru, NFU Scotland, NFU, the Farmers’ Union of Wales (FUW), the National Association of ***Agricultural*** Contractors (NAAC), and British Wool were involved with writing the guidelines.

The guidelines are available to view on NSA’s website (PDF).

They include advice on the following areas: presentation of sheep; facilities for shearing; using a contractor; and shearers and shearing.

NSA chief executive Phil Stocker said: “It is absolutely vital that all involved in shearing, and indeed any sheep handling activity, ensure they are working at the highest possible standard.

“These animal rights campaigning groups will take any opportunity to attack our industry and even small slip-ups, observed by the wrong person, can be extremely damaging and time consuming to deal with. Our best line of defence is to limit their opportunities.”

JOURNAL : Farmers Weekly

Oilseed rape prices are rising as the likely crop size falls.

Both old and new crop have benefited from the latest crop estimate from analyst Strategie Grains, which reduced its estimate of the EU crop by 470,000t to 18.9m tonnes.

This compares with the 2018 EU harvest of just under 20m tonnes.

However, the dry weather, disease and flea beetle challenges mean many traders put the 2019 crop closer to 18m tonnes.

Crops in France, Hungary and Romania are all suffering and in some cases on reduced areas, but Ukraine has expanded its area by 29%.

See also: Oilseed rape advice

Traders put the UK’s likely crop size at about 1.7m tonnes, compared with about 2m tonnes last year.

All Paris Matif futures contracts have been on an upward trend since early March.

With crushing demand strong, a weaker sterling has also helped UK prices recently. These averaged almost £305/t spot ex-farm as Farmers Weekly went to press on Wednesday 1 May.

The regional range was from £303-£310/t, other than in North-east Scotland which was down at £288/t.

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Old crop is trading on average about £5/t above new crop values, which mostly range from £298-£308/t, as available for July.

The recent price rises have encouraged little grower selling interest.

“The £300/t mark would normally encourage some sellers but it’s a different prospect selling 3t/ha at £300/t compared with 4t/ha at £300/t,” said Owen Cligg, trading manager at farmer co-op United Oilseeds.

However he said those who needed harvest movement and/or harvest cash should probably do some tonnage at current prices.

While the UK traditionally exports early oilseed rape cargoes, the lower crops size means this is less likely to be the case this year.

There are bearish factors too, including high end-of-season global oilseed stocks because of China’s trade disputes with both Canada (on alleged contamination of oilseed rape shipments) and the longer-running dispute with the US.

Although the Canadian rapeseed area is down 6.6% this year, it is only slightly down on the five-year average.

Canadian GM oilseed rape is being imported to the EU for crushing in large tonnages, with the oil going into biodiesel. There is a limit to this trade as not all of the Canadian crop meets the EU’s sustainability criteria, according to Mr Cligg.

In contrast to the rising rapeseed market, soyabeans are under pressure because of the US-China trade dispute and high supplies.

US cropping decisions will be made in the next few weeks as to whether to sow corn and wheat or soyabeans. Wet weather is pushing growers towards soya as the window for corn planting closes over the next few weeks.

JOURNAL : Farmers Weekly

So, will the last weekend of April 2019 be remembered as the only moment in the history of British farming when farmers weren’t allowed to shoot a woodpigeon unless they filled a form in first?

Maybe we could commemorate the dates 28-29 April by naming them something like "The Free Woody Weekend" or "The Great Pea Crop surrender"? Either way, I’m sure I won’t forget the whole curious episode. When you find yourself on the Radio 2 Jeremy Vine Show explaining to eight million listeners why scarecrows don’t really work, you know something strange must have happened.

See also: A guide to effective bird-scaring kits for farmers

As an officeholder of the NFU, you get a sense of which issues are going to get the membership fired up and, when I first heard that Natural England was going to rescind the general licence that allows farmers to shoot pigeons and crows, it was almost as if I could hear the fuse to the powder keg being lit. Quite rightly, farmers would be very angry.

And they were. On the evening of the announcement, I found myself at an NFU branch meeting in Suffolk, where there were more questions about the pigeon shooting ban than there was about Brexit.

The news that to stay legal when pigeon shooting you would have to register on a website that would probably crash, did not go down well, and understandably so. If there’s one thing that annoys farmers, it is petty, pointless bureaucracy that hinders them protecting their stock and crops.

It is not as if pigeons or crows were in any need of extra protection. In the UK they number in the millions and their populations have more than trebled in the past 30-40 years.

When I mentioned that on the Jeremy Vine Show, the host almost spat his coffee over his microphone in shock. Such is the conditioning in the BBC to assume that every bird species in the farmed countryside is facing extinction because of "industrial ***agriculture***" - whatever that is.

After my couple of minutes in front of the BBC microphone, Jeremy played "Can you feel the love tonight" by Elton John, after which a Scottish lady phoned in to explain how crows peck out the eyes of young lambs.

Then it was "Albatross" by Fleetwood Mac, after which a man called Derek from Daventry was allowed air-time to give a graphic account of what magpies do to songbird nests.

I’m not sure what happened to Mr Vine’s lunchtime listener figures, but I thought it made for excellent radio. It was a timely reminder for a large swathe of middle England that the British countryside isn’t actually like The Animals of Farthing Wood, where all the animals go round together as one big happy gang.

Hopefully, by the time you read this some sanity will have returned and you will no longer be required to fill in a form before you shoot a pigeon or a crow.

But who knows what lies around the corner in this increasingly mad world we live in? Asbos for Jack Russells caught frightening rats? Movement restriction orders on household cats caught molesting robins?

On second thoughts, if the usual farmer-bashers did advocate cat quotas, they might actually be doing something positive to save some songbird populations. But that might lose some conservation organisations a few subs, so that won’t happen.

JOURNAL : Farmers Weekly

The hours of manual labour needed for an allotment at least give you time to think. Recently I have been pondering the issue occupying everyone concerned about the future of this country: whether Leeds United will make it back to the Premiership this season.

Mostly, though, I’m wrestling with that old quandary; just how much soil to move. What I do on my small patch of dirt has little resemblance to the broad-acre stuff, but since farming remembered that it grows crops in soil, not vermiculite, we do have a joint interest in what happens – and lives – beneath our feet.

See also: Why soil health is top priority for Sussex estate

My ideal, come spring cultivations, is for the beds to emerge from winter with a low weed burden. Sometimes this will have been dealt with by the rare occasions I have ventured on to them to dig up a few leeks or parsnips. The “light forking over” does the job; weeds out, soil left more or less seedbed-ready.

I am fanatical on soil compaction, though; I don’t go on to a bed without just cause, and will shout at my wife if she does. So my chances of facing anything in spring other than a motley collection of tussock grasses, juvenile nettles, chickweed and mallow are slim, especially in the mild winters we get now.

In this story, compost plays both hero and villain. It makes the soil crumbly and workable after a short spell of fair weather, and the earthworms love it. But I can’t cook mine enough to kill the seeds in it, so every shovelful comes back to haunt me with a flush of weeds.

So often the spade comes out, and “bury the bloody lot” becomes the order of the day. Whatever was embarrassing me above ground disappears, to be replaced by clean, brown soil. I know I’m knackering the soil structure my worms have made, but luckily when they are writhing in agony on the surface I can’t hear them scream.

Use glyphosate, you say? If you’ve ever paid out for the tiny quantities you can get as a gardener, you’ll know the answer to that. I’m sure Monsanto have got “we saw you coming” printed on the label somewhere. I just haven’t found it yet.

On the allotments around me, black plastic seems to have caught on wholesale. I dare say it works, but I can’t believe it’s all that good for soil or worms, and it has to be sourced, put down, weighted, taken up again and probably mended (I’m lazy as well as tight).

I’ve tried cover crops, or “green manures” as they are whimsically called in garden centres, but they cost the equivalent of glyphosate to sow a small area. I’ve also been left with a grass weed called Hungarian rye, despite digging it in as instructed, before it seeded.

Of course, the only reason I’m writing this now is the balmy (and barmy) run of fine, dry weather we’ve been having. My first hesitant prods at the soil have turned into wholesale cultivation. One bed responded to just a light hoeing, raising the prospect of the “no-till allotment”, with undisturbed soil and happy worms.

Dream on. Next spring will be cold and wet again, I’ll be chopping the worms in half with a spade, and Leeds United will still be in the Championship.

JOURNAL : Farmers Weekly

Lessons learned from one of the most challenging seasons for growing oilseed rape are helping Bedfordshire grower Philip Woods fine-tune his future management of the crop.

Oilseed rape has an important place in the rotation at DH Woods & Son and PR Farming, so his system is geared towards giving the crop every chance to fulfil its potential.

Low-disturbance strip tillage and the use of variable seed and fertiliser rates are standard practices at Lynchfield Corner Farm in Kensworth, while companion cropping also has a place.

See also: Drought and pests give rapeseed growers a tough start

In such a tricky year, some of these techniques have worked better than others, allowing him to work with his agronomist, Damian McAuley, to adapt his production system.

In August, the pressure created by drought stress and high cabbage stem flea beetle numbers confirmed the role of early vigour in establishment success and convinced him of the value of hybrids.

It also reinforced the importance of careful management at the establishment stage, so that the crop is given every chance to grow away strongly from day one.

“What we’ve seen, as 2018-19 has progressed, is that seed-bed quality is critical and that you have to be prepared to spend on hybrid seed to be sure of getting a fast-developing oilseed rape crop,” he says.

Seed-bed moisture

That means making sure that soil moisture is not being lost at drilling, through the appropriate choice of drill and getting residue management right, as well as keeping on top of pests.

He favours a Mzuri strip-till drill where conditions are suitable, and uses a straw rake for even residue distribution. At drilling, fertiliser is placed with the seed and, if required, slug pellets go down the same day.

“We’re committed to treating it like a vegetable crop. It takes planning and precision to get oilseed rape to perform,” he says.

Due to the dry conditions, some of this year’s crop had to be drilled with his Horsch drill, fitted with low disturbance narrow coulters, rather than his preferred Mzuri.

“I’d sold the barley straw, so there wasn’t any residue to help with moisture retention. That made it more challenging,” he adds.

Soil structure

The farm’s policy of improving its soils and minimising soil disturbance has paid off, with seed that went into well-textured soil with some moisture doing better than in poorer areas.

“We only get 65% establishment in some of our north-facing fields,” he says. “If the plants can get their roots down quickly and keep going, they have a head start. Late or slow emergence is bad news and puts it at the mercy of pests.”

With 55ha of oilseed rape being grown on the home farm and a further 225ha on contract farms, only one area of the crop failed at emergence this year.

“Although it’s tempting with the pressures that oilseed rape is under, a cheap and cheerful approach is not the right one for us. The crop that was lost was being grown on poorer soils with less organic matter, so there wasn’t enough moisture,” Mr Woods says.

Flea beetle did arrive in August, but weather conditions were just as much to blame for any loss.

“Some of our crop went into baked clay, which slowed it up. Crops drilled into long stubble and chopped straw romped away,” he adds.

Indigro’s OSR establishment checklist

Use vigorous varieties

Deal with any compaction

Prevent/limit waterlogging

Drill OSR early

Use appropriate seed rate

Check Thousand Grain Weights

Place fertiliser at drilling

Minimise soil disturbance

Consolidate seedbeds

Check P&K indices

Remedy any pH issues

Leave long stubbles

Variety choice

His choice of variety for the home farm, Extrovert, proved to be the right one. Having been drilled on August 22, it managed to beat the pest onslaught, albeit with the help of one insecticide spray.

It was accompanied by a companion crop of berseem clover, which was aimed at assisting rooting and reduce weed germination, while also possibly distracting flea beetle.

“We’ve had success with companion cropping in previous years, but it struggled in the very dry conditions this season. Luckily it’s not an expensive thing to do,” he says.

A trial 12ha area of Clearfield oilseed rape hasn’t impressed from the beginning and he doubts that he will grow it again.

“For whatever reason, it lacked vigour compared to the ordinary hybrid. It’s thinner and sparser, even though we followed the seed rate guidance, and it’s more than a week behind. That means the pigeons are on it,” says Mr Woods.

He recognises that his experience in not an inherent Clearfield issue and that it highlights how important vigour has been this year.

Charlock concerns

He opted to try Imperial CL on a charlock-infested area of the field, but took the opportunity to compare it with a 6ha trial of Corteva’s new post-emergence herbicide Belkar (halauxifen-methyl + picloram) on some Extrovert, where there was a range of broad-leaved weeds.

“Belkar seems to have worked well. We did a 0.5l/ha application and it has done the job that was asked of it,” he says

At about £60/ha, it’s equivalent in cost to a pre-emergence herbicide. Applying Belkar to parts of the field, rather than all of it, would bring the cost down but its use would take out berseem clover.

“Ideally, we want the clover to be there until early December. There’s not much point adding it where we’re going to use Belkar in the future,” he says.

Agronomy advice

Many oilseed rape growers are in unknown territory this year, with apocalyptic larvae numbers causing widespread problems, reports independent agronomist Damian McAuley of Indigro.

Where the crop’s development has been checked for any reason, larvae have been able to damage plants and as a result many crops have been ripped up.

“Larvae are all too easy to find,” he says. “The weather conditions allowed the adult beetles to keep reproducing and survive until January, so numbers are off the scale.”

Where crops received some rain in the autumn, they established well and appear to have more yield potential than larvae-infested crops.

Along with his colleagues at Indigro, Mr McAuley has prepared a checklist for oilseed rape growers ahead of this autumn (see panel).

“Aim to get the crop to Christmas. Hybrids going into good seedbeds in well-structured soils will usually be fine,” he says.

On a positive note, new herbicide Belkar does appear to offer some flexibility and has worked well in many situations.

“It looks extremely useful. Shepherd’s purse, fumitory, crane’s bill and cleavers have been well controlled, although you do need to hit the crane’s bill before it gets too big,” he says.

Charlock is not on the label but has been knocked by the herbicide. “We’re not sure if it’s been killed outright. Don’t rely on Belkar to kill charlock – if that’s the main issue, then you need to go down the Clearfield route.”

Sponsor’s message

Corteva Agriscience is delighted once again to be official sponsor of OSR Masters in 2019.

Corteva Agriscience has a rich tradition of oilseed rape innovation through its heritage companies, Dow AgroSciences, DuPont Crop Protection and Pioneer Seeds.

