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# Contents

**Federal Register**

Vol. 85, No. 173

Friday, September 4, 2020

**Agriculture Department**
*See* Farm Service Agency
*See* Forest Service

**Army Department**
NOTICES
Environmental Impact Statements; Availability, etc.:
Army Training Land Retention at Pohakuloa Training Area in Hawai'i, 55263–55264

**Bureau of Consumer Financial Protection**
NOTICES
Consumer Credit Card Market:
Credit Card Accountability Responsibility and Disclosure Act Rules Review Pursuant to the Regulatory Flexibility Act;, 55262

**Centers for Disease Control and Prevention**
NOTICES
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 55291, 55298
Interagency Committee on Smoking and Health, 55291
Performance Review Board Members, 55298
Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID–19, 55292–55297

**Children and Families Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Advance Planning Document Process, 55298–55299
Reallotment of Fiscal Year 2019 Funds for the Low Income Home Energy Assistance Program, 55299–55300

**Civil Rights Commission**
NOTICES
Meetings:
Michigan Advisory Committee, 55255

**Coast Guard**
RULES
Safety Zones:
Lake Pontchartrain, New Orleans, LA, 55190–55192

**Commerce Department**
*See* International Trade Administration
*See* National Institute of Standards and Technology
*See* National Oceanic and Atmospheric Administration

**Committee for Purchase From People Who Are Blind or Severely Disabled**
NOTICES
Procurement List; Additions and Deletions, 55261

**Commodity Futures Trading Commission**
NOTICES
Meetings; Sunshine Act, 55261–55262

**Consumer Product Safety Commission**
NOTICES
Availability of Regulatory Flexibility Act Section 610 Review of the Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs, 55262–55263

**Corporation for National and Community Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Civic Engagement and Volunteering; Current Population Survey Supplement, 55263

**Defense Department**
*See* Army Department
*See* Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Preaward Survey Forms, 55290–55291
Prospective Subcontractor Requests for Bonds, 55289–55290
Meetings:
Uniform Formulary Beneficiary Advisory Panel, 55264–55265

**Education Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Governor's Emergency Education Relief Fund Application, 55266
Applications for New Awards:
Funding Under Higher Education Emergency Relief Fund; Coronavirus Aid, Relief, and Economic Security Act; Reopening Application Period, 55266–55268

**Election Assistance Commission**
NOTICES
Standardized Format:
Both Interim and Final Progress Reporting, 55268

**Employee Benefits Security Administration**
PROPOSED RULES
Fiduciary Duties Regarding Proxy Voting and Shareholder Rights, 55219–55243

**Energy Department**
*See* Federal Energy Regulatory Commission
NOTICES
Energy Conservation Program:
Petition for Waiver of CNA International, Inc. From the Department of Energy Dishwashers Test Procedure; Grant of Interim Waiver, 55268–55273

**Environmental Protection Agency**
RULES
Pesticide Tolerance:
Pydiflumetofen, 55193–55196

NOTICES
Accidental Release Prevention Requirements:
Risk Management Programs Under the Clean Air Act; Final Action on Petitions for Reconsideration, 55286–55287
Environmental Impact Statements; Availability, etc., 55283
Final Lists Identifying Manufacturers Subject to Fee Obligations for Risk Evaluations Under the Toxic Substances Control Act, 55283–55286
Risk Evaluations:
Twenty Chemical Substances Under the Toxic Substances Control Act, 55281–55283

**Export-Import Bank**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55287
Proposal To adopt the 2010 Small Business Jobs Act Interim Rule as an Alternative Size Standard for Defining a Small Business for Export-Import Bank Programs; Correction, 55287

**Farm Service Agency**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for the Collection of Qualitative Customer Feedback, 55252–55253

**Federal Aviation Administration**
RULES
Airworthiness Directives:
Airbus SAS Airplanes, 55169–55171
Leonardo S.p.a. Helicopters, 55171–55174
Amendment of Class E Airspace:
Sitka, AK; Correction, 55174
Instrument Flight Rules Altitudes; Miscellaneous Amendments, 55174–55185
PROPOSED RULES
Amendment of Federal Airway V–456, 55200–55201
Special Conditions:
B/E Aerospace, Bombardier Model CL–600–2B16 (604 Variant) Airplane; Seats With Pretensioner Restraint Systems, 55198–55200
NOTICES
Meetings:
Youth Access to American Jobs in Aviation Task Force, 55349–55350

**Federal Deposit Insurance Corporation**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55287–55288
All Interested Parties of Intent To Terminate Receiverships, 55288–55289

**Federal Emergency Management Agency**
RULES
Suspension of Community Eligibility, 55196–55197

**Federal Energy Regulatory Commission**
PROPOSED RULES
Standards for Business Practices and Communication Protocols for Public Utilities, 55201–55219
NOTICES
Application:
Columbia Gas of Pennsylvania, Inc., 55276–55277
NorthWestern Energy, 55279–55280
Combined Filings, 55275–55276, 55278–55279
Environmental Assessments; Availability, etc.:
Northern Natural Gas Co.; Lake City 1st Branch Line Abandonment and Capacity Replacement Project, 55274–55275
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Guzman Western Slope, LLC, 55280
Institution of Section 206 Proceeding and Refund Effective Date:
Tri-State Generation and Transmission Association, Inc., 55280–55281
Request for Extension of Time:
National Fuel Gas Supply Corp., 55277–55278
Request Under Blanket Authorization:
Columbia Gas Transmission, LLC, 55273

**Federal Railroad Administration**
NOTICES
Application:
Approval of Discontinuance or Modification of a Railroad Signal System, 55350–55351

**Food and Drug Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health, 55300–55301
Guidance:
Pharmacokinetics in Patients With Impaired Renal Function; Study Design, Data Analysis, and Impact on Dosing, 55303–55304
Issuance of Priority Review Voucher:
Rare Pediatric Disease Product, 55304
Meetings:
Psychopharmacologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee, 55301–55303