By inviting ideas from a wide variety of sources and with our own tradition of proven oilseed rape products – such as Astrokerb, Kerb Flo 500 and PT256, combined with a rich pipeline of breakthrough products such as the soon to be launched Belkar herbicide and the first Clearfield variety on the Recommended List, PT279CL – Corteva Agriscience believes UK oilseed rape growers will meet short-term challenges and see great potential in the oilseed rape crop going forward.

Thanks to Corteva Agriscience for its sponsorship, which enables us to run OSR Masters. Farmers Weekly had full editorial control of this report.

Farmers Weekly had full editorial control of this report.

JOURNAL : Farmers Weekly

A petition calling for TV presenter Chris Packham to be sacked from the BBC has attracted more than 40,000 signatures.

The online petition, launched by Andrew Hayes, states: “As an employee of the BBC, Chris Packham should remain impartial and keep his views and beliefs to himself.

“However, he is the face of many anti-hunting campaigns and uses his celeb status as a platform to push his anti-hunting agenda.

See also: General licence to shoot corvids to be revoked

“He has made his goal to ban all kinds of hunting, and country sports and pursuits and I feel he is no longer fit to work for the BBC.”

(function(d,s,id){var js,fjs=d.getElementsByTagName(s)[0];if(d.getElementById(id))return;js=d.createElement(s);js.id=id;js.src='[*https://embed.playbuzz.com/sdk.js*](https://embed.playbuzz.com/sdk.js)';fjs.parentNode.insertBefore(js,fjs);}(document,'script','playbuzz-sdk'));

Mr Packham, 57, is a presenter on the BBC nature series Springwatch, Autumnwatch and Winterwatch and he also appears as a host on the corporation’s Blue Planet Live series.

General licences revoked

He is a key figure behind legal outfit Wild Justice, which has successfully campaigned for an end to the general licences that allow farmers,  gamekeepers and pest controllers to shoot wood pigeons and corvids that damage crops or attack lambs.

From Thursday 25 April, it will be illegal to kill any of the 16 bird species such as jackdaws and magpies, without applying to Natural England for an individual licence.

The Countryside Alliance has repeatedly called on the BBC to sack Mr Packham over his outspoken views on fox hunting, badger culling and the plight of hen harriers, which are regularly aired on his Twitter account.

In January, the Countryside Alliance said Mr Packham’s campaigning “has long been a thorn in the side of BBC impartiality”.

JOURNAL : Farmers Weekly

Potato stocks on British farms have fallen by 26% year-on-year to less than 1m tonnes as the effect of the poor growing season continues to play out.

The 2018 crop fell below 5m tonnes for only the fourth year since 1960 as freezing weather dogged planting and the following drought limited growth.

See also: Spud Watch: Focus on weed control after good planting

AHDB figures suggest that stocks stood at 980,000 tonnes at the end of March this year, about 353,000 tonnes lower than the same stage in 2018 and 13% (148,000 tonnes) below the five-season average.

However, careful management and a relaxation of specifications have limited some of the impact from this season’s low production, according to AHDB analyst Aidan Wright.

Stocks remain 162,000 tonnes higher than at the same point in 2012-13 and are only 10,000 tonnes below stock levels in 2013-14 and 6,000 tonnes less than 2015-16. This is put down to below-average use.

The end of March estimate suggests that an additional 860,000 tonnes of crop was released from grower ownership.

This comes in at 13% below the five-season average and is the lowest drawdown since 2012-13.

One of the reasons for this in the packing sector was a significant carryover from the 2017-2018 crop whereby buyers could source old crop as much as a month into the season, Mr Wright said.

For processing stocks, drawdown has returned closer to normal following increased movement earlier in the year.

That was due to growers moving at-risk stocks held in ambient stores in the warm weather in February, Mr Wright explained.

A further factor has been the availability of good quality packing stocks in Scotland this season, which held an estimated 34% of total stocks at the end of March.

Scottish supplies have been making their way into the English market and for export to countries which had a similar growing season to the UK’s, Mr Wright added.

Availability of the early crop would be key as we approached the new season, Mr Wright said.

So far the season has progressed well with planting conditions appearing to have been good across most of the UK. However, the size of the area planted is more difficult to predict than usual.

“Normally, after a year of high prices, we see an increase in planting area the following year,” Mr Wright said.

“But three factors may cause growers to buck this trend in 2019.

“The difficulties of last season will undoubtedly put off some growers. This, combined with both relatively high seed prices and concerns around water availability, may see a break from planted area trends.”

JOURNAL : Farmers Weekly

Sheep are being butchered in fields by organised criminal gangs who then sell the meat on the illicit food market, police say.

Since the start of the year, forces across the Midlands – including Leicestershire, Warwickshire and Northamptonshire – have reported a rise in illegal sheep butchery incidents in farmers’ fields.

In Warwickshire alone, since 1 January 80 sheep or lambs have been reported butchered in fields and 29 sheep have been reported stolen from farms. Up to 40 sheep have been butchered in the West Mercia area.

See also: Exclusive survey: what farmers say about rural crime

Police believe the offenders visit fields during the day to plan their attacks and park vehicles in areas where they cannot be seen.

The acts of butchery and theft are more likely to be carried out on clear nights when there is better visibility from moonlight, often in secluded locations near main roads.

The offenders take the saleable parts from fields and sell them on the illicit food market.

‘A lot of blood’

John Clarke, of Manor Farm in Harborough Magna, near Rugby, told the BBC he has lost 61 sheep in the past month in three separate incidents of theft and butchery.

He said: “There’ll be a lot of blood about, a lot of legs left lying about. Anything that you can’t eat is just left behind in a big heap.

“We go from being upset now to being a bit angry. The fact that they’ve come back again for more and the sheep we pride ourselves on being well looked after here are having such a rough end to their life.”

Meanwhile, farmer Oliver Johnson was woken by the noise of rustlers making off with one of his in-lamb ewes in the middle of the night. The incident was captured on CCTV just before 2am on 7 March.

Mr Johnson’s wife, Charlotte, told Farmers Weekly the incident had left her feeling “angry and upset”. The remains of the sheep were later discovered in a carrier bag outside a block of flats in Leicester.

Suspect arrested

Warwickshire Police say they have some success in tracking down suspects. On 16 April, a man who had dead sheep in his car was detained “thanks to the vigilance of farmers and the public”.

The 21-year-old was arrested on suspicion of animal cruelty, driving while under the influence of drink or drugs, possession of an offensive weapon, and assaulting a police officer.

Carol Cotterill, rural crime officer at Warwickshire Police, said: “Theft and illegal butchery of sheep is a serious offence which causes suffering to the animals, some of which were in lamb or with lambs at foot, and financial repercussions to farmers.

“Enquiries are currently ongoing into the incidents and we would urge anyone who has witnessed any suspicious activity or has any information that could help with our enquiries to please come forward.”

The NFU has described the illegal slaughter of animals as “abhorrent” and it has urged anyone with information to contact police on 101 or call the Crimestoppers rural crime number anonymously on 0800 783 0137.

Farm crime prevention advice

If you own livestock or live near fields with livestock, please be extra vigilant and report any concerns to police

Report suspicious vehicles to police

Where possible, graze livestock in fields away from roads

Review any weak points in fields in remote locations, in particular where sheep are grazed near a main road

If your field is down a quiet track consider parking a vehicle to block access

Padlock field gates and ensure gates and boundaries are in good order

Consider checking your sheep on clear nights, in the early hours of the morning

Join the Rural Watch scheme

Set up a local WhatsApp group to share information

Consider grazing other animals with sheep to deter offenders

Contact your rural crime adviser to discuss crime prevention notices, cameras, etc

Put your safety first and dial 999 if you believe an incident is in progress

Source: Warwickshire Police

JOURNAL : Farmers Weekly

Premium Quicke, Dimension and Trima loader owners can now retrofit their models with a Q-companion box to allow accurate measuring from on-board weigh-cells.

See also: On test: Valtra's a104 HiTech4

There are more than 350,000 loaders in the world built between 2005-2017 that are able to run the package, which gives customers instant load weighing on every lift.

The data can also be stored in the Q-companion app and may be useful for monitoring farmyard manure loads or feed weights.

The kit comes in one box containing everything needed for installation and it's possible for farmers to do the fitting themselves in a few hours.

JOURNAL : Farmers Weekly

The competition watchdog’s decision to block Sainsbury’s and Asda’s proposed merger has been applauded by food, farming and small business groups.

The Competition and Markets Authority (CMA) ruled against the proposal, saying that consumer prices would rise and shoppers would have less choice.

In its report, following a year-long inquiry, the CMA added that competition, at both a national and local level, would suffer if the retailers had merged.

See also: Competition watchdog blocks Asda-Sainsbury’s merger

Had the move gone ahead, the combined might of Asda and Sainsbury’s would have created Britain’s largest supermarket chain, commanding more than a quarter of the groceries market.

Concerns raised

The prospect of such a powerful buyer in the food sector had prompted concern among suppliers and farming bodies.

In its contribution to the inquiry, the NFU said further consolidation in the market and proposals for £1bn of price cuts by the merged retailer were worrying.

Responding to the CMA ruling, NFU director-general Terry Jones said: “Our key concern about the proposed merger has always been the potential impact it could have on our members, with the possibility for abusive market power, as well as the impact on consumer choice and the quality of products coming to the market.

“It is clear from the CMA’s findings that it recognises the impact further consolidation could have on the supply chain, and, ultimately, shoppers."

Mr Jones added: “In light of this decision, we will be seeking a meeting with both Sainsbury’s and Asda to fully understand what this decision will mean moving forward.”

Logical decision

The Food and Drink Federation, which represents 7,000 food suppliers, described the CMA’s decision as “logical”.

Federation chief operating officer Tim Rycroft said he was pleased by the CMA decision, which was “the only logical outcome”.

“This proposed merger was a bad deal for consumers and for food and drink manufacturers.

“Given the evidence provided by our members of substantial competition harms, it is hard to see how the CMA could have come to any other decision,” Mr Rycroft said.

Sustain, the alliance for better food and farming, said it was the “right result”.

Vicki Hird, Sustain’s farm campaign co-ordinator, said: “This is the right result because further mergers in this highly concentrated food sector would mean less choice for customers.

“For suppliers, like farmers and growers, here and overseas, this merger could have been disastrous, causing lower farmgate prices and fewer market options when they are already the most squeezed part of the supply chain.”

Supermarkets disappointed

However, the two supermarkets were disappointed by the CMA ruling.

Asda chief executive Roger Burnley said: “We were right to explore the potential merger with Sainsbury’s, which would have delivered great benefits for customers and supported the long-term, sustainable success of our business.

“We’re disappointed with their findings but will continue to find ways to put money back into customers’ pockets and deliver great quality and service in an ever-changing and demanding market.”

Sainsbury’s chief executive officer Mike Coupe accepted the CMA decision but rebuffed the assessment that prices would inevitably rise.

Referring to the pledge to introduce sweeping price cuts, Mr Coupe said that the CMA had effectively taken £1bn out of shoppers’ pockets.

“The conclusion that we would increase prices post merger ignores the dynamic and highly competitive nature of the UK grocery market," Mr Coupe said.

JOURNAL : Farmers Weekly

Data collection is becoming increasingly important for livestock farmers in order to make decisions on everything from breeding to nutrition.

While getting to grips with collecting large quantities of data can seem like a daunting task, doing so can have a lot of benefits, as one beef farmer in Wiltshire has found out.

Farming at Spiers Piece Farm near Steeple Ashton, Wiltshire, Sam Awdry monitors and records a range of data about his beef herd.

Farm facts

Spiers Piece Farm, Edington, Wiltshire

300 cross-bred cattle

Spring calving in a 10- to 11-week block

Calves weaned at eight to nine months with no creep feeding

Three-way cross-breeding programme (Angus, Charolais and Fleckvieh). Angus-cross get put to Fleckvieh, Fleckveih-cross to Blonde (changing now to Charolais) and Blonde/Charolais-cross put to Angus

Finishing cattle at 24 months at 380kg

Angus cattle sold to Dovecote and the other breeds sold to ABP

“We use Summit to create the data and then I enter it on to spreadsheets I designed on Excel. It takes a couple of hours to set up, but once it is there, it is there forever.”

See also: Beef finisher data helps Borders farm weigh in on bull sales

The farm is home to 300 head of cattle, running on a three-breed rotation using Angus bulls as the main sire, alongside Charolais and Fleckvieh.

Cattle calve down in the spring in a 10- to 11-week block, with calves weaned at between eight and nine months before moving on to a grass-based finishing system. Steers are finished at about 380kg by 24 months of age and the earliest leave the farm at 20 months.

With a busy system to operate and a desire to run as profitably as possible, Mr Awdry began recording performance data to aid his management decisions about eight years ago.

“I record quite a lot – cow weaning efficiency, weight of calves at weaning – if I can record it and get a benefit out of it, I try to do it.”

Below, is some of the key information he records and how it is influencing management decisions.

500-day weight

With cow weight influencing income, one thing that is carefully monitored by Mr Awdry is steers’ weight at 500 days.

“In 2012-13 we had some problems due to bought-in calves that really affected the 500-day weight – dropping to about 420kg in the Blonde-cross steers."

The Blondes had a much lower weight and slower growth compared with Angus-cross and Fleckvieh-cross – the 2017 Blonde calves recorded 500-day weights of 470-480kg. As a result, Mr Awdry is changing to Charolais.

“We identified the problem, rectified it and since then our 500-day weight has improved year-on-year.”

The 500-day weight also allows Mr Awdry to make decisions about bull performance.

“Interestingly, the data I’ve collected shows the Fleckvieh is our top-performing bull – by quite a long way.

The 2017 calves' 500-day weight averaged about 510kg, which is perhaps unexpected given that they’re a dairy breed.”

Days on farm

Through monitoring the days on farm across the breeds, it was highlighted that the Blonde-cross calves took much longer to finish, and so – based on the data – he made the decision to stop using them as part of the breeding programme.

“We can see that Fleckvieh’s tend to stay on farm slightly longer, but you can take them to slightly heavier finishing weights.”

The 2016 calving group showed average days on farm for Fleckvieh cattle of just under 680 days, and 650 days for the Anguses, compared with 710 days for the Blonde calves - illustrating the difference between the breeds.

“The data story tells it all, really, in terms of why we are not using them anymore,” he adds.

Cow weaning efficiency

Recording cow weaning efficiency allows farmers to consider both herd fertility and calf growth rates in one figure.

“From monitoring this, we have been able to deduce that the heavier the cow, the less efficient she is,” explains Mr Awdry.

“At the farm, we’ve worked out that the optimum weight is 500-550kg, which equates to an efficiency percentage of 45%. In contrast, this figure drops by 10-35% when weights are 701-750kg.”

Cow weaning efficiency is also monitored by age, and his data has shown that the older stock get, the more their efficiency percentage declines. “In terms of making genetic decisions, knowing this really does help.”

Therefore, cows are culled based on age/efficiency and any undesirable behaviour traits.

Fertility and calving

“For me, the most important is the total weaned of cows put to the bull, as it incorporates all the other fertility data.”

Calving interval is recorded both as a total and across individual breeds within the herd.

“From this, we have been able to see the difference in gestation periods – with British Blonde calves consistently having longer pregnancies. This has been another driver behind switching from British Blondes to Charolais, with the hope of reducing our overall calving index.”

Calving performance is recorded on an annual basis, including not-in-calf cows, abortions, calving losses and calves lost up to weaning.

“Over the past eight years we’ve had issues with longer calving blocks and bull problems that was picked up via the calving performance data,” he explains.

“This year, our not-in-calf percentage is about 11.5%, which is not too bad, given the year we had last year, but now our target is to get this under 10%.”

Benefits of recording data

While there is undoubtedly a bigger time commitment when it comes to recording herd data, it’s worth the investment, says Mr Awdry.

“You can never just be comfortable with where you are – you always need to want to do better and improve your performance. Having a sound monitoring system and collecting good, usable data can really help when it comes to making management decisions and improvements.”

JOURNAL : Farmers Weekly

It is regularly quoted in farming circles that the use of red diesel is a very grey area, but the rules are actually pretty black and white and the Memorandum of Agreement in HMRC’s Notice 75 on the Gov.uk website makes it very difficult to claim otherwise.

***Agriculture*** accounts for about 7% of the total rebated fuel use in the UK, with significant taxation benefits for the farming industry, and it is vital that the industry carefully adheres to the rules to help safeguard future use of the fuel.

See also: Converting your truck to red diesel use - how to stay legal

A key rule of thumb is that any use of red diesel on the road must be an integral part of an ***agricultural***, horticultural or forestry operation and, significantly, cannot just be haulage.

Also, if you use the vehicle on public roads for a mixture of ***agricultural*** and other, non-***agricultural*** activities, the vehicle no longer legally qualifies as an "excepted vehicle" and must be fuelled with white fuel at all times.

The following questions will focus on where using red diesel is permitted for farming activities to help clarify many of the common grey areas.

These questions need to be read in conjunction with the HMRC Notice 75 which gives a clear explanation of what qualifies as "***agricultural*** use" and what types of ***agricultural*** vehicles qualify.

How far can I travel using red diesel?

There are no distance limits on the use of red diesel in ***agricultural*** vehicles involved in an ***agricultural*** activity. However, if you are moving produce you must consider if you need an operator’s licence when travelling more than 15 miles from your base.

I am a contractor, travelling to farms to carry out cultivations work, including ploughing, harrowing and drilling. Can I travel to and from the farms on red?

Yes, contractors are allowed to use red diesel provided you are travelling to or returning from the farms to carry out ***agricultural*** work, or you are taking materials or equipment needed for that work.

The Council has invited me to tender to cut roadside verges and hedges using a tractor. Do I need to include an extra charge for using white diesel?

No, provided you don’t use your vehicle on the road for any other non-***agricultural*** work. It specifically states in the law that ***agricultural*** tractors can use rebated fuel to cut hedges, trees and verges that border public roads.

How far can I travel if I’m using red diesel to haul straw that I buy in swath and bale before taking it off the field over the few weeks after harvest?

There is no distance limit for the use of red diesel. However, you can only use rebated fuel if you are involved in the ***agricultural*** operation that produced the straw, such as baling.

Can I just move straw off the field on red diesel?

No. If you have not been involved in the ***agricultural*** operation and are simply hauling the straw, you must use white diesel.

How do I prove that I have been an "integral part of the ***agricultural*** operation"?

Up-to-date record keeping is vital, as this is the best way to prove that you have been involved in an ***agricultural*** operation. This means a trail of contracts, job sheets, invoices and receipts. This is very important, particularly for contractors, to substantiate that all work carried out using red is valid.

I have new tenants in a farm cottage and need to move some furniture with my tractor and trailer?

This is not a legitimate use of red diesel. It is not an ***agricultural*** operation, which is defined as the growing or harvesting of crops or the rearing of animals for food, wool, leather, fur or other substances.

I use my tractor for farm work, but also haul materials for a local building firm and move soils from construction sites. How do I stay within the law? Can I use dual tanks, or perhaps just pay the extra tax when I should be using white diesel?

Using red diesel is legal only in a tractor used solely for ***agricultural*** use. This means that if you also take on non-***agricultural*** jobs, then you must use white fuel for all the work you do, whether it is ***agricultural*** or not.

In addition, a tractor taxed as an ***agricultural*** vehicle must also only be used for ***agricultural*** activity. So, if it’s not ***agricultural*** you cannot be ***agriculturally*** taxed without breaking the law and risking prosecution.

Switching fuels over is also pretty treacherous, as it is very difficult to get all traces of red out of the tank, particularly now covert markers are being used to identify fuel. If your fuel is tested on a non-***agricultural*** job your tractor is likely to be seized if there’s any trace of fuel markers.

One solution, if all the non-***agricultural*** work is done off-road, is to move the tractor on a low loader. For fuel duty purposes, as long as you only use the road for ***agricultural*** work, red diesel can be used off-road whatever the activity.

Dual tanks are illegal and not an option, therefore the simple answer is you cannot have an ***agricultural*** tractor if your use of public roads is for a mixture of ***agricultural*** and non-***agricultural*** purposes. It needs to be used on public roads solely for ***agricultural*** purposes or re-taxed and put on white.

If I am caught out using the wrong fuel, how far can HMRC trace my business back?

HMRC have the powers to assess for additional duty going back four years. If you are found to have been using tractors on red for non-***agricultural*** jobs over that period it could get very expensive.

I am running a classic tractor charity rally around local country roads. I have been told it isn’t appropriate to use red diesel for this?

Correct – this is not an ***agricultural*** operation. As it is a leisure pursuit, the tractors must be run on white fuel.

I have diversified and have a livery stables within the farmyard. Can I use red diesel to move manure in and out of the yard for my equine clients?

No, the keeping of animals for sport and recreation is not considered to be ***agricultural***.

My farm contracting business has grown considerably due to our local AD plant. I have two self-propelled forage harvesters and am involved in contracting services planting and harvesting the maize feedstock and taking it into the AD plant. I sometimes harvest and move the maize to a farm field-side clamp, then move it into the plant when it is required. Can I used red diesel?

Yes, as your services are an integral part of the ***agricultural*** operation. If you were only employed to move the maize into the AD plant, without being directly involved in growing and harvesting the maize, then you would need to use white diesel as this would be haulage.

I also have a low-injection spreader which I use to apply digestate from the AD plant. I transport the digestate from the AD plant and then spread it on farmland. Can I use red diesel?

Yes, as you are part of the ***agricultural*** operation.

I have been asked by my local sports club if I can use my tractor to keep the sports pitches maintained, fertilised and mowed. Can I used red diesel to travel to the playing fields?

No. HMRC does not recognise maintenance of sports pitches as horticultural use, so if it travels on the roads for this reason then it must be fuelled with white diesel. If the tractor is taken on a low loader the off-road work can be done on red.

Alternatively, a self-propelled mower can legitimately be run on red at all times.

I need to use my tractor for drainage work and clearing ditches which run across my farmland.

You can use red diesel as long as the work is being done for the benefit of land used for farming.

I have also been asked to do additional ditch clearing for a neighbouring housing estate to prevent flooding. Can I use red?

No. It is not permitted to use red diesel for flood protection, so any additional flood protection/non-***agricultural*** drainage work would mean the tractor had to be put on white diesel (unless the work doesn’t involve using public roads).

I want to tow a van behind my tractor/trailer to the field to get staff back to base to avoid unnecessary journeys to and from the field with big heavy slow machinery. Can it be towed using red diesel?

No the movement of a non-***agricultural*** vehicle (van, car, caravan) is not allowed using red diesel, as it is not ***agricultural*** use.

I am employed by a farmer to move sugar beet from a field clamp to a factory. Can I use a tractor licensed as an ***agricultural*** machine and running on red diesel on the public road?

No, this is a haulage operation unless you were also directly involved in growing or harvesting the sugar beet.

I need to fetch some roof sheets to fix my farm store and need to collect them from the local ***agricultural*** country store. Can I take my tractor and trailer on red?

Yes, as you are allowed to use red diesel to transport materials and equipment to repair and maintain your own farm buildings (but not the farmhouse).

I was stopped by an "HMRC officer" but I am not sure it was legitimate. How can I be sure?

Firstly, your vehicle is not likely to be flagged down and stopped by HMRC. It is more likely to have its fuel tested as part of a wider vehicle check involving the police or Vosa.

HMRC officers would be able to show you a form of identification and would normally be in uniform and in identifiable vehicles.

JOURNAL : Farmers Weekly

Farmers should be paid to reduce greenhouse gas emissions, according to a major study that calls for urgent action to tackle the challenge of climate change.

Growers and livestock producers should be rewarded for helping the UK government reduce net carbon emissions to zero by 2050, says the Committee on Climate Change report.

The target is needed for the UK to meet its Paris Agreement commitment to help mitigate climate change.

See also: Government must help farmers to meet climate challenge, NFU says

Emissions must be reduced across a range of industries, says the study, published on Thursday 2 May 2019.

But special incentives are needed for ***agriculture***, which is likely still to be a significant emitter of greenhouse gases by the mid-century.

“It is difficult to reduce ***agriculture*** emissions to near-zero given the inherent biological processes and chemical reactions arising from crops, soils and livestock,” says the document.

“Most remaining emissions are non-CO2, particularly methane.”

Changes in farming methods – including reduction in beef and sheep production – should emphasise carbon sequestration and biomass production, says the report.

One-fifth of UK farmland should be shifted into tree planting, energy crops and peatland restoration.

Redirecting support would support the major transition in land use needed to achieve a net-zero greenhouse gas target.

It recommends that financial payments should be linked to actions to reduce and sequester emissions from 2022.

The NFU – which has a more ambitious target for ***agriculture*** to eliminate emissions by 2040 – said it was vital to tackle climate change.

But it argues that improvements in productivity, carbon capture and renewable energy production are the most effective ways to do so.

Livestock 'vital'

NFU deputy president Guy Smith warned: “We will not halt climate change by curbing British production and exporting it to countries that may not have the same environmental conscience, or ambition, to reduce their climate impact.”

Mr Smith said it was better to farm smarter, improve productivity, encourage carbon capture and boost renewable energy production.

Some 65% of British farmland was best suited to grazing so the NFU's ambition was that its climate impact was among the lowest in the world, he said.

The Soil Association, which promotes organic farming reliant on grazing livestock, said changes in diets were needed to meet the targets.

But it warned that increasing intensively reared British pork and chicken in place of beef and lamb would simply suck in red meat imports.

Head of policy Gareth Morgan said: “A smaller, higher-quality ruminant sector still has a vital role to play in nurturing soil health and biodiversity.

"The focus must be on eating less but better meat, re-orienting diets around plant-based proteins and grass-fed livestock.”

JOURNAL : Farmers Weekly

Growing award-winning winter rye crops is becoming something of a habit for Norfolk farm manager Andrew Hunt, who delivered a theoretically impossible yield last season.

Since taking up the reins at Great Melton Farms near Norwich seven years ago, Mr Hunt has been successful in the YEN cereal yield competition with hybrid rye on three separate occasions.

He even managed to defy science in 2018 and get a crop to achieve 103% of its yield potential, beating some of the UK’s top wheat growers.

See also: Award-winning grower explains strategy for top notch soils

Despite the summer drought, his 10.9t/ha winning crop broke the system devised by Adas to close the gap between current and potential cereal yields, by producing more than the model calculates is theoretically possible.

For that to occur, it is estimated that the roots would have been extracting water from a depth of 4m, rather than the 1.5m used in the YEN predictions.

“The neighbouring field did even better for yield,” recalls Mr Hunt. “We have fine-tuned our crop management over the years and are getting very consistent results from rye, with a five-year average yield of 9.4t/ha.”

Trailblazer fact file

Name:

Andrew Hunt

Problem being solved:

Consistently delivering high cereal yields on poor soils

Approach:

He has developed a high-performance hybrid rye growing system, which has resulted in wheat-type yields from rye on poor land

Rooting ability

To keep learning and improving, Mr Hunt intends to dig a pit this year and see if he can establish just how far the roots go down.

“As we’re growing much of the crop on sand over gravel and doing everything we can to encourage rye’s natural rooting ability, it will be interesting to see what’s happening underground. That’s where between one-third and one half of the plant is.”

Last year wasn’t a one-off. In 2017, he was recognised by Adas with a YEN innovation award for helping to develop a high-performance hybrid rye growing system for light land, while in 2015 he scooped gold for best percentage of potential cereal yield.

He is also the only recipient of Ryvita’s Outstanding Contribution to Rye award.

Great Melton Farms facts

1,200ha plus a further 500ha in farm management agreements

294ha winter wheat (9.8t/ha five year average)

211ha winter rye (9.4t/ha)

200ha high-erucic acid oilseed rape (3.9t/ha)

170ha winter malting barley (7.9t/ha)

130ha spring malting barley (6.9t/ha)

64ha sugar beet (77t/ha)

42ha potatoes

Repeated success

With such a good track record, it’s interesting to note that his entries are always from a commercial crop being grown on the farm - there is no special treatment or change in the agronomy programme as the season progresses in order to secure victory.

“With rye, it’s all about rooting,” he says. “It’s a tall and very competitive crop, so if you’re right on it early in the season with nitrogen and your plant growth regulator use and timing is correct, it will respond.”