**Forest Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certification of Concrete Construction, 55253–55255

**General Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Preaward Survey Forms, 55290–55291
Prospective Subcontractor Requests for Bonds, 55289–55290

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Children and Families Administration
*See* Food and Drug Administration
*See* Health Resources and Services Administration
*See* National Institutes of Health
*See* Substance Abuse and Mental Health Services Administration
NOTICES
Promoting the Rule of Law Through Improved Agency Guidance Documents, 55306

**Health Resources and Services Administration**
NOTICES
Charter Renewal:
Advisory Committee on Organ Transplantation, 55304–55305
Request for Nominations:
Advisory Committee on Heritable Disorders in Newborns and Children, 55305–55306

**Homeland Security Department**
*See* Coast Guard
*See* Federal Emergency Management Agency

**Housing and Urban Development Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
COVID–19 Contingency Plan for Multifamily Rental Project Closing Documents, 55315–55316
Exigent Health and Safety Deficiency Correction Certification, 55313–55314
Moving to Work Demonstration, 55312–55313

**Interior Department**
*See* Land Management Bureau

**Internal Revenue Service**
RULES
Nuclear Decommissioning Funds, 55185–55190
NOTICES
Appointment of Members of the Legal Division to the Performance Review Board, 55354

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Hot-Rolled Steel Flat Products From the Republic of Korea, 55255–55256

**International Trade Commission**
NOTICES
Complaint:
Certain Electronic Stud Finders, Metal Detectors and Electrical Scanners, 55318–55319
Certain Filament Light-Emitting Diodes and Products Containing Same, 55319–55320
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Crystalline Silicon Photovoltaic Products From China and Taiwan, 55319
Certain Road Construction Machines and Components Thereof, 55320–55321
Kitchen Appliance Shelving and Racks From China, 55321–55322

**Justice Department**
NOTICES
Proposed Settlement Agreement:
Clean Harbors Environmental Services, Inc., 55322

**Labor Department**
*See* Employee Benefits Security Administration
*See* Veterans Employment and Training Service

**Land Management Bureau**
NOTICES
Environmental Impact Statements; Availability, etc.:
Yellow Pine Solar Project in Clark County, NV, 55317–55318
Filing of Plats of Survey:
Nevada, 55316–55317

**National Aeronautics and Space Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Preaward Survey Forms, 55290–55291
Prospective Subcontractor Requests for Bonds, 55289–55290

**National Institute of Standards and Technology**
NOTICES
Meetings:
Manufacturing Extension Partnership Advisory Board, 55256–55257

**National Institutes of Health**
NOTICES
Charter Renewal:
National Cancer Institute, 55306, 55308
Meetings:
Center for Scientific Review, 55306–55307, 55309–55310
National Cancer Institute, 55308–55309
National Institute of Arthritis, Musculoskeletal and Skin Diseases, 55309
National Institute of General Medical Sciences, 55308, 55310
National Institute of Mental Health, 55308, 55310–55311

**National Oceanic and Atmospheric Administration**
PROPOSED RULES
Fisheries of the Exclusive Economic Zone off Alaska:
Central Gulf of Alaska Rockfish Program; Amendment 111, 55243–55251
NOTICES
Meetings:
Council Coordination Committee, 55259
Mid-Atlantic Fishery Management Council, 55258–55260
New England Fishery Management Council, 55260
North Pacific Fishery Management Council, 55260
Takes of Marine Mammals Incidental to Specified Activities:
U.S. Navy Training and Testing Activities in the Point Mugu Sea Range Study Area, 55257–55258

**National Science Foundation**
NOTICES
Request for Information:
STEM Education, 55323–55326

**Navy Department**
NOTICES
Meetings:
Naval Academy Board of Visitors, 55265–55266

**Nuclear Regulatory Commission**
NOTICES
Order:
Exelon Generation Co., LLC, Three Mile Island Generating Station, Unit 1, Independent Spent Fuel Storage Installation, 55326–55331

**Pipeline and Hazardous Materials Safety Administration**
NOTICES
Hazardous Materials:
Actions on Special Permits, 55351–55353
Applications for Modifications to Special Permits, 55351
Applications for New Special Permits, 55353–55354

**Postal Regulatory Commission**
NOTICES
New Postal Products, 55331

**Postal Service**
RULES
Semipostal Stamp Program, 55192–55193

**Securities and Exchange Commission**
NOTICES
Application:
BlackRock ETF Trust III, et al., 55339–55340
Meetings; Sunshine Act, 55340–55341
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 55337–55339
Fixed Income Clearing Corp., 55341–55347
National Securities Clearing Corp., 55332–55337

**State Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Request for Approval of Special Validation for Travel to a Restricted Country or Area, 55347–55349

**Substance Abuse and Mental Health Services Administration**
NOTICES
Meetings:
Interdepartmental Serious Mental Illness Coordinating Committee, 55311

**Surface Transportation Board**
NOTICES
Discontinuance of Service and Trackage Rights Exemption:
Pacific Sun Railroad, LLC in San Diego County, CA, 55349

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Railroad Administration
*See* Pipeline and Hazardous Materials Safety Administration

**Treasury Department**
*See* Internal Revenue Service
*See* United States Mint
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance Approval Request for Cognitive and Psychological Research, 55357
Privacy Act; Systems of Records, 55354–55357

**United States Mint**
NOTICES
Meetings:
Citizens Coinage Advisory Committee; Correction, 55358

**Veterans Affairs Department**
NOTICES
Meetings:
Prosthetics and Special-Disabilities Programs, 55358

**Veterans Employment and Training Service**
NOTICES
Requests for Nominations:
Advisory Committee on Veterans' Employment, Training, and Employer Outreach, 55322–55323

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**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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