Mr Hunt has always worked closely with Ryvita, hosting trials for the company and for AHDB on the farm, as well as helping to develop guidelines for getting the best from the crop. As a result, he is seeing wheat-type yields from rye on poor land, making it one of the farm’s top gross margin performers.

“Rye is right up there with first wheats and Hear oilseed rape in terms of its financial contribution,” he reveals. “It’s an aggressive crop that is naturally good at rooting and scavenging, so it’s suited to this farm and our soils.”

System for success

More than 200ha of hybrid rye is grown at Great Melton Farms in a rotation that includes sugar beet, potatoes, winter and spring barley, high-erucic acid oilseed rape and winter wheat.

There is also a considerable area of land in various environmental schemes, some woodland and grassland, as well as a Christmas tree enterprise.

On the lightest land, rye is often grown for four or five years in a row, along with potatoes and sugar beet. If a white straw crop is followed by another, the land is ploughed. Otherwise he operates a min-till system.

“Ploughing, even though it’s an extra cost, is necessary to prevent ergot levels increasing,” he says.

“We’ve done five years of trials on this and ergot levels can increase dramatically with min-till. When that happens, it can cost up to £18-£20/t to clean it out.”

On-farm replicated trials 2019

Seed rate trial 50-350seeds/sq m

AHDB Recommended List variety trial

Fungicide efficacy

Nitrogen efficiency

Protein calibration

Nitrification inhibitors

Ergot reduction

Getting started

Rye drilling starts at the end of September and goes into early October, at a seed rate of 280-300 seeds/sq m and to a depth of 20mm.

Two main varieties are grown – in line with Ryvita’s requirements – but Mr Hunt also has trial plots of new up-and-coming varieties in the ground and helps with their screening.

The end user has an instant test that helps to determine whether varieties are going to work in its factory, with protein levels being important for crispbread suitability.

Mr Hunt’s experience of not having issues with barley yellow dwarf virus in rye supports anecdotal reports of crop tolerance, so an autumn insecticide isn’t used. Control of annual meadow grass is done with half-rate Liberator (diflufenican + flufenacet) in the autumn, with Advance 66 being applied to boost rooting.

That phosphite/zinc application is repeated in the spring, just before growth stage 30, along with the first plant growth regulator, a Moddus (trinexapac)/chlormequat mix.

“This timing is really important and is aimed at rooting again, so that we can benefit from a good root mass.

Growing hybrid rye

Early treatments important for encouraging rooting

Timeliness is everything with rapidly developing crop

Comprehensive growth regulator use essential

Final N application must be solid ammonium nitrate (Ryvita contract)

Watch ergot levels where min-till is used

Harvest as soon as the crop is ready

Growth regulation

“Rye races away in the spring, so it has to take priority, and growth regulators are essential for success. If there are signs of early rust or mildew at this stage, a T0 azole will also be applied,” Mr Hunt says.

Two weeks later, at GS31, another Moddus/chlormequat application is made; this time for straw shortening and strengthening.

This is also the main fungicide timing for rye, with a prothioconazole/fluoxastrobin mix being used in most seasons.

“We’ve done some replicated trials on fungicides and there’s no reason to move to the SDHIs – there haven’t been any yield differences.”

Just 14-21 days later, at the critical GS37 timing, Terpal (ethephon + mepiquat) is applied to reduce final stem extension. At the same time, a fungicide for brown rust goes on.

“We carry on monitoring for brown rust until the ear is out. We can use an azole at T3 if its required,” says Mr Hunt.

He accepts that the plant growth regulator programme for rye is costly, but believes it is necessary, while fungicide costs are lower and kept in check.

Fertiliser programme

Nitrogen is applied in three splits, with the first application of 60-70kg/ha of liquid nitrogen going on as soon as the crop wakes up in early February.

Four weeks later, another 60-70kg/ha is used, followed by a flag leaf top dressing of ammonium nitrate, so that it can be mobilised by the plant.

“This last application is really important, as we are aiming to get over 9% protein for the end user. That can be difficult to achieve, so the final dose varies with yield expectation.”

At harvest, rye must take priority if it is fit, stresses Mr Hunt. “It can’t be left because the hagberg drops off quickly. Providing the combine has the capacity to cope with lots of straw, it’s fairly straightforward and we harvest up to 60ha/day.”

Pre-harvest glyphosate is not permitted on the crop, he says.

“On this farm, we find that the rye harvest takes place after oilseed rape and before wheat, so it fits with our workload.”

JOURNAL : Farmers Weekly

Media stories about the role red meat production plays in global warming and its links to bowel cancer are having a negative impact on consumption.

According to new independent research carried out by Censuswide on behalf of Quality Meat Scotland (QMS), almost half of all consumers (49%) are trying to eat less red meat.

See also: EAT-Lancet diet is nutritionally deficient, says obesity expert

The top reasons given are animal welfare (26%) followed by concerns about the environmental impact of farming (19%).

Earlier this year the EAT-Lancet report, published in The Lancet magazine and reported widely in the national media, called for a significant reduction in meat consumption, blaming livestock production for producing greenhouse gases.

More recently, a study from Oxford University sponsored by Cancer Research UK has pointed to increased risks of bowel cancer from eating red meat and processed meat products such as bacon.

According to the study, eating three rashers of bacon a day instead of one could increase the risk of bowel cancer by 20%, although that still amounts to less than 50 people per 10,000 head of population.

Misleading

But QMS says consumers are being misled and insists that many of these claims are unsubstantiated when it comes to Scotland’s farming practices.

“In Scotland, producers are very proud of our animal welfare and our sustainability credentials are exceptionally strong,” QMS chief executive Alan Clarke said.

“Livestock farmers play a major role in looking after the landscape and grazing animals are needed for the habitats of many species," he said. "The reality is, 80% of Scotland’s farmland is comprised of grass and farmland not suitable for growing crops, but ideal for producing beef.”

NFU Scotland has also taken issue with the claims from Oxford University in relation to red/processed meat and bowel cancer.

NFUS livestock committee chairman Jimmy Ireland said: “When people take the time to look beyond the sensationalist headlines, the facts remain that including meat, dairy, eggs, fruit, cereals and vegetables in a healthy and balanced diet is the best way to ensure you are getting all the necessary energy, protein, fibre, vitamins and key minerals, including iron and calcium.

“In the best interests of consumers, encouraging the adoption of balanced diets, more regular exercise and tackling problems around alcohol and smoking must be the focus for policymakers.”

Public support for Scottish farming

Despite the trend for consumers to eat less meat, QMS is reassured that 92% of those who took part in the Censuswide survey (covering 2,000 adults in Scotland) said they still ate red meat.

According to nutritionist Laura Wyness, this is just as well. “Beef is a great source of protein and is rich in vitamins and minerals such as vitamins B3, B6, B12 and zinc,” she said.

“It also is a source of easily absorbed iron. Those who follow a diet which doesn’t include red meat such as beef, may be at greater risk of lacking key nutrients. Young girls and women are particularly at risk of iron deficiency.”

There was also evidence that two thirds of respondents to the survey were concerned about the impact of veganism on Scotland’s farmers.

“From the research results, we can see that people really care about safeguarding the industry, and we want to give them the facts as to why it’s right for them to do so,” Mr Clarke said.

“Scotch Beef meets stringent quality, sustainability and welfare standards, so consumers can be secure in the knowledge that consuming red meat from Scottish farms will not have a negative impact on the environment or animal welfare.”

JOURNAL : Farmers Weekly

Scotts Precision Manufacturing has added a wider model to its haulm topper line-up in response to the burgeoning demand caused by the banning of diquat.

The Trinity 30B will be available in time for this year’s harvest and offers a cutting width of up to 3m, which means it is capable of handling either three 90cm- or four 75cm-wide rows.

New features include side lights, remote greasing points, front LED work lights and a metal toolbox.

See also: Tips on desiccating potato crops without diquat

Like the smaller 22B, the new 30B runs quick-change flails to reduce downtime and static shear plates to produce a mulching effect.

It also comes with a replaceable steel inner liner to protect the hood and has what Scotts claims is the largest variation of flail lengths of any topper currently available.

Asking price of the new model is £14,000.

JOURNAL : Farmers Weekly

Farmers wishing to improve conception rates by using cervical insemination in combination with frozen semen could learn from a recent Farming Connect study.

Cervical AI using fresh semen is not uncommon, but this technique in combination with frozen semen – an approach that provides farmers with access to superior genetics and reduces risks of importing diseases – is rare in the UK due to poor conception rates.

Instead, most sheep are inseminated laparoscopically, but this is a high-cost and invasive procedure with associated risks.

Scandinavian countries have become world leaders in the cervical insemination of sheep using frozen semen because laparoscopic AI is prohibited. They regularly achieve conception rates of 50-70%.

In order to investigate the factors influencing the efficacy of impregnating ewes with frozen semen, Llysfasi College, a Farming Connect Innovation Site near Ruthin, trialled cervical insemination this season.

See also: Guide to breeding from ewe lambs

The trial process

Breeding was synchronised in 50 mixed-age Welsh Mules ewes from the 1,200-head flock.

This group was inseminated in mid-October with semen from performance-recorded Texel and Norwegian White rams, at a cost of £37 a head for the synchronisation and semen.

The insemination at Llysfasi was carried out by Alwyn Phillips, who has used cervical insemination in combination with fresh semen since 1983 on his flock of performance-recorded Texels and Poll Dorsets.

Mr Phillips, of Penygelli Farm, near Caernarfon, had visited Denmark and Sweden, two countries that achieve high conception rates using frozen semen.

The group has now started lambing, and the results show that 10% of the group held to AI. The other pregnant ewes are in-lamb to a sweeper ram introduced 14 days after AI. Ewes that held to AI all produced singles.

Despite disappointing results at their first attempt, the team involved are confident the that AI conception figures can be improved.

Farming Connect’s Red Meat Technical Officer for North Wales Gethin Prys Davies, who co-ordinated the trial, says data suggests the timing of insemination could be key to achieving higher conception rates.

[*https://infogram.com/the-trial-at-llysfasi-1hnq41y908nk43z?live*](https://infogram.com/the-trial-at-llysfasi-1hnq41y908nk43z?live)

“The initial plan was to start inseminating 55 hours after the removal of the CIDRs (devices to increase blood progesterone concentrations), but we found the ewes were coming into heat quicker than anticipated – 37 ewes were marked by paint from the teaser ram after 50 hours,’’ he explains.

“As a result of this, we brought the insemination time forward from 3pm to 12 noon, 52 hours after the ewes were injected.

“The results suggest that this revised time was still too late, and we should have gone earlier, as four of the five ewes that held to AI were inseminated between 52 and 53 hours.’’

Lessons learned

Mr Davies says Farming Connect will repeat the trial in the next breeding season, with changes introduced to reflect the data gathered this year. This year, the changes will include:

The insemination time will be moved forward – probably starting around the 48-hour mark.

The diluent used to freeze the semen won't include egg yolk – the straws that included a diluent free from egg yolk and pioneered in Norway performed better than those that were egg yolk-based.

“The end goal is to develop this technique to a point where it is commercially viable for the farmer. We are not there yet, but this has given us a true sense of optimism and excitement for future progress in sheep breeding," adds Mr Davies.

Llysfasi farm manager Dewi Jones says the farm had been pleased to be involved in the trial.

“If we can make cervical AI with frozen semen work, it is potentially a way of speeding up genetic progress in ewe flocks as has been achieved in the beef and dairy industries,’’ he says.

JOURNAL : Farmers Weekly

Grain traders trying to forecast prices are caught between reports of a flourishing Russian wheat crop and dry weather woes in Europe.

Figures produced by the International Grains Council (IGC) suggest a predicted 3m tonne increase in world wheat production for 2019-20. Much of that is due to a 2.4m tonne increase in the Russian crop which could yield 79.5m tonnes, an increase of more than 8m tonnes on 2018.

The council’s revised estimate for global production is now 762m tonnes compared with 735m tonnes last year.

See also: Crop Watch: Stressed barley and drought concerns

New crop values had fallen on the back of those figures, said Fengrain managing director Rob Munro, as milder-than-average weather in Russia had cut winter kill levels in wheat crops.

The following dry spring added to prospects of a significant increase in the crop, allowing cultivations to go ahead earlier and on a wider scale, Mr Munro said.

And yet the continuing dry conditions across a swathe of EU countries could still result in yield losses that would then firm up new crop prices, he added.

American flooding impact

In contrast to Europe, the US has been hit by deluges and spring sowing lags behind the five-year average, according to ADM ***Agriculture*** joint managing director David Sheppard.

This should raise concerns about the extent of the US crop. “However, fund traders seem happy to discount these weather issues and extend their already short positions,” Mr Sheppard commented, meaning traders expect prices to fall further.

“This, together with a firmer US dollar, higher-than-expected Canadian spring and durum sowings and the general expectation of a major rebound in global wheat production, is maintaining the bearish overview,” he said.

That has caused European prices to follow the US market down, setting new-crop contract lows despite a near two-year low in the euro/US dollar rate.

According to AHDB Cereals, global grains have continued to fall with a general downturn in markets.

AHDB Cereals analyst Peter Collier said: “There have been across-the-board losses for both old and new crop futures as expectations for a better supplied 2019-20 have been mounting.”

In the past four weeks, from 28 March to the close on 25 April, global grains have all fallen, with American maize and wheat values showing significant losses as well as Paris milling wheat futures.

UK exposure

UK feed wheat futures have also been exposed to this movement, with new crop November 19 UK feed wheat futures back £2.50/tonne to £146.10/tonne over the month in what has been a more volatile contract.

Nevertheless, old crop May 19 UK futures have bucked that trend.

By mid-morning on 26 April UK feed wheat futures (May 19) had gained £6.70/tonne from Tuesday’s close, potentially due to speculators who had bet on markets falling further attempting to get out of their positions.

“With buyers bidding £165.25/tonne and sellers asking £168/tonne, the spread shows the disparity between those involved in the market,” Mr Collier added.

JOURNAL : Farmers Weekly

Oxfordshire-based Solar Gate Systems has expanded its range of single automatic farm gates with a new top-ranker that spans a huge 7m width.

Brushless motor technology has allowed the firm to push up the power from the 24V system used on its 5m gates to the 36V needed to run the wider 7m span.

This eliminates the need for mains power in remote locations, says the firm. They should also be much easier to operate than two smaller gates together, which require a central stop and aren’t as secure because they don't latch to a solid post.

See also: Ultimate guide to farm security

To avoid the gate thumping the post as it closes, the system runs through an encoder that allows SGS to slow it as it nears its end point.

A charge controller manages energy collected from the solar panels, which is stored in the associated battery packs. It can also dump energy to avoid overcharging and the low power requirement of the motors makes 1,000 openings a day possible.

JOURNAL : Farmers Weekly

A welcome upturn in beef prices and an early spring has seen some confidence return to store cattle rings, although forward stores still have ground to make up.

Beef finishers have seen deadweight averages gain almost 5p/kg since mid-March to average about 341p/kg.

But all cattle producers are hopeful for a full recovery, with prices still £70 a head back on the year.

However, auctioneers say the small lift has seen some positivity return to the store ring after store prices slumped 14-15/kg back on the year in February.

See also: Spring store trade hit by low beef values

Castle Douglas

Yearlings are selling well at Castle Douglas, where Robin Anderson, managing director and store cattle auctioneer at Wallets Marts, says cattle are roughly 20-30kg heavier this spring.

This means that, while prices remain about 8p/kg back on the year, stores are often making more on a headage basis.

Mr Anderson said yearling Charolais stores are the pick of the trade, with bullocks making £1,000-1,100 a head and heifers at £900-940 a head.

Monday’s (22 April) main April sale saw a bumper entry of 1,327, which were exclusively suckler-bred cattle.

An entry of 790 bullocks averaged 227.2p/kg or £906 a head (+8.8p/kg up on the last sale) and 537 heifers averaged 216.4p/kg or £851.75 a head (up 5.2p/kg on the last sale).

Charolais steers averaged £943 each, topping at £1,135, while Limousins averaged £965 a head, topping at £1,195. Angus steers averaged £837 and hit £1,205.

“It’s probably the biggest spring sale we’ve had since before foot-and-mouth,” Mr Anderson told Farmers Weekly.

“Yearling Charolais bulls and heifers are selling like hot cakes, but older, stronger stores are still reflecting the finished price.”

Exeter

Forward cattle are also reflecting the depressed prime beef price at Exeter and are £50 back on the year, according to Robert Armstrong, fieldsman for Kivells.

However, yearling cattle that can "grow into money" are a flying trade, with continental-cross steers regularly making £815-900 and slightly younger cattle around the £770-790 mark.

Mr Armstrong said weekly throughputs on Friday sales typically hit 500 head, with more than 800 sold in recent weeks, adding that throughputs are 10-12% up on the year.

A combination of tight feed supplies and an early spring has coaxed more cattle out of sheds sooner, he said, with some farms selling stores rather than keeping hold of them to finish.

But he predicted numbers would tighten now into May after an earlier start to the store selling season.

JOURNAL : Farmers Weekly

Dairy farmers are keen to adopt new breeding tools to help them drive herd performance, a survey has revealed.

The survey was carried out at the Dairy Tech event in February by animal health company Zoetis.

The findings showed:

More than three-quarters (77%) of farmers aimed to introduce genomic testing within the next three years.

Over half said the move would be to better understand which heifers to breed from, as well as to speed up genetic gain and improve certain traits.

Almost 30% said they wanted to use it solely to speed up genetic gain.

16% of respondents had already used genomics to select replacement heifers.

See also: How to use genomics to improve dairy economic performance

But it highlighted that one-third of farmers were still selecting heifers on their ability to get in calf rather than using data such as a profitable lifetime index (PLI).

The PLI data is made more reliable by genomic testing, which highlights the genetic merit of an animal and provides a prediction on:

Health and fitness

Production and management

Type and composites

Milk protein components

Parentage and inbreeding

Careful management and predicting heifer quality and future potential earlier, enables farmers to adjust the breeding programme and control heifer-rearing costs.

It is estimated that it costs an average of £1,819.011 to rear each replacement.

The high reliability of genomic testing, at approximately 70%, highlights which animals to breed from depending on their selection criteria, said Zoetis national veterinary manager Dave Armstrong.

Dr Armstrong explained that rather than retaining more heifers than necessary and applying a blanket strategy when using sexed semen, farmers could use genomics to accurately identify the top third of heifers to receive sexed semen. The top first and second lactation cows can also be served to sexed semen.

He added: “Genomics is much more accurate than using parent averages, which have a reliability of less than 30%. It is simple to test, requiring just a hair or small tissue sample to be sent off for analysis at a lab.”

JOURNAL : Farmers Weekly

An increase in thieves targeting farms for quad bikes and all-terrain vehicles (ATVs) during the busy period of lambing has sparked concern across the UK.

Though criminals will steal farm vehicles throughout the year, they are seizing any opportunity to strike, and busy periods of activity, such as the lambing season, can be a peak time for attacks, according to NFU Mutual.

Overnight on Sunday (24 March), a Suzuki Eiger 400 ATV was stolen from a farm’s garage in Balne, near Selby.

An attempted quad bike theft also took place on the same night in the Long Preston area.

See also: Video: Quad bike theft – how to avoid being a victim

North Yorkshire Police said the stolen vehicle is red and has been adapted for a left-handed driver, with the throttle on the left handlebar.

The registration number is YJ60 KZO and the vehicle identification number is 5SAAK46A757106100.

Anyone with information or who has been offered a similar bike for sale should phone 101 quoting NYP-25032019-0045.

In South Yorkshire, a yellow Can Am Outlander 400 quad bike was stolen from a farm in Bradfield on Friday 22 March.

Police say a long wheelbase white van with red and yellow hatch markings on the rear doors is suspected to have been involved and ask anyone with information to get in touch.

[*https://twitter.com/OffRoadBikeTeam/status/1110139008632279040*](https://twitter.com/OffRoadBikeTeam/status/1110139008632279040)

Elsewhere, a red quad bike with a distinctive rack on the front was taken from a farm near Haltwhistle, Northumberland, between 3pm and 4pm on Tuesday (26 March).

It was put into a blue Ford Transit with white stripes and red lights above the rear doors and was last seen in Hamsterley, near Bishop Auckland, in County Durham.

[*https://twitter.com/NPRuralNmbland/status/1110666477076652032*](https://twitter.com/NPRuralNmbland/status/1110666477076652032)

Meanwhile, Dyfed-Powys Police’s roads policing unit discovered a stolen quad bike in a vehicle officers stopped overnight on Monday (25 March), resulting in three arrests.

Anyone missing a green quad bike should contact police on 101, quoting 407.

[*https://twitter.com/CeredigionRPU/status/1110401092272246784*](https://twitter.com/CeredigionRPU/status/1110401092272246784)

On Wednesday 20 March, Avon and Somerset Police worked with officers from Wiltshire Police to recover a stolen quad bike.

As it had a tracker installed, the officers were able to locate and secure it within 90mins of it being reported.

Top target

Quads and ATVs are the top target for thieves in the UK, says NFU Mutual, as they are easier to steal and sell on than larger farm vehicles.

Criminals spend time staking out farms for vulnerabilities and are more likely to avoid those where there are obvious signs that good security is in place.

CESAR marking and tracking devices are the most effective security measures, once basic measures of keeping vehicles out of sight in a building with the machine secured have been addressed.

The cost of quad and ATV theft claims to NFU Mutual rose 27% from 2015 to 2017 and early indications suggest another significant rise over the past year.

Rebecca Davidson, rural insurance specialist for NFU Mutual, said: “Rising levels of crimes are being seen in urban areas as well as the countryside.

"We are convinced that without rural policing initiatives and organisations such as NAVCIS – which co-ordinates reports of stolen ***agricultural*** vehicles across all police forces and Border Control – we would be seeing an even bigger increase in rural crime.

“We are therefore supporting these initiatives and working with police forces, the NFU, and security firms to find ways to tackle the current rural crime wave and prevent it from becoming an epidemic.”

Farm vehicle theft prevention advice

Advice for all vehicles

Where possible, vehicles should be housed in a lockable garage or building, ideally with security lighting installed to the perimeter.

Vehicles should always be locked when not in use, with the keys kept hidden and locked away in a secure location.

Keep recordings or photographs of serial numbers and vehicles as these can be crucial in recovery, should the worst happen.

Advice for quad bikes and ATVs

Invest in a quality padlock and chain, such as those approved by Secured By Design – a police-approved product scheme. Securing to a fixed point on the ground or something that takes time to remove will also act as a deterrent.

Never leave your keys in the ignition, even if you only briefly leave your ATV unattended.

Keep gates to yards closed, as open gates can be an invitation to thieves.

Source: NFU Mutual

JOURNAL : Farmers Weekly

Forage wagons have come on a long way in the past couple of decades and now offer an affordable way for small farms to keep the job of grass cutting in-house, particularly if they are sourced second-hand.

Modern versions can achieve decent, consistent chop lengths and will match or even exceed the outputs of trailed foragers.

In fact, as their capacity and reliability has improved, they have replaced many of those old-school, tractor-pulled machines, as well as self-propelled choppers in some places.

It means there's an abundance of options on the second-hand market. We took a trip to Devon for some advice from James and Deborah Boundy, who run Forage Wagons South West, specialising in servicing and selling used machines and parts.

See also: Tips for buying a set of second-hand triple mowers

Picking a machine

The first thing to consider when looking at buying a forage wagon – either new or used – is exactly what spec is required.

Like any piece of equipment, standard spec will vary, as will the optional extras. Most forage wagon manufacturers have two different spec bundles.

Generally "farmer spec" models have a number of knives that will produce a chop length of about 45mm, chain-and-sprocket drive to the rotor and eight-stud axles with 500mm- or 550mm-wide tyres.

In contrast, with a greater number of closer spaced knives, "contractor spec" wagons will generally get chop lengths down to 35-38mm.

Their rotor drive tends to come from a gearbox and they usually run on 10-stud ag/commercial axles with 620mm-wide rubber or bigger.

Often they will have some form of rear-wheel steering and air brakes, and they might also have a two-speed floor for faster unloading, as well as Isobus controls.

What are the extras worth?

If you’re looking at a second-hand wagon, then there are certain key features that add value.

Rear-axle steering – adds £1,800-£2,000 (can be retrofitted for £2,500-£3,000). (Rear axle.jpg)

Flotation tyres – as a rough guide, wider rubber adds £2,500-3,000. Bear that in mind when looking at the footwear of the wagon in question.

Air-brakes – £500-£750. Retrofitting pneumatic actuators and pipework will tip the scales at £1,200-£1,400.

Two-speed floor – bringing unloading time down below 30secs, a twin-pump floor-chain drive will typically add £500 to the value. (Hyd pump.jpg)

Additive applicator – fitting a proper additive tank and pump kit to a wagon will cost £1,400-£1,600. Factor that into the purchase price if you’re looking at a wagon without one.

Isobus – plug’n’play controls don’t tend to add value. In fact, if you’re looking at a wagon without a box and you don’t have an Isobus-compatible tractor, it could cost a few thousand pounds to get it up and running.

Capacity confusion

Anyone new to forage wagons will quickly spot there’s something funny going on with how manufacturers quote body capacity.

Unlike trailers, the industry norm is to talk volume rather than weight, which makes good sense.

However, there’s more to it than that – is the figure you’re looking at the actual cubic capacity of the wagon, or a number referring to what you can actually cram in?

If you look at the makers’ spec sheets, you’ll generally see a DIN measurement, which refers to a simple height x width x length figure.

Then there’s usually a second number tagged as something along the lines of "medium compacted load" or "maximum loaded volume" – this is generally an idea of what a compressed load of grass ends up as.

For example, a machine with a DIN body capacity of 31cu m will typically be able to squeeze in up to 50cu m of grass once the rotor and walking floor have done their bit to cram it all in.

What to look out for when buying a used machine

Ring hitch

Although all UK-spec machines will have a low-level hitch, they will generally have a selection of bolt holes to enable operators to set the drawbar to run level.

More often than not, it’s a job that gets overlooked and they have a natural tendency to run downhill, resulting in premature ring wear.

It’s not a major fix but be aware that it will need putting right if it’s worn thin enough to skip off the hook.

PTO shaft and guards

Almost all wagons of contemporary vintage should be running wide-angle pto shafts, which makes good sense but has an impact on running costs.

While individual UJ bearings and yokes can be replaced, more often than not if one is on its way out then the whole lot will need doing, in which case the sensible thing to do is replace the whole shaft end.

That’s generally an eye-wateringly expensive job, coming in at anything between £750 and £1,200 for the bits.

Driveline

Many farmer-spec wagons will employ a chain-and-sprocket drive to the rotor.

While this is simple and straightforward, it does require a scrupulous eye to keep it trouble-free.

Generally, chain tension needs to be tighter than normal – any slack can cause a whip effect, which will eventually result in a chain break.

In contrast, most contractor-spec machines will use a gearbox to ***transfer*** drive to the rotor – a much more robust, reliable solution so long as oil levels are kept topped up.

(Most Lely and Mengele wagons use gearboxes irrespective of spec)

Pick-up

There is a clear division between makers on how they approach the workings of the pick-up tine drive.

While Krone and Lely/Mengele have typically opted for cam-less arrangements, the remainder have stuck with rows of tines drawn in and out of work by a cam-track.

The former is a much simpler approach that requires less maintenance and has many fewer moving parts.

As regards the tines themselves, there’s a broad discrepancy in the pricing of replacement parts.

For example, a Lely tine sits at £3.24 and a standard Strautmann tine tops the table at about £12.

As for pick-up bands, Pottinger’s come in at about £20, Strautmann at £86 and Lely at £16.

Rotor

Depending on the brand, the width of the rotor tine sections vary from 8mm to 25mm, giving varying degrees of clearance between them and the knives.

Logic would suggest the tighter the gap, the cleaner the shear of material as it passes through (much like a pair of scissors).

The downside is that small, foreign objects are less able to pass through so there’s less tolerance to damage.

Some makes and models start at 8mm-wide tines with big gaps either side of the knives, while others have chunky 25mm tines.

Put a sample of chopped grass from a wagon with narrow tines alongside one with wider ones and you’ll see a noticeably cleaner, more precise cut.

Look out for bent rotor tines. With the machine coupled up to the tractor, you’ll certainly hear if there’s metal-on-metal clashing.