**14 CFR**
39 (2 documents) .....55169, 55171
71.....55174
95.....55174
**Proposed Rules:**
25.....55198
71.....55200

**18 CFR**
**Proposed Rules:**
37.....55201
38.....55201

**26 CFR**
1.....55185

**29 CFR**
**Proposed Rules:**
2509.....55219
2550.....55219

**33 CFR**
165.....55190

**39 CFR**
551.....55192

**40 CFR**
180.....55193

**44 CFR**
64.....55196

**50 CFR**
**Proposed Rules:**
679.....55243
680.....55243

# Rules and Regulations

Federal Register

Vol. 85, No. 173

Friday, September 4, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0327; Product Identifier 2020–NM–033–AD; Amendment 39–21228; AD 2020–18–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2016–18–09, which applied to certain Airbus SAS Model A318, A319, and A320 series airplanes. AD 2016–18–09 required repetitive detailed inspections for damage on the fuselage skin at certain frames, and applicable related investigative and corrective actions. This AD continues to require repetitive inspections of the fuselage skin for chafing damage at certain frames using a new inspection process, and corrective actions if necessary; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by reports of additional chafing of the forward fuselage found underneath the fairing structure. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 9, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 9, 2020.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327.

### Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0030, dated February 18, 2020 (''EASA AD 2020–0030'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; and Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability. EASA AD 2020–0030 supersedes EASA AD 2014–0259 (which corresponds to FAA AD 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016) (AD 2016–18–09)).

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–18–09. AD 2016–18–09 applied to certain Airbus SAS Model A318, A319, and A320 series airplanes. The NPRM published in the **Federal Register** on April 10, 2020 (85 FR 20203). The NPRM was prompted by reports of additional chafing of the forward fuselage found underneath the fairing structure. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. The NPRM proposed to continue to require repetitive inspections of the fuselage skin for chafing damage at certain frames using a new inspection process, and corrective actions if necessary, as specified in an EASA AD.

The FAA is issuing this AD to address damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage. See the MCAI for additional background information.

### Comments

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

### Request To Provide Clarification That Inspection Includes Existing Repairs

United Airlines (UAL) asked that the FAA clarify whether the proposed inspection of the external skin panel includes existing repairs. UAL stated that the inspections specified in Airbus Service Bulletin A320–53–1287 (the appropriate source of service information for certain actions in AD 2016–18–09, as well as in EASA AD 2020–0030) continue to involve repair doublers as a result of chafing beyond allowable skin panel damage. UAL added that clarification regarding existing repairs is necessary since Airbus Service Bulletin A320–53–1287 does not include specific instructions to remove any existing doubler, nor give specific instructions to include existing repairs during the skin panel inspection. UAL noted that it is not necessary to remove any reinforcement repair, because the chafing damage from the

fairing panel will cause damage to an external repair before reaching the original skin panel. UAL stated that it had previously submitted a similar request for different rulemaking, which was approved; the phrase ''including previously repaired areas'' was added to AD 2016–18–09.

The FAA provides the following clarification. For the reasons stated by the commenter, we agree to include previously repaired areas for the inspection required by paragraph (g). The FAA has added paragraph (h)(5) of this AD to clarify that inspecting previously repaired areas is included.

**Conclusion**

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change described previously and minor editorial changes. The FAA has determined that these minor changes:

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

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

**Related IBR Material Under 1 CFR Part 51**

EASA AD 2020–0030 describes procedures for repetitive inspections of the fuselage skin for chafing damage at certain frames, and applicable corrective actions if damage is found. The corrective actions include a special detailed inspection of external fuselage skin panel for any cracking, measurement of crack length and remaining thickness, modification, and repair. EASA AD 2020–0030 also provides an optional terminating action (modification of the forward belly fairing) for the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 1,538 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2016–18–09 | 12 work-hours × $85 per hour = $1,020 | $90 | $1,110 | $1,691,800 |
| New proposed actions | 13 work-hours × $85 per hour = $1,105 | 150 | 1,255 | 1,930,190 |

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 21 work-hours × $85 per hour = $1,785 | $3,550 | $5,335 |

ESTIMATED COSTS FOR OPTIONAL ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 21 work-hours × $85 per hour = $1,785 | $4,150 | $5,935 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016), and adding the following new AD:

**2020–18–07 Airbus SAS:** Amendment 39–21228; Docket No. FAA–2020–0327; Product Identifier 2020–NM–033–AD.

**(a) Effective Date**

This AD is effective October 9, 2020.

**(b) Affected ADs**

This AD replaces AD 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016) (''AD 2016–18–09'').

**(c) Applicability**

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0030, dated February 18, 2020 (''EASA AD 2020–0030'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Reason**

This AD was prompted by reports of additional chafing of the forward fuselage underneath the fairing structure. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. The FAA is issuing this AD to address damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0030.

**(h) Exceptions to EASA AD 2020–0030**

(1) Where EASA AD 2020–0030 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0030 does not apply to this AD.

(3) Where EASA AD 2020–0030 refers to the effective date of EASA AD 2014–0259, this AD requires using October 13, 2016 (the effective date of AD 2016–18–09).

(4) Where EASA AD 2020–0030 refers to doing actions ''in accordance with the instructions of'' the service information, for this AD, only use paragraph 3.C., ''Procedure,'' of the service information.

(5) Where paragraph (1) of EASA AD 2020–0030 requires accomplishing a detailed inspection of the affected area (external fuselage skin panels), for this AD, that inspection also includes inspecting previously repaired areas.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to *9-AVS-AIR-730-AMOC@faa.gov.*

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

(ii) AMOCs approved previously for AD 2016–18–09 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0030 that are required by paragraph (g) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2020–0030 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on October 9, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0030, dated February 18, 2020.

(ii) [Reserved]

(4) For information about EASA AD 2020–0030, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(5) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327.

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

Issued on August 21, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–19581 Filed 9–3–20; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0784; Product Identifier 2016–SW–087–AD; Amendment 39–21240; AD 2020–18–19]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2014–12–07 for Agusta S.p.A (Agusta) Model AB412 and AB412EP helicopters. AD 2014–12–07 requires inspecting the rotor brake pinion (pinion) for a crack and replacing it if there is a crack. This AD retains the requirements of AD 2014–12–07 and also requires removing

certain serial-numbered pinions from service. This AD was prompted by a report of an additional cracked pinion. The actions of this AD are intended to address an unsafe condition on these products.

**DATES:** This AD becomes effective September 21, 2020.

The FAA must receive comments on this AD by October 19, 2020.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Examining the AD Docket**

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0784; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

For service information identified in this final rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:** Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *Matthew.Fuller@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, the FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. The FAA will consider all the comments received and may conduct additional rulemaking based on those comments.

**Confidential Business Information**

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this final rule contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this final rule, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this final rule. Submissions containing CBI should be sent to Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *Matthew.Fuller@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Discussion**

The FAA issued AD 2014–12–07 (79 FR 35035, June 19, 2014) (''2014–12–07''), for Agusta Model AB412 and AB412EP helicopters with a pinion part number (P/N) 412–040–301–101 installed. AD 2014–12–07 requires within 100 hours time-in-service (TIS), magnetic particle inspecting each pinion for a crack and replacing the pinion if there is a crack. AD 2014–12–07 was prompted by EASA AD No. 2013–0187, dated August 16, 2013 (EASA AD 2013–0187), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised of a report of a cracked pinion installed in the rotor brake quill that was discovered during a magnetic particle inspection (MPI). EASA further stated the crack was caused by residual stress generated during the manufacturing process. According to EASA, if not corrected, this condition could result in failure of the pinion with detachment of parts inside the transmission that could cause its malfunction or jamming, ultimately resulting in loss of control of the helicopter. To correct this unsafe condition, EASA AD 2013–0187 required an MPI of the pinion, and if there is a crack, replacing the pinion.

**Actions Since AD 2014–12–07 Was Issued**

Since the FAA issued AD 2014–12–07, EASA issued AD No. 2016–0244, dated December 14, 2016 (EASA AD 2016–0244), which supersedes EASA AD 2013–0187. EASA advises of another cracked pinion due to a defect generated during the manufacturing process. Accordingly, EASA AD 2016–0244 retains the MPI requirements of EASA AD 2013–0187 and requires inspecting the helicopter within three months to determine if certain serial-numbered pinions from the defective manufacturing batch are installed and removing any affected pinions before further flight.

Also, since the FAA issued AD 2014–12–07, Agusta changed its name to Leonardo S.p.a. This AD reflects that change and updates the contact information to obtain service documentation.

**FAA's Determination**

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all known

relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type design.

**Related Service Information**

The FAA reviewed Leonardo Helicopters Bollettino Tecnico (BT) No. 412–147, dated September 12, 2016, which specifies identifying the serial numbers of the pinion, P/N 412–040–301–101, and removing certain pinions from service.

The FAA also reviewed AgustaWestland BT No. 412–135, Revision A, dated July 29, 2013, which describes procedures for a one-time MPI of pinion P/N 412–040–301–101.

**AD Requirements**

This AD requires, within 75 hours TIS, removing from service pinion P/N 412–040–301–101 having serial number (S/N) C17987, C17990, or C17991. This AD also requires, within 100 hours TIS, performing an MPI for a crack on each pinion P/N 412–040–301–101 if the rotor brake quill has never been overhauled. If there is a crack, this AD requires, before further flight, removing the pinion from service. Finally, this AD prohibits installing pinion P/N 412–040–301–101 having S/N C17987, C17990, or C17991 on any helicopter.

**Differences Between This AD and the EASA AD**

The EASA AD requires removing from service certain pinions within 3 months; this AD requires removing these pinions within 75 hours TIS. The EASA AD also requires the MPI to be performed within 100 flight hours or 5 months, whichever occurs first; this AD requires compliance within 100 hours TIS. The EASA AD only prohibits installing pinion P/N 412–040–301–101 having serial number S/N C17987 or C17991, whereas this AD prohibits installing pinion P/N 412–040–301–101 having S/N C17987, C17990, or C17991.

**Regulatory Flexibility Act**

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

**Costs of Compliance**

There are no costs of compliance with this AD because there are no helicopters with this type certificate on the U.S. Registry.

**FAA's Justification and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

There are no helicopters with this type certificate on the U.S. Registry. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866, and

2. Will not affect intrastate aviation in Alaska.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2014–12–07, Amendment 39–17868 (79 FR 35035, June 19, 2014); and

■ b. Adding the following new AD:

**2020–18–19 Leonardo S.p.a.:** Amendment 39–21240; Docket No. FAA–2020–0784; Product Identifier 2016–SW–087–AD.

**(a) Applicability**

This AD applies to Leonardo S.p.a. Model AB412 and AB412EP helicopters, certificated in any category, with a rotor brake pinion (pinion) part number (P/N) 412–040–301–101 installed.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack in a pinion. This condition could result in failure of a pinion, detachment of parts inside the transmission causing a malfunction or jamming, and subsequent loss of control of the helicopter.

**(c) Affected ADs**

This AD supersedes AD 2014–12–07, Amendment 39–17868 (79 FR 35035, June 19, 2014).

**(d) Effective Date**

This AD becomes effective September 21, 2020.

**(e) Compliance**

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

**(f) Required Actions**

(1) Within 75 hours time-in-service (TIS), remove from service:

(i) Pinion P/N 412–040–301–101 with serial number C17987;

(ii) Pinion P/N 412–040–301–101 with serial number C17990; and

(iii) Pinion P/N 412–040–301–101 with serial number C17991.

(2) Within 100 hours TIS, if the rotor brake quill has never been overhauled, perform a magnetic particle inspection on each pinion for a crack. If there is a crack, before further flight, remove the pinion from service.

(3) As of the effective date of this AD, do not install pinion P/N 412–040–301–101

with serial number C17987, C17990, or C17991 on any helicopter.

**(g) Special Flight Permits**

Special flight permits are prohibited.