Generally caused by foreign objects passing through the knife bank, if there’s more than one or two it’s a good indicator that the machine in question hasn’t had the healthiest of diets.

Resolving the issue is a case of pulling the rotor out, cutting off the offending tines and welding or bolting on new ones – a good half-day job.

Knives

Assessing the wear on a set of knives is pretty straightforward.

As a rule of thumb, if they’ve worn back to the point that the serrations are no longer visible then they’ve probably done their time.

If that’s the case then you won’t get much change out of £1,000 for a replacement set (non-genuine).

Are genuine blades worth the money? Our man in the know is of the opinion that genuine knives have less of a tendency to break but don’t wear any less quickly than non-branded replacements.

So the answer is to fit genuine if you’re working in stony conditions, but price up the alternatives if not.

You will generally see a saving of 15-20% going non-genuine.

Be wary if you find blades of noticeably different sizes and vintages that would suggest replacements have been fitted when the majority are well worn.

The potential problem here is that taller, individual blades can score the rotor and it’s not unheard of for them slice right through the drum like a lathe after a few acres of work.

Knife bank

The knife bank takes a lot of battering and is a weak point on all forage wagons.

Throughout the season, it will spend much of its time dripping in the corrosive juice from chopped grass and will rarely get washed off.

Its condition is a good indicator of how well the machine has been looked after.

It’s also the bit that takes all the shock-loading from unforeseen extras coming through in the swath, though they all have some form of break-back protection and the associated moving parts.

This is one particularly weak point on Pottinger wagons, which have a greater-than-average number of small components prone to wear.

Assessing this is tricky without pulling the whole bank out, but swinging it out from under the body will give an indication of its condition.

Lots of slack in the blade carriers will suggest a revamp is necessary – done properly, it’s a job that can easily soak up £800-£1,500 in parts and will take a good couple of days to complete.

Interestingly, Irish manufacturer Malone fits grease nipples to the individual break-back sections, providing an element of serviceability and hopefully extending the life of the knife bank’s wearing parts.

Body

There are generally two different approaches to body design.

The standard is a simple, regular rectangular box with the axles mid-mounted along the length of the chassis.

Lely (and others from time to time) offers the option of a body with a pivoting front headboard.

When filling, this is kept upright, but as the body reaches capacity, it is swung forward hydraulically to extend carrying capacity by up to 8-10cu m.

Although this doesn’t necessarily equate to extra cu m per load, it means the overall length of the wagon can be kept shorter than normal with less tail-swing making for a more manouevrable package.

The downsides are that there are fewer options for mounting an additive applicator on the headboard and it’s likely to be a more costly bespoke build.

Of course, there are more moving parts than usual, too.

It also appears to bring with it a certain weakness that sees the tinwork ripple and crimp after a few seasons' work.

This is thought to be because the minute the tailgate lifts, the headboard is automatically raised to its vertical position to ensure the entire load empties.

The problem is that with grass up against the front at this point, it puts strain on the body and it is the tinwork that gives out first.

Many wagons will have a combination of ropes and bars running across and along the length of the body to keep things rigid and to stop grass spilling out over the top.

Unfortunately, these invariably end up getting bent, either on overhanging trees or unseen steelwork.

Tail-board

Different manufacturers tend to take a different approach to tail-board design.

While Strautmann, Krone and Claas opt for gates that lock down in place, the others go for arrangements that are secured purely by the up-and-over rams.

The big plus point of the former is that it makes for a stronger, more rigid structure when shut, but problems surface if the tail-board gets pranged.

Trying to straighten and realign bent locking versions is a tricky task that rarely makes for a satisfactory solution.

In contrast, free-swinging gates are a great deal more tolerant to knocks and scrapes.

Walking floors

Most wagon makers employ timber for the body floor, but they will offer the option of a steel deck.

Wooden floors tend to outlast metal as they’re less prone to corrosion – expect a good 20-30 years from timber.

As you might expect, replacement is straightforward, but the choice of board is critical.

The upper surface must be planed smooth to ensure chopped grass is easily ejected without hang-ups.

As regards the chains and slats of the walking floor, there’s rarely much issue.

However, the joining links will get thin after four to five seasons’ work. Replacement is a simple job.

Wheels and tyres

Often carrying a significant weight in the field, most wagons tend to be shod on soil-friendly flotation rubber – anything between 500mm and 710mm wide.

Uneven wear – often the shoulders – is a sign that they’ve been run at lower than recommended pressures.

But rather than wear, it tends to be cuts and stone damage that spell the end for most tyres.

They are not a common stock item with many UK tyre distributors, and a large proportion of machines are fitted with either Vredesteins from Holland or Finnish Nokians.

So in season you might struggle to get an emergency replacement in a hurry.

On that basis, it’s worth considering shelling out the extra on a spare to have in the workshop.

Expect to pay £1,400-£1,800 for a complete wheel and rim assembly.

Replacement tyres generally come in at £600-£1,100 each.

What to pay?

The key thing to look at is the load count as an indicator of the work a machine has done.

To do that you’ll need to hitch the control box up to a tractor.

Be a bit wary of wagons with replacement boxes – it will often mean the clock has been reset.

As an average in Forage Wagons SW’s experience, most farmer-owned wagons clock 300-500 loads per year, but it's not unusual for contractor wagons to top 3,000 loads.

Lower-spec wagons may not have a load counter.

As a rule of thumb, with a 50cu m wagon, it’s about an acre of grass per load (50cu m) as average across all cuts.

So if you know the acreage of the farm it’s come from, that will be a pretty good indicator.

Here are a few examples of wagons that have recently sold and comparable values.

They give a good indication of what machines of different brand, spec and condition tend to fetch.

Pottinger Torro 6010 Combiline

Year 2017

Load count 580

Capacity 31.5cu m DIN (60cu m compressed)

Condition Good

Spec/extras 45 knives (34mm chop length), 10-stud axles, air brakes, 710mm tyres, rear steering, additive tank

Price £56,000-£62,000

Lely Tigo XR65

Year 2014

Capacity 38cu m DIN (65cu m compressed)

Condition Average/poor

Spec/extras Pivoting headboard, 45 knives (37mm chop length), 10-stud axles, air brakes, rear steering, 710mm tyres

Price £34,000-£38,000

Strautmann Mega Vitesse 3401

Year 2013

Load count 3,800

Capacity 32cu m DIN (57.6cu m compressed)

Condition Average

Spec/extras 40 knives (39mm chop length), air brakes, 710mm tyres, rear steering

Price £31,000-£35,000

Krone MX 320 GL

Year 2015

Load count 700

Capacity 31cu m DIN (50cu m compressed)

Condition Like new

Spec/extras 41 knives (37mm chop length), 10-stud axles, rear steering, 710mm tyres, air brakes, additive applicator

Price £36,000-£44,000

Claas Quantum 5500 P

Year 2009

Load count 2,500

Capacity 34cu m DIN (58cu m compressed)

Condition Good

Spec/extras 33 knives (45mm chop length), 10-stud axles, rear steering, 650mm tyres

Price £24,000-£28,000

Mengele RotoBull 6000

Year 2008

Load count 5,700

Capacity 30cu m DIN (50cu m compressed)

Condition Average for the age

Spec/extras 38 knives (37mm chop length), 710mm tyres, 10-stud axles, rear steering

Price £14,000-£18,000

Pottinger EuroProfi 4500

Year 2010

Load count 3,200

Capacity 28.5cu m DIN (45cu m compressed)

Condition Average

Spec/extras 39 knives (40mm chop length), 8-stud axles, 550mm tyres

Price £18,000-£22,000

JOURNAL : Farmers Weekly

A fleet of tractors, old and new, has taken part in a tractor run to raise funds for a nine-year-old boy’s cancer operation.

Charlie Stephenson, of Martham, Norfolk, has been diagnosed with a rare brain tumour and his family desperately needs to raise money for treatment to prolong his life.

On Sunday (28 April) a fleet of 71 tractors, decorated in Charlie’s favourite colour red, descended on Martham to start a parade around the district.

See also: Opinion – Farm Africa: a charity worth running for

The 14-mile tractor trek passed through Rollesby, Fleggburgh, Filby, Ormesby, Scratby and Hensby, before finishing back at Martham some 90 minutes later.

Hundreds of members of the public lined the streets to cheer on the parade and farmers and their families, including many young children, collected money in buckets.

Farmer’s wife Nicola Goose, who organised the tractor run, also broke off from a busy period lambing, calving and drilling crops to take part in the event. She paid tribute to the farmers and the public who came out in support for #TeamCharlieStephenson.

“It was a very emotional day. There were lots of tears and smiles,” said Mrs Goose.

“The farmers were amazing. But if the people had not turned up on the day and turned up at the roadside, the event would not have happened.”

Currently, additional treatment for Charlie's tumour is not available on the NHS. But the tractor run  raised about £5,000 towards his goal, to ensure his private treatment can take place.

£125,000 target

So far the community of Martham and supporters around the globe have managed to secure £80,000 of the £125,000 required through various events and challenges.

Charlie was diagnosed with diffuse intrinsic pontine glioma (DIPG) in February after he underwent tests for what his parents believed was a lazy eye.

Charlie’s mother, Soeli, and father, Tony, say they have been overwhelmed by the support for their son, who has a passion for animals. Messages of support have also been received from pop star Ed Sheeran, magician Dynamo and actor Clive Standen.

Kayleigh Oliver, a close family friend, has set up a JustGiving page, which has raised more than £63,000 since it was launched last month.

For more information and to support this cause, visit Team Charlie Stephenson.

JOURNAL : Farmers Weekly

To help limit phone signal dead spots in the countryside, Tuff phones has introduced a multi-network sim card that can operate on any one of three major networks.

See also: Farmer loses more than £10,000 in phone scam

The networks are Three, O2 and Vodafone. The phone will use the strongest signal available, with better coverage coming from the multi-SIM, and costs the same as a single network contract.

To accompany the SIM, Tuff has also launched a new T500 handset that has 4G and runs on the Android 8.1 platform with a 1.5GHZ quad-core processor.

There's also a Sony 13MP camera and huge 5,000mAh battery, which means the phone can stay alive for over 580 hours on standby.

As with most rugged phones, it is waterproof and dustproof and comes with a two-year warranty and unlimited screen replacements during that time.

Prices for the T500 start at £333.

JOURNAL : Farmers Weekly

Irish implement manufacturer Major has bolstered it Cyclone mower range with the addition of two new models.

These new units will sit at the bottom of the current line-up; a 2.8m rigid deck and 4.2m double-winged unit offering a 2.5m transport width, with existing 4.2m, 5.6m and 6.3m winged version completing the list.

See also: Video: Contractor rates his high-tech slurry injection kit

Major claims these mowers have reduced power consumption thanks to its patented double-chop blade system, which is said to require 25% less horsepower compared with equivalent flail mowers.

Made from galvanised Strenx 700 MC high-strength steel, the mowers can be used for clearing stubble areas of maize or cereals, or for hacking down gorse and saplings.

The 2.8m MJ31-280 has four rotors with 16 blades on each and retails for £9,700, whereas the 4.2m MJ30-420 costs £16,590 and has six rotors housing 24 swinging blades.

JOURNAL : Farmers Weekly

The UK needs imported legs of lamb to balance the sheep meat market at Easter, when demand for leg roasts outstrips interest in other cuts by a considerable margin.

British farmers might find the sight of imported lamb on supermarket shelves frustrating, but Stuart Ashworth, Quality Meat Scotland’s director of Economics Services, said purchases of lamb can double in the month prior to Easter weekend, with demand for leg roasts increasing five or six-fold.

“The reality is that even if all the UK fresh lamb legs produced in the fortnight before Easter were all sold in the UK – and none were exported – there would still be a shortfall against demand,” he said.

See also: Spring lamb surge to cash in on Easter

“The challenge for processors is managing carcass balance, the key determinant of what they can pay producers, which comes from trying to meet the demand for leg roasts with the challenge of marketing those cuts of lamb not required by the UK consumer at Easter but which inevitably are produced.”

Mr Ashworth said access to international markets was key to achieving a return on the whole carcass, offering a route to sell product not in immediate demand in the UK.

“The importance of this is well illustrated by the way New Zealand distributes different cuts of lamb to different parts of the world,” he said.

“New Zealand is increasing both the volume and value of its exports to China and is also seeing high value opportunities in the United States, reducing its dependence on the European market.”

Import levels

According to AHDB, the need to balance the market means that the UK imports relatively few carcasses, but is a net importer of legs to meet the seasonal demand in the first half of the year.

But in contrast to New Zealand, the UK exports more sheepmeat in carcass form than it does in individual cuts.

However, UK imports of sheep meat have plummeted since the beginning of 2019 and were at a record low in 2018.

Shipments fell 19% year-on-year in February 2019 to 4,500t, continuing the dramatically lower imports seen in January.

Trade data is not yet available for March, but provisional indications from New Zealand are that less lamb was shipped to both the EU and UK in the run up to Easter.

QMS says these trade patterns collectively point to a tighter-supplied domestic market and rising prices.

Price impact

A combination of Easter, greater certainty following the Brexit delay and a shortage of finished sheep have seen prices on an upwards trajectory in recent weeks.

Latest figures for England and Wales show that the SQQ price for old season lamb on 22 April averaged 222.9p/kg, a 7.1p/kg increase on the previous Monday.

This was also a significant increase on prices heading into the Easter weekend, when many abattoirs would have been shut for the holiday period.

JOURNAL : Farmers Weekly

Bedfordshire firm Wilderness Lighting has taken on the UK distribution of an ultrasonic mouse deterrent for use in farm vehicles.

The Mouse Blocker is designed to prevent damage in stored machinery such as combines and foragers, where belts, electrics and wiring often fall foul of nesting rodents.

It works by releasing an ultra-high-frequency noise that is inaudible to humans but the equivalent of a jackhammer to mice. Acoustic pressure is rated at 85dB.

See also: How to keep grain-spoiling rodents out of your grain store

Power is taken from the vehicle's 12v battery, so there is no need to worry about leaking flashlight batteries or extension codes. Drain on the battery is estimated to be less than 1W, too.

The classic version costs £49.95.

The company also sells anti-rodent insulated repair tape laced with capsaicin from hot chilli peppers.

This can be used to provide a barrier for sensitive vehicle wiring – apparently mice particularly dislike spicy food.