**(h) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, AD Program Manager, Continued Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *Matthew.Fuller@faa.gov.*

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

**(i) Additional Information**

(1) Leonardo Helicopters Bollettino Tecnico (BT) No. 412–147, dated September 12, 2016, and AgustaWestland BT No. 412–135, Revision A, dated July 29, 2013, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) No. AD 2016–0244, dated December 14, 2016. You may view the EASA AD on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2020–0784.

**(j) Subject**

Joint Aircraft Service Component (JASC) Code: 6321, Main Rotor Brake.

Issued on August 31, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–19533 Filed 9–3–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2020–0352; Airspace Docket No. 18–AAL–4]**

**RIN 2120–AA66**

## Amendment of Class E Airspace; Sitka, AK; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Aviation Administration (FAA) is correcting a final rule that appeared in the **Federal Register** on July 31, 2020. The rule modified Class E airspace designated as a surface area, and Class E airspace extending upward from 700 feet above the surface at Sitka Rocky Gutierrez Airport. The final rule also established a Class E airspace area, designated as an extension to a Class D or Class E surface area. The legal definition for the Class E airspace, designated as an extension to a Class D or Class E surface area, did not accurately establish this area outside of the Class E airspace designated as a surface area. This action corrects the legal definition for the Class E airspace area, designated as an extension to a Class D or Class E surface area.

**DATES:** Effective 0901 UTC, November 5, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

**SUPPLEMENTARY INFORMATION:**

### History

The FAA published a final rule in the **Federal Register** (85 FR 45997; July 31, 2020) for Docket FAA–2020–0352 amending Class E airspace designated as a surface area and Class E airspace extending upward from 700 feet above the surface. The rule also established Class E airspace designated as an extension to a Class D or Class E surface area. Subsequent to publication, the FAA identified an error in how the Class E airspace, designated as an extension to a Class D or Class E surface area, is described. This action corrects that error.

Class E4 airspace designations are published in paragraph 6004 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, Amendment of the Class E Airspace; Sitka, AK, published in the **Federal Register** of July 31, 2020 (85 FR 45997), FR Doc. 2020–16314, is corrected as follows:

**§ 71.1 [Corrected]**

■ 1. On page 45997, in the third column, in The Rule, the description of the Class E airspace designated as an extension to a Class D or Class E surface area is corrected to read as follows: That airspace extending upward from the surface from the 4.1-mile radius of the airport within 4 miles north and 8 miles south of the 315° bearing from the airport, extending from 0.9 miles northwest of the airport and extending to 28.3 miles northwest of Sitka Rocky Gutierrez Airport.

**§ 71.1 [Corrected]**

■ 2. On page 45998, in the first and second column, in AAL AK E4 Sitka, AK [New] the airspace legal description is corrected to read as follows: That airspace extending upward from the surface from the 4.1-mile radius of the airport within 4 miles north and 8 miles south of the 315° bearing from the airport, extending from 0.9 miles northwest of the airport and extending to 28.3 miles northwest of Sitka Rocky Gutierrez Airport.

Issued in Seattle, Washington, on August 28, 2020.

**B.G. Chew,**

*Acting Group Manager, Western Service Center, Operations Support Group.*

[FR Doc. 2020–19460 Filed 9–3–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 95

**[Docket No. 31327; Amdt. No. 554]**

## IFR Altitudes; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**DATES:** *Effective date:* 0901 UTC, September 10, 2020.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

## The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

## Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on August 7, 2020.

**Wade Terrell,**

*Aviation Safety, Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.*

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, September 10,2020.

■ 1. The authority citation for part 95 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT

[Amendment 554 effective date September 10, 2020]

| From | To | MEA | MAA |
|---|---|---|---|
| **§ 95.3000 Low Altitude RNAV Routes** | | | |
| **§ 95.3286 RNAV Route T286 Is Amended by Adding** | | | |
| GRAND ISLAND, NE VOR/DME | PAWNEE CITY, NE VORTAC | 3600 | 17500 |
| PAWNEE CITY, NE VORTAC | ROBINSON, KS VOR/DME | 3100 | 17500 |
| ROBINSON, KS VOR/DME | BOWLR, KS FIX | 2900 | 17500 |
| **§ 95.3383 RNAV Route T383 Is Amended by Adding** | | | |
| BLUOX, MN FIX | BAUDETTE, MN VOR/DME | 3500 | 17500 |
| **§ 95.4000 High Altitude RNAV Routes** | | | |
| **§ 95.4068 RNAV Route Q68 Is Amended by Adding** | | | |
| LITTR, AR WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | SOPIE, TN FIX | *18000 | 45000 |
| SOPIE, TN FIX<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | BOWLING GREEN, KY VORTAC | *18000 | 45000 |
| BOWLING GREEN, KY VORTAC<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | YOCKY, KY FIX | *18000 | 45000 |
| YOCKY, KY FIX<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | SPAYD, WV FIX | *18000 | 45000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 554 effective date September 10, 2020]

| From | To | MEA | MAA |
|---|---|---|---|
| SPAYD, WV FIX<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | CHARLESTON, WV VOR/DME | *18000 | 45000 |
| **§ 95.4119 RNAV Route Q119 Is Added To Read** | | | |
| SCOOB, VA WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | GROKK, VA WP | *18000 | 45000 |
| GROKK, VA WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | RYVRR, VA WP | *18000 | 45000 |
| RYVRR, VA WPS<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | SHTGN, MD WP | *18000 | 45000 |
| SHTGN, MD WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | DUALY, MD WP | *18000 | 45000 |
| DUALY, MD WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | HALEX, MD WP | *18000 | 45000 |
| HALEX, MD WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | WESTMINSTER, MD VORTAC | *18000 | 45000 |
| **§ 95.4127 RNAV Route Q127 Is Added To Read** | | | |
| GORDONSVILLE, VA VORTAC<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | BUKYY, MD WP | *18000 | 45000 |
| BUKYY, MD WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | BAILZ, MD WP | *18000 | 45000 |
| BAILZ, MD WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | GRACO, MD FIX | *18000 | 45000 |
| GRACO, MD FIX<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | SMYRNA, DE VORTAC | *18000 | 45000 |
| **§ 95.4129 RNAV Route Q129 Is Added To Read** | | | |
| GARIC, NC WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | YERBA, NC WP | *18000 | 45000 |
| YERBA, NC WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | AARNN, NC WP | *18000 | 45000 |
| AARNN, NC WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | THEOO, VA WP | *18000 | 45000 |
| THEOO, VA WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | PYTON, MD WP | *18000 | 45000 |
| **§ 95.4136 RNAV Route Q136 Is Amendeded To Read in Part** | | | |
| COUGH, CO WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | BBULL, CO WP | *21000 | 45000 |
| BBULL, CO WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | ZIRKL, NE WP | *21000 | 45000 |
| **§ 95.4150 RNAV Route Q150 Is Amended To Read in Part** | | | |
| YAMPA, CO WP<br>*18000—GNSS MEA.<br>*DME/DME/IRU MEA. | BBULL, CO WP | *24000 | 45000 |
| BBULL, CO WP<br>*18000—GNSS MEA. | DUUZE, KS WP | *24000 | 45000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 554 effective date September 10, 2020]

| From | To | MEA | MAA |
|---|---|---|---|
| *DME/DME/IRU MEA. | | | |
| **§ 95.4220 RNAV Route Q220 Is Added To Read** | | | |
| RIFLE, NY FIX | HOFFI, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| HOFFI, NY FIX | ORCHA, NY WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| ORCHA, NY WP | ALBOW, NY WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| ALBOW, NY WP | SANDY POINT, RI VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| SANDY POINT, RI VOR/DME | SKOWL, RI WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| SKOWL, RI WP | JAWZZ, MA WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| JAWZZ, MA WP | LARIE, MA WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| **§ 95.4430 RNAV Route Q430 Is Added To Read** | | | |
| ZANDR, OH FIX | BELLAIRE, OH VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| BELLAIRE, OH VOR/DME | LEJOY, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| LEJOY, PA FIX | VINSE, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| VINSE, PA FIX | BEETS, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| BEETS, PA FIX | LARRI, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| LARRI, PA FIX | SAAME, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| SAAME, PA FIX | BYRDD, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| BYRDD, PA FIX | COPES, PA FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| COPES, PA FIX | ROBBINSVILLE, NJ VORTAC | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| ROBBINSVILLE, NJ VORTAC | MYRCA, NJ WP | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| MYRCA, NJ WP | CREEL, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| CREEL, NY FIX | RIFLE, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| RIFLE, NY FIX | KYSKY, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| KYSKY, NY FIX | LIBBE, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA. | | | |
| *DME/DME/IRU MEA. | | | |
| LIBBE, NY FIX | FLAPE, MA FIX | *18000 | 45000 |

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 554 effective date September 10, 2020]

| From | To | MEA | MAA |
|---|---|---|---|
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| FLAPE, MA FIX | DEEPO, MA FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| DEEPO, MA FIX | NANTUCKET, MA VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| **§ 95.4439 RNAV Route Q439 Is Added To Read** | | | |
| BRIGS, NJ FIX | DRIFT, NJ FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| DRIFT, NJ | FIX MANTA, NJ FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| MANTA, NJ FIX | PLUME, NJ FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| PLUME, NJ FIX | SHERL, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| SHERL, NY FIX | DUNEE, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| DUNEE, NY FIX | SARDI, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| SARDI, NY FIX | RIFLE, NY FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| RIFLE, NY FIX | FOXWD, CT WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| FOXWD, CT WP | BOGRT, MA WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| BOGRT, MA WP | BLENO, NH WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| BLENO, NH WP | BEEKN, ME WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| BEEKN, ME WP | FRIAR, ME FIX | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| FRIAR, ME FIX | PRESQUE ISLE, ME VOR/DME | *18000 | 45000 |
| *GNSS REQUIRED. | | | |
| **§ 95.4450 RNAV Route Q450 Is Added To Read** | | | |
| HNNAH, NJ FIX | KENNEDY, NY VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| KENNEDY, NY VOR/DME | DEER PARK, NY VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| **§ 95.4480 RNAV Route Q480 Is Amended To Read in Part** | | | |
| BARNES, MA VORTAC | KYLOH, NH WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| KYLOH, NH WP | BEEKN, ME WP | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |
| BEEKN, ME WP | KENNEBUNK, ME VOR/DME | *18000 | 45000 |
| *18000—GNSS MEA.<br>*DME/DME/IRU MEA. | | | |