It costs £24.95/roll.

JOURNAL : Farmers Weekly

China’s African swine fever (ASF) crisis continues to deepen, with the worst forecasts suggesting the pig herd will decline by 35% or 200 million head this year.

To date, Chinese government figures show the overall herd stands at 377 million pigs – down by 42 million head or 10.1% – in the first quarter of 2019, compared with the same period a year ago.

Within the overall figure, the sow herd dropped by 21% year-on-year, damaging the breeding and production capacity.

That has prompted the US Department of ***Agriculture*** (USDA) to revise its 2019 production forecast for China from a predicted 1% increase, which it suggested in the autumn of last year, to a decline of 10%.

See also: A guide to African swine fever and how to minimise the risks

In terms of output, a 10% decline would equate to about 48.7m tonnes or roughly 4% of global pork production.

To replace the shortfall, the USDA has estimated Chinese import levels will have to increase by 40% or 2.2m tonnes.

However, the USDA estimates the effect is low compared with predictions from other bodies such as Rabobank’s figure of a 35% fall and market analysts Gira’s forecast of a 20% decline.

If Rabobank’s forecast of 35% proves correct, up to 200 million pigs will be lost to ASF through infection, slaughter to control the disease and reduced breeding capacity.

ASF farms won't restock

According to the AHDB, the global production loss would mount to about 10m tonnes in that scenario - roughly equal to the entire annual US production.

Meanwhile, reports from news agency Bloomberg have suggested that 80% of the pig businesses affected by ASF will not restock.

The Bloomberg report quoted Wang Junxun, deputy director at the bureau of animal husbandry in China’s ***agriculture*** ministry, as saying: “There has never been such panic among farms.”

He blamed the outbreak on a lack of biosecurity measures, particularly among smaller farms, and long haulage distances.

The scale of the crisis has sent shockwaves across the global pig sector, and UK industry leaders have repeated warnings on keeping the disease out.

National Pig Association chairman Richard Lister has featured on Radio 2, calling for pig producers to be vigilant and to ensure biosecurity measures are watertight.

The organisation has repeated APHA advice, which includes:

All pig keepers and the public must ensure pigs are not fed catering waste, kitchen scraps or pork products

Feeding of meat products – including swill, kitchen scraps and catering waste – to wild boar or feral pigs is also illegal

All pig keepers should ensure visitors have not had recent contact with affected regions

Anybody returning from an affected EU member state should avoid contact with domestic pigs, whether in commercial holdings or smallholdings, areas with feral pigs or wild boar, until they are confident they have no contaminated clothing, footwear or equipment

JOURNAL : Farmers Weekly

Since starting to weed his cereal crops five years ago with a Garford mechanical hoe, organic grower Robert Hyde hasn’t lost any of his crops to weeds.

In the past Mr Hyde relied on closely spaced rows to compete out aggressive weeds, with only limited success, losing areas of crop to corn marigold.

See also: Mechanical weeders: What are the options?

Now the camera-guided mechanical hoe is allowing him to achieve 3.7t/ha for his spring barley at a cost of just £1.25/ha per season in wearing parts and diesel, making two passes with the machine.

Watch the video of how the weeder works in detail and read the full report below.

Lost crops

Fifth generation grower Mr Hyde has been farming 323ha of mainly tenanted farm at Wool, Dorset, completely organically for 20 years, after converting from conventional farming in response to demand from his customers.

His low-input system produces both winter and spring oats, winter rye and spring barley, alongside lupins and short-term grass leys to support his flock of 500 rare breed Dorset Down sheep.

Being on soils ranging from sand and gravel to chalk, the farm’s two main weed issues are charlock on the chalk and corn marigold on the sand.

Before switching to the Garford hoe, Mr Hyde used a weed rake for five years, but it’s success was limited as it often failed to pull out the charlock.

He says the hoe has no such issues, dealing with both weeds effectively.

“Most people’s hated weed is charlock, but corn marigold is worse. It looks innocuous – small and weak looking, but once it gets going it never stops,” he says.

Corn marigolds flower continuously from June to September, and can produce 13,500 seeds per plant.

“Where we used to get areas of fields which would be lost to corn marigold, since using the hoe we haven’t had a failed crop,” he says.

“It’s not an exaggeration to say that it has revolutionised our organic cereal growing.”

Wide rows

Before committing to the Garford hoe, Mr Hyde researched the machine for a couple of years to satisfy himself that it would definitely work on his farm.

Switching to mechanical weeding required a fundamental change from narrow rows, which were being used to compete out weeds, to 25cm wide rows.

The bespoke hoe has been specified to match the farm’s 4m Vaderstad Rapid drill, as hoe and drill must match perfectly for the system to work.

A camera trained on three rows of the crop can detect even the faintest indication of a line and follow it, adjusting the hoe by up to 30cm sideways to prevent it crossing the rows.

Peter Ewan, the farm’s arable operator, says: “The camera will find a row. It doesn’t matter if the tip has barely broken the soil, and it can detect the row long after the weeds have taken over,”

The technology also allows the user to choose a specific shade of green to identify, which is of particular use in fields with a heavy weed burden.

Users can also change the detected colour entirely – helpful for weeding rye crops as these have a purple tinge on emergence.

The accuracy of the camera guidance means around 90% of the weed burden is removed with each pass, leaving just the weeds in-row with the crop, without causing any damage.

Despite not utilising GPS for the first three years, Mr Ewan is able to weed about 24ha a day for the first pass when the crops are smaller, increasing to 40ha a day for a second or third pass in a spring crop.

Timing and conditions

The key to keeping weeds under control is to use the hoe as soon as it can detect a row, if conditions are good.

A share runs about 2.5cm below the soil surface, decapitating weeds, while the following tines clear out smaller weeds on the surface.

“If you miss your opportunity and the weather goes against you then you are going to have a problem,” says Mr Hyde. “It’s not happened to us, but it is a possibility.”

Rather than miss the opportunity entirely, the hoe will occasionally be used in compromised conditions, although the share will not move as much soil as it would in dry conditions, allowing weed roots to continue growing.

Conditions were less than ideal in February this season when the winter oats were weeded, meaning they are likely to receive another pass.

Normally winter oats are drilled after 11 October to avoid aphid problems, with the rye drilled slightly earlier.

The crops are then weeded once in the autumn as soon as they have emerged, before a second weeding in the spring.

After the second weeding the crop should be competitive and move fast enough to shade out the weeds. A third pass is sometimes tempting, but means additional cost.

Spring cereals are also weeded for the first time as soon as a row can be detected, usually 20 days after drilling, which this year was in the middle of April, and then weeded again 20 days after the first pass.

If weather conditions turn wet, the crops might be weeded a third time, but this is unusual.

No tramlines

One of the main reasons for not weeding a third time in spring cereals is the risk of damage to the growing tip in the crop, especially as Mr Hyde chooses not to use tramlines as he would lose two rows in every 16 across the entire field.

Instead, he pulls the hoe using a John Deere 2850 on low pressure tyres.

Mr Ewan says: “You can see evidence in places of where the tractor has been over, but it doesn’t kill the crop by any means, it’s just a bit shorter.”

Travelling over the crop once the growing tip has appeared risks creating disease issues, but this has to be weighed against the effect of a heavy weed burden.

Single machine approach

Although research has suggested that getting the best results from mechanical weeding requires multiple machines, Mr Hyde is happy with his current set up.

“If I wanted the ultimate I would use other tools, but that would be going down the route of tramlines and wheelings.

“One fundamental rule that we have is to look after the soil and don’t create wheelings.

“The hoe is the only tool which uses the same wheel track more than once because it has to,” he says.

Mr Hyde also utilises his flock to help keep down the weed burden, allowing them to graze winter cereals for up to a week in addition to the cover crops.

“Any sensible sheep will like a varied diet and will eat weeds as much as the crop,” he says.

Soil nitrogen lift

Although Mr Hyde tries to limit the number of passes made with the weeder to limit the damage on the crop, disturbing the soil also brings nutritional benefits.

Releasing the cap on the soil drives in atmospheric nitrogen to the roots and gives crops a noticeable boost, due to mineralisation of nitrogen from organic matter.

“We wouldn’t miss an opportunity to go in with the weeder because of the effect it has on the crop,” Mr Ewan says.

“Weeding three times in a season is the equivalent of 50kg of nitrogen per acre.”

Top tips for successful mechanical weeding

Hoe as soon as the camera can detect a row, if conditions are good, around 20 days after drilling

The hoe can cope with compromised conditions, so do not miss an opportunity to weed while waiting for the right conditions

Autumn crops need weeding once in the autumn as soon as they have emerged and again from February in the spring

Spring cereals can we weeded up to three times if conditions turn wet later in the season, but normally need two passes around 20 days apart

Do not miss out a weeding pass, as the release of atmospheric nitrogen will give crops a boost.

JOURNAL : Farmers Weekly

Visa delays mean seasonal workers from overseas have been unable to take up jobs on UK farms this spring.

With the busy harvest period just around the corner, the NFU has warned of a 20% shortfall in the number of seasonal workers required on UK farms.

The situation was deeply concerning, said NFU horticulture board chairman Ali Capper.

See also: 10-point plan to attract best farmworkers

Although some workers had come to the UK, there had been a significant number of “no-shows,” Ms Capper told an NFU council meeting at Stoneleigh Park, Warwickshire.

“Where farmers thought workers were going to turn up, they didn't turn up,” she said.

Daffodils had already been left unpicked on some farms, said Ms Capper on Tuesday (30 April).

The government's pilot Seasonal Workers Scheme – which aims to allow 2,500 temporary workers into the UK – was failing to alleviate labour shortages, she warned.

'Immediate action'

The NFU is calling for the scheme to be extended from 2,500 places to 10,000 – an increase supported by former Defra minister George Eustice.

Immediate steps were needed so a fully operational scheme with at least 30,000 places was ready for 2020, he added.

“Many sectors in ***agriculture*** and horticulture are reporting acute difficulties recruiting labour for the 2019 harvest with fewer migrant workers returning to the UK,” said Mr Eustice, who tabled an parliamentary early-day motion on the issue last month.

Concerns have also been raised over plans that would see skilled immigrants allowed to settle in the country only if they earn more than £30,000.

The rule – which would apply to EU and non-EU workers – would be implemented in 2021 after the post-Brexit transition period.

Cooling-off period

Lower-paid workers would only be allowed into the UK for a maximum of 12 months.

They would then face a “cooling-off period” of a further 12 months.

The government says this would prevent lower-paid people settling in the UK permanently.

Ms Capper warned: “We don't believe any of these measures would work for our industry.”

Home Office officials had indicated they were open to other ideas – which suggested they were listening to industry concerns, Ms Capper added.

The issue would also be raised with Defra's “access to labour” team at an NFU horticulture board meeting on 14 May.

JOURNAL : Farmers Weekly

A group of British farmers is growing milling wheat for the domestic bread maker Warburtons, earning a decent price premium and helping to insulate themselves from the worries surrounding Brexit.

As many worry about the effect of export tariffs, these growers can see their wheat ending up in bread products on the supermarket shelves and guaranteeing them a reasonable return.

In the first of a three-part series, David Jones talks to one of these wheat growers. Later he will meet up with other cereal farmers looking to earn a premium from home markets.

Coping with Brexit

David Lane is growing milling wheat for one of Britain’s biggest bakers and believes doing this on a guaranteed price contract will help him cope with the uncertainties of Brexit.

Farm facts

WA Lane, Home Farm, Lichfield, Staffordshire

Winter wheat – 293ha

Winter barley – 49ha

Winter oats – 77ha

Spring barley – 37ha

Oilseed rape - 77ha

Potatoes – 28ha

Roots (carrots and parsnips) 29ha

Grassland 115ha

Spring beans 52ha

Others 33ha

Total 790ha

With the UK trading relationship with the rest of the European Union clouded in the near future, he sees a minimum £20/t premium over feed wheat and knowing where his milling grain ends up as important benefits.

He is keen to work closely with his ultimate customers, and that’s one of the attractions of working with family owned bread maker Warburtons, while his milling winter wheat crop generally ends up being the most profitable on his Staffordshire farm.

“As we go through the Brexit process, I am looking for some certainties in an uncertain world,” he tells Farmers Weekly.

See also: Wheat grower’s 6-point plan to hitting top milling

Milling premium

The price premium on his contracted 1,700 tonnes of Warburtons wheat can hit a maximum of £40/t over feed, but the £20/t guarantee is key when the milling premium can easily shrink below £10/t after a good national wheat harvest.

He was one of the first of 300 nationwide growers to supply the bread-making group, and generally hits the quality demanded even though his farm’s rainfall is slightly higher than in the breadbasket of East Anglia.

“I like to be invested in the final product and see what happens at our local Warburtons bakery at Wednesbury,” he says.

The bread maker stipulates which wheat varieties it wants, bans the use of any foliar liquid nitrogen applied to the wheat ear, and then lets its farmers get on with growing their crops.

Warburtons'  quality specifications are a little lower than the industry benchmark at 12.5% protein, 225 hagberg and 76kg/hl specific weight, compared with 13%, 250 and 76kg/hl, but what the baker is very keen on is consistency for its bread ovens.

Variety choice

Mr Lane is growing Crusoe and Skyfall, two of the four varieties stipulated by the bread maker, with Crusoe taking up 80% of his milling wheat area and Skyfall the rest.

Crusoe is more reliable for protein and hagberg levels, while the variety’s Achilles heel – its poor brown rust resistance – is not a problem on his farm. Skyfall is slightly higher yielding but can disappoint with lower protein levels.

He budgets for a yield of 8t/ha to fulfil the contract, but in general sees medium-term average yields of 8.5t/ha across his light to medium soil types.

The result is that Mr Lane was one of three winners of the Golden Loaf award in 2014 for the best quality grain and service levels supplying the bread maker.

For the 10-plus years he has been growing for Warburtons he has generally hit the correct protein-hagberg-specific weight specification at the family-run 790ha Home Farm, four miles southeast of Lichfield on the edge of the West Midlands conurbation.

Grain supply

The nationwide co-operative Openfield is contracted to supply Warburtons with grain, and the co-op supplies all the certified seed, advises on the growing of the crop, and arranges transport for the grain to a third-party flour miller.

Mr Lane runs the farm with his son Matthew, recently back from studying ***agriculture*** at Newcastle University, and his brother Stephen.