| From | To | MEA |
|---|---|---|
| **§ 95.6001 Victor Routes-U.S.** | | |
| **§ 95.6003 VOR Federal Airway V3 Is Amended To Read in Part** | | |
| PRESQUE ISLE, ME VOR/DME<br>*4200—MOCA. | U.S. CANADIAN BORDER | *8000 |
| **§ 95.6004 VOR Federal Airway V4 Is Amended To Delete** | | |
| LEXINGTON, KY VOR/DME | NEWCOMBE, KY VORTAC | 3100 |
| NEWCOMBE, KY VORTAC | CHARLESTON, WV VOR/DME | 3000 |
| **§ 95.6005 VOR Federal Airway V5 Is Amended To Delete** | | |
| CHOO CHOO, TN VORTAC | MCMIN, TN FIX | 4000 |
| MCMIN, TN FIX<br>*3700—MOCA. | HARME, TN FIX | *6000 |
| HARME, TN FIX<br>*2300—MOCA. | BOWLING GREEN, KY VORTAC | *2800 |
| BOWLING GREEN, KY VORTAC | NEW HOPE, KY VOR/DME | 2900 |
| **§ 95.6008 VOR Federal Airway V8 Is Amended To Read in Part** | | |
| GOSHEN, IN VORTAC<br>*5000—MRA.<br>**2500—MOCA. | *TWERP, OH FIX | **4500 |
| TWERP, OH FIX | FLAG CITY, OH VORTAC | 2700 |
| **§ 95.6013 VOR Federal Airway V13 Is Amended To Delete** | | |
| FARMINGTON, MN VORTAC<br>*5500—MRA.<br>**3400—MOCA. | *WAGNR, MN FIX | **5500 |
| WAGNR, MN FIX<br>*3400—MOCA. | CINCI, MN FIX | *5500 |
| CINCI, MN FIX<br>*2700—MOCA. | SIREN, WI VOR/DME | *3400 |
| SIREN, WI VOR/DME | DULUTH, MN VORTAC | 4000 |
| **§ 95.6018 VOR Federal Airway V18 Is Amended To Delete** | | |
| CEDAR CREEK, TX VORTAC | QUITMAN, TX VOR/DME | 2500 |
| QUITMAN, TX VOR/DME | CADOZ, TX FIX | 2400 |
| CADOZ, TX FIX | BELCHER, LA VORTAC | 2500 |
| **§ 95.6020 VOR Federal Airway V20 Is Amended To Read in Part** | | |
| GULFPORT, MS VORTAC<br>*1800—MOCA. | SEMMES, AL VORTAC | *5000 |
| **§ 95.6026 VOR Federal Airway V26 Is Amended To Read in Part** | | |
| EAU CLAIRE, WI VORTAC | EDGRR, WI FIX. | |
| | E BND | *7500 |
| | W BND | *4500 |
| *2900—MOCA. | | |
| EDGRR, WI FIX<br>*3600—MOCA.<br>*3600—GNSS MEA. | WAUSAU, WI VOR/DME | *7500 |
| **§ 95.6033 VOR Federal Airway V33 Is Amended To Delete** | | |
| KEATING, PA VORTAC | BRADFORD, PA VOR/DME | 4000 |
| BRADFORD, PA VOR/DME<br>*5000—GNSS MEA. | BUFFALO, NY VOR/DME | *11000 |
| **§ 95.6037 VOR Federal Airway V37 Is Amended To Delete** | | |
| ERIE, PA VORTAC | U.S. CANADIAN BORDER | 3000 |
| **§ 95.6049 VOR Federal Airway V49 Is Amended To Delete** | | |
| NASHVILLE, TN VORTAC<br>*2300—MOCA. | TANDS, TN FIX | *4000 |
| TANDS, TN FIX<br>*2300—MOCA. | BOWLING GREEN, KY VORTAC | *4000 |

| From | To | MEA |
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| BOWLING GREEN, KY VORTAC | MYSTIC, KY VOR | 2700 |
| **§ 95.6052 VOR Federal Airway V52 Is Amended To Delete** | | |
| BOWLING GREEN, KY VORTAC | LIVINGSTON, TN VOR/DME | 11000 |
| **§ 95.6054 VOR Federal Airway V54 Is Amended To Delete** | | |
| CEDAR CREEK, TX VORTAC | QUITMAN, TX VOR/DME | 2500 |
| QUITMAN, TX VOR/DME | TEXARKANA, AR VORTAC | 2300 |
| **§ 95.6055 VOR Federal Airway V55 Is Amended To Delete** | | |
| EAU CLAIRE, WI VORTAC<br>*2800—MOCA.<br>*3000—GNSS MEA. | SIREN, WI VOR/DME | *5000 |
| **§ 95.6059 VOR Federal Airway V59 Is Amended To Delete** | | |
| PARKERSBURG, WV VOR/DME | NEWCOMERSTOWN, OH DME | 3000 |
| **§ 95.6061 VOR Federal Airway V61 Is Amended To Delete** | | |
| GRAND ISLAND, NE VOR/DME<br>*3200—MOCA. | PAWNEE CITY, NE VORTAC | *4000 |
| PAWNEE CITY, NE VORTAC | ROBINSON, KS VOR/DME | 2800 |
| ROBINSON, KS VOR/DME | BOWLR, KS FIX | 2600 |
| **§ 95.6082 VOR Federal Airway V82 Is Amended To Delete** | | |
| BAUDETTE, MN VOR/DME<br>*3400—MOCA.<br>*3500—GNSS MEA. | BLUOX, MN FIX | *7000 |
| **§ 95.6084 VOR Federal Airway V84 Is Amended To Read in Part** | | |
| NORTHBROOK, IL VOR/DME<br>*4000—MRA.<br>**2000—MOCA. | *KUBBS, IL FIX | **3000 |
| KUBBS, IL FIX<br>*3500—MRA.<br>**2000—MOCA. | *STORY, IL FIX | **3000 |
| STORY, IL FIX<br>*2000—MOCA. | PIVOT, IL FIX | *3000 |
| **§ 95.6091 VOR Federal Airway V91 Is Amended To Delete** | | |
| ALBANY, NY VORTAC<br>*5000—GNSS MEA. | GLENS FALLS, NY VORTAC | *7000 |
| GLENS FALLS, NY VORTAC<br>*10000—MCA ENSON, VT FIX, SW BND.<br>**5000—GNSS MEA. | *ENSON, VT FIX | **10000 |
| ENSON, VT FIX<br>*2800—MOCA. | WEIGH, VT FIX | *4000 |
| WEIGH, VT FIX | BURLINGTON, VT VOR/DME. | |
| | N BND | 3000 |
| | S BND | 4000 |
| **§ 95.6092 VOR Federal Airway V92 Is Amended To Delete** | | |
| NEWCOMERSTOWN, OH DME | BELLAIRE, OH VOR/DME | 3000 |
| **§ 95.6096 VOR Federal Airway V96 Is Amended To Read in Part** | | |
| FORT WAYNE, IN VORTAC<br>*5000—MRA.<br>**2400—MOCA. | *TWERP, OH FIX | **5000 |
| **§ 95.6104 VOR Federal Airway V104 Is Amended To Delete** | | |
| BURLINGTON, VT VOR/DME | MONTPELIER, VT VOR/DME | 6300 |
| MONTPELIER, VT VOR/DME | AYZOO, NH WP | 5400 |
| AYZOO, NH WP<br>*6400—MOCA. | BERLIN, NH DME | *7000 |
| BERLIN, NH DME | ANSYN, ME WP | 6500 |