The majority of the 293ha of the farm’s winter wheat  is down to milling varieties, with only 40ha of feed wheat grown on poorer soils, so nitrogen strategy is key to hitting the correct protein.

A four-way nitrogen fertiliser split is used up to 260kg/ha of the nutrient, with sulphur added to the first dose as it is very important in the baking process. Nitrogen levels are cut to 220kg/ha when wheat follows oilseed rape or beans.

“We are looking to backload the nitrogen regime and so apply it later to manage the protein levels, and in most years we are hitting 12.5%,” he says.

Nitrogen rates

That means a relatively small dose of ammonium sulphate in early March and then a switch to ammonium nitrate at end-March, each supplying 40kg/ha of nitrogen, with the main dose of 140kg/ha coming at the end of April.

The final application of a further 40kg/ha is applied at the flag-leaf stage in early May. Any late applications of liquid nitrogen are banned as they are not deemed to produce the right type of protein in the grain.

At harvest time, usually in the second week of August, the priority is to cut the milling wheats ahead of other crops to protect the valuable hagberg level.

Hagberg is only a problem in a very wet harvest, and with annual rainfall at nearly 700mm, the farm is only slightly wetter than East Anglia, so hitting the right hagberg level is usually not a problem.

Protein levels can slip in a wet year when yields are higher on his light soils, but this is rarely a problem on the farm.

Nitrogen applications on wheat

Early March 40kg/ha of nitrogen and 50kg/ha of sulphur

Late March 40kg/ha of nitrogen

End April 140kg/ha of nitrogen

Early May 40kg/ha of nitrogen

Total 260kg/ha

Disease worry

Septoria is the main disease concern as rusts are not often a problem, but there is an emphasis on treating his manganese-deficient light soils as crops low in this minor nutrient can be more susceptible to mildew.

Fungicide strategy is a fairly standard four-spray, two-SDHI programme, with an azole mix as a T3 head spray to protect the final quality of the grain.

With no blackgrass on the farm, delayed drilling is not essential so it takes place in late September and early October with a pre-emergence herbicide and then a spring tidy-up weed-killer used.

Mr Lane’s philosophy is that as he is farming good wheat land he is keen to look for the price premium on offer from the bread makers. A family-run farm is growing milling wheat for a family owned baker.

A British farm producing wheat for a British baker to feed British consumers perhaps fits in well for these uncertain times surrounding Brexit.

Warburtons

Some 300 wheat growers across England provide nationwide baker Warburtons with just over 40% of the flour for its network of nationwide bakeries.

The growers stretch from Yorkshire down to Kent and from Shropshire across to East Anglia, reducing the risk that localised weather can hit grain quality at harvest.

The Lancashire-based baker buys annually about 150,000 tonnes of UK wheat out of its annual needs of 350,000 tonnes. The rest of its intake is high-protein Canadian spring wheat.

Its contract calls for 12.5% protein wheat, and Bob Beard, the baker’s cereal development director, explains that it looks for slightly lower protein than the more common 13% demanded by other bread makers as it restricts the use of extra foliar nitrogen on the wheat ear.

The UK-produced 12.5% protein wheat is milled by a third party and then blended with 15.2% protein tariff-free Canadian spring wheat to make the grist for its baking products.

The baker, headquartered in Bolton, likes the ethos of working with family farms and has been contracting UK farmers for more than 20 years, and there is currently a waiting list of wheat growers wishing to join.

It stipulates four varieties of wheat for its milling contract – Skyfall, Crusoe, Illustrious and the spring wheat Lennox.

School children on the farm

Mr Lane's farm has joined a volunteer programme to show inner-city children around the farm, explaining where wheat comes from and touring around its sheep flock and chickens.

The scheme is funded by Warburtons through the Country Trust charity, and the baker pays for training courses and health and safety updates, and advises on an agenda for the visits.

Groups of 35 children aged 7-8, together with teachers and helpers, visit the farm in June and July to find out how the crop is grown and how it is treated with “plant medicines” or fungicides.

In the rest of the day, the children are shown how to brush down hedgerows to sees the insects that live there, such as ladybirds, see how potatoes are harvested and visit the farm’s livestock.

After two years of such visits, Mr Lane sees this as a very real part of his job, explaining where food comes from to his future customers.

JOURNAL : Farmers Weekly

A Welsh water company has apologised to farmers after suggesting people should give up meat to save water.

The vegan advert – which suggested people should give up meat for a day – was posted on social media by Welsh Water.

See also: How rotational grazing increased beef liveweight gain

“Nearly one third of ***agricultural*** water use is related to animal products,” said the advert.

“Try going Meat Free for just one day!”

Company bosses deleted the advert after a flurry of responses by irate farmers.

@DwrCymru as I farm in a catchment area for welsh water and try and help with your company as much as possible I would like to know what the hell is this tweet all about!!! pic.twitter.com/eEVJnWMkIB

Huw Rees Jones (@Huwjockjones) April 29, 2019

Huw Reeds Jones tweeted "As I farm in a catchment area for Welsh Water and try and help with your company as much as possible, I would like to know what the hell is this tweet all about!”

Dairy and arable farmer William Blackburn posted “Some very dodgy water accounting methods being used, based on all the water falling on all the land that carries or grows feed for beef.

“Perhaps they would like an invoice for the used water they sell?”

Beef and sheep farmer Colin Millichip suggested Welsh Water should "go leak-free" rather than telling people to stop eating meat.

The advert was online for about three hours before it was taken down.

A Welsh Water spokesman said: “Each year, the independent organisation, Waterwise, runs Water Saving week, providing tips to people on how to reduce water usage in their everyday lives.

“Water companies and organisations across the UK have been supporting this by sharing content, tips and offering water saving devices on social media this week.

“Monday’s (29 April) theme highlighted the amount of water that can be involved in the production of meat, and suggested going meat-free for a day.

“The single post that we shared on Facebook received a number of comments – many from people who were unhappy with the post.

“We apologise if we have caused any offence and deleted the post from our social media channel. It is never our intention to cause upset to our customers.”

JOURNAL : Farmers Weekly

Farmers in Wales are being reminded that new laws will come into force next March that will require all diesel tanks to be built or sited to catch potential spills.

Pollution regulations were passed into law in 2016 in Wales which set new standards for ***agriculture*** fuel oil that brought them into line with existing legislation in the rest of the UK.

New tanks have had to be compliant since the legislation was passed, while farmers with tanks sited in significant risk locations had to comply by March 2018.

See also: Farmers alerted to change in diesel bowser rules

Risk locations are defined as facilities within 10m of any surface water or wetland, or 50m from a borehole or well.

Farmers with non-compliant tanks that are beyond those risk zones have until 15 March 2020 to meet the new standards.

What does the law say?

The regulations require all containers over 200 litres in size to have a secondary containment system to catch the entire contents of the tank in the event of a spillage.

This can take the form of a second skin around the tank or for the tank to be positioned over a bund – such as oil-tight brick structure but all must be capable of containing at least 110% of the maximum contents of the container.

Tanks with second skins will also only be compliant if valves, sight glasses and other ancillary equipment are contained within the second skin.

Fill pipes or dispensing pipes that penetrate the bund base or wall must be sealed into the bund with an oil-resistant material and dispensing pipes must have a tap or a valve at the delivery end, that closes automatically when not in use.

When not in use, delivery pipes must be enclosed in a secure cabinet which is locked shut or kept within the secondary containment system.

The full regulatory requirements can be found on the Welsh government website (pdf).

Why was the law changed?

The Welsh Government said in 2016 the change in the law was justified as it would contribute to reducing the 130-300 recorded water pollution events caused annually by oil.

This may only represent a small number of the total actual incidents, as campaigners say many go unreported.

JOURNAL : Farmers Weekly

Cattle slaughtered in Wales due to bovine TB controls have soared by 12% in a single year as the government resorts to high-sensitivity testing in a bid to eradicate the disease.

In the 12 months to January 2019, 11,305 cattle were culled as a result of more widespread use of gamma (blood) testing, the removal of inconclusive reactors (IRs) and severe interpretation of the skin test, resulting in a compensation bill in excess of £13m.

At 1,499, the number of animals slaughtered in October 2018 was the highest for a single month since records began, while culls in November 2018 were the second highest.

See also: Current UK TB rules – and what’s coming next

One of the Welsh government’s main aims of refreshing the TB eradication programme 18 months ago was to protect the Low TB Area in north Wales from infection.

But it has emerged there were 34 new breakdowns in that region in the 12-month period – eight out of 10 of those breakdowns were the direct result of the movement of cattle infected with TB onto the farms.

Movement rules flouted

It has emerged that some of these farms had flouted post-movement testing rules that would have detected infection.

These herds were immediately placed under movement restrictions pending a clear test and referred to the Local Authority Trading Standards for investigation.

In a statement on Tuesday (30 April), Wales’s rural affairs minister, Lesley Griffiths, urged all Low TB Area farmers to do all they can to keep bovine TB out.

“I cannot overemphasise the value of collaboration when it comes to TB eradication,” she said.

The movement of infected cattle was also to blame for one in three herd breakdowns in regions with high and intermediate levels of TB.

On some of the breakdown farms, heavily in-calf TB reactors had to be slaughtered on the holding, a situation that can cause extreme distress to the farmers involved.

A review is under way to consider ways in which this approach can be minimised.

Despite stringent cattle controls, there has been no let-up in new herd breakdowns - in the year to January 2019 there were 766 across Wales.

TB incidence down 4%

However, across the country’s 12,000 dairy and beef herds, figures point to a 4% decrease in TB incidence overall.

While cattle controls are the tightest they have ever been, it is understood that wildlife controls – the culling of infected badgers – has only taken place in about five farms with chronic herd breakdowns.

As a result of action plans being put in place on 59 of these farms, movement restrictions were lifted on 21.

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Changes to the maedi visna (MV) accreditation scheme mean stricter rules for MV-accredited flocks that are buying in stock or have non-accredited sheep at the same holding.

The MV accreditation scheme for sheep is part of the broader Premium Sheep and Goat Health Schemes (PSGHS) run by SRUC Veterinary Services.

The scheme is voluntary and benefits include monitoring and detecting the disease, as well as  accreditation, which can give better access to shows, sales, exports and purchasers.

“The PSGHS rules have been updated in collaboration with our advisory board comprising industry representatives. We wanted to make the rules as robust as possible while at the same time maintaining a level of practicality for our members,” said Dave Wilson, veterinary manager of PSGHS.

The two key additions to the rules, bought in earlier this year, are:

1. Mixed holdings

The first relates to holdings where non-MV/CAE-accredited animals are kept on the same holding as MV/CAE-accredited animals.

On these holdings, at every routine periodic blood test a female cull screen of 12 non-MV/CAE-accredited animals must be performed.

The rules (PDF) state:

The flock’s/herd’s veterinary surgeon should perform the selection of animals to be tested using the criteria outlined on the submission form

 If suitable animals are not available to test as part of the female cull screen of 12 non-MV/CAE accredited animals at the time of the RPBT, the screen can be performed on a separate occasion however testing will revert to one-yearly until the test is completed

If any animal tests antibody positive in the female cull screen the flock/herd will be classified as “high risk” and the MV/CAE accredited flock will revert to one-yearly testing

If it can be proven by testing that MV/CAE infection has been eradicated from the non-MV/CAE accredited flock/herd, the MV/CAE accredited flock/herd can revert to two yearly testing.

A negative female cull screen of 12 non-MV/CAE accredited animals does not indicate freedom from MV/CAE infection in the non-accredited flock/herd and strict biosecurity should be maintained

Pricing of thin ewe blood test

The price for an MV blood test of 12 thinner animals (12 months old +) is currently £39.

2. Adding accredited animals

The second change relates to adding MV/CAE-accredited animals to an MV/CAE-accredited flock/herd. This has been identified as a possible route of breakdowns because of the risk of transmission during sales/transport.

The rules state:

All MV/CAE-accredited animals added to an MV/CAE-accredited flock/herd must be tested between six and 12 months after arrival.

They must have been on the holding for a minimum of six months before testing.

Failure to comply with this rule will lead to the flock/herd reverting to yearly testing. It is also strongly recommended that all added animals, regardless of age, are tested at the time of purchase before adding them to the accredited flock/herd. This would include, for example, male animals younger than 12 months, although they would also need to be tested again as above to prevent a breach of the rules.

Any bought-in accredited animal that is to be sold on before its six- to 12-month individual test on purchased accredited animals has been completed should be tested prior to sale and then subject to the six- to 12-month test requirement once in new flock

Import guidelines

New guidelines on the import of animals, embryos and semen have also been added to the rules.

Authorisation is needed from a PGSHS vet before animals are added to the flock or semen and embryos are used/implanted, even if they are accredited in a non-UK scheme.

Semen and embryos from animals that are not accredited under a recognised non-UK accreditation scheme should not be used/implanted in MV/CAE-accredited animals. Animals that are not accredited will require testing before they can join the flock.

Scheme and prices

The full details of the accreditation and rules involved are available on the Premium Sheep and Goat Health Schemes site.

The price for annual membership of the scheme varies depending on the flock size:

0-10 animals aged 18 months and over - £66

11-50 animals aged 18 months and over - £96

51+ animals aged 18 months and over - £149

Blood testing costs £2.90 a head.

What is maedi visna?

A viral disease that can be transmitted via milk, colostrum, faeces and respiratory secretions. Close contact during housing can increase the risk of disease spread.

Symptoms

The name is made from two Icelandic words that mean pneumonia and wasting – the main clinical signs. Symptoms can also include mastitis. Maedi visna will reduce conception and milk yields, potentially increase premature births and lamb mortality, and reduce growth rates.

Effect on flock

The disease is highly contagious and fatal, so will lead to increased mortality rates. Infected flocks are likely to see increased culling due to chronic weight loss and poor fertility. New UK data has shown an approximate 7.3% reduction in milk yield from infected ewes.

See also: How to identify, treat and prevent the five iceberg diseases in sheep

How to find out if you have it on farm

Maedi visna can be identified through blood testing or milk sample testing.

How to prevent it

There is no vaccine for the disease. You can reduce the risk of infecting your flock by purchasing breeding stock only from maedi visna-accredited flocks.

How to control/treat it

There is no treatment for maedi visna.

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