| From | To | MEA |
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| ANSYN, ME WP | BANGOR, ME VORTAC | 4000 |
| **§ 95.6108 VOR Federal Airway V108 Is Amended To Read in Part** | | |
| ADANE, CO FIX | *HUGO, CO VOR/DME | 9000 |
| *7100—MCA HUGO, CO VOR/DME, W BND. | | |
| HUGO, CO VOR/DME | GOODLAND, KS VORTAC | 7000 |
| **§ 95.6114 VOR Federal Airway V114 Is Amended To Delete** | | |
| BONHAM, TX VORTAC | QUITMAN, TX VOR/DME | 2500 |
| QUITMAN, TX VOR/DME | GREGG COUNTY, TX VORTAC | 2400 |
| **§ 95.6115 VOR Federal Airway V115 Is Amended To Delete** | | |
| PARKERSBURG, WV VOR/DME | NEWCOMERSTOWN, OH DME | 3000 |
| NEWCOMERSTOWN, OH DME | ATWOO, OH FIX | 3000 |
| ATWOO, OH FIX | CAPEL, OH FIX | *6000 |
| *3500—MOCA. | | |
| CAPEL, OH FIX | FRANKLIN, PA VOR | 3500 |
| **§ 95.6116 VOR Federal Airway V116 Is Amended To Delete** | | |
| ERIE, PA VORTAC | BRADFORD, PA VOR/DME | *5000 |
| *3900—MOCA. | | |
| BRADFORD, PA VOR/DME | STONYFORK, PA VOR/DME | 4500 |
| **§ 95.6119 VOR Federal Airway V119 Is Amended To Delete** | | |
| NEWCOMBE, KY VORTAC | *CROUP, OH FIX | 2800 |
| *5500—MCA CROUP, OH FIX, NE BND. | | |
| CROUP, OH FIX | HENDERSON, WV VORTAC | 5500 |
| CLARION, PA VOR/DME | BRADFORD, PA VOR/DME | #4200 |
| #BRADFORD R–232 UNUSABLE. USE CLARION R–050. | | |
| BRADFORD, PA VOR/DME | WELLSVILLE, NY DME | *4500 |
| *4000—MOCA. | | |
| WELLSVILLE, NY DME | BURST, NY FIX | 4500 |
| BURST, NY FIX | GENESEO, NY VOR/DME | 4000 |
| GENESEO, NY VOR/DME | ROCHESTER, NY VOR/DME | 2800 |
| **§ 95.6123 VOR Federal Airway V123 Is Amended To Delete** | | |
| CAMBRIDGE, NY VOR/DME | GLENS FALLS, NY VORTAC | 4500 |
| **§ 95.6126 VOR Federal Airway V126 Is Amended To Delete** | | |
| ERIE, PA VORTAC | BRADFORD, PA VOR/DME | *5000 |
| *3900—MOCA. | | |
| BRADFORD, PA VOR/DME | STONYFORK, PA VOR/DME | 4500 |
| **§ 95.6128 VOR Federal Airway V128 Is Amended To Delete** | | |
| JANESVILLE, WI VOR/DME | ROCKFORD, IL VOR/DME | 2700 |
| ROCKFORD, IL VOR/DME | KELSI, IL FIX | 2700 |
| KELSI, IL FIX | SMARS, IL FIX | 3000 |
| SMARS, IL FIX | KANKAKEE, IL VOR/DME | 2700 |
| KANKAKEE, IL VOR/DME | KENLA, IL FIX | 2400 |
| KENLA, IL FIX | VAGES, IN FIX | 2600 |
| VAGES, IN FIX | *POTES, IN FIX | **4000 |
| *4000—MRA. | | |
| **2300—MOCA. | | |
| POTES, IN FIX | JAKKS, IN FIX | *4000 |
| *2300—MOCA. | | |
| JAKKS, IN FIX | BRICKYARD, IN VORTAC | 2700 |
| **§ 95.6144 VOR Federal Airway V144 Is Amended To Delete** | | |
| BRADFORD, IL VORTAC | KANKAKEE, IL VOR/DME | 2700 |
| KANKAKEE, IL VOR/DME | RODNY, IN FIX | 2400 |
| RODNY, IN FIX | MAPPS, IN FIX | *3000 |
| *2200—MOCA. | | |
| MAPPS, IN FIX | CLEFT, IN FIX | *4000 |
| *2400—MOCA. | | |

| From | To | MEA |
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| CLEFT, IN FIX | FORT WAYNE, IN VORTAC | 2800 |
| **§ 95.6164 VOR Federal Airway V164 Is Amended To Delete** | | |
| BUFFALO, NY VOR/DME | *BENEE, NY FIX | **11000 |
| *11000—MCA BENEE, NY FIX, N BND. | | |
| **4400—MOCA. | | |
| **5000—GNSS MEA. | | |
| BENEE, NY FIX | WELLSVILLE, NY DME | *6000 |
| *4500—MOCA. | | |
| *5000—GNSS MEA. | | |
| WELLSVILLE, NY DME | STONYFORK, PA VOR/DME | 4500 |
| **§ 95.6170 VOR Federal Airway V170 Is Amended To Delete** | | |
| BRADFORD, PA VOR/DME | SLATE RUN, PA VORTAC | 4000 |
| **§ 95.6217 VOR Federal Airway V217 Is Amended To Delete** | | |
| HIBBING, MN VOR/DME | BAUDETTE, MN VOR/DME | *5000 |
| *3100—MOCA. | | |
| BAUDETTE, MN VOR/DME | U.S. CANADIAN BORDER | 2800 |
| **§ 95.6218 VOR Federal Airway V218 Is Amended To Read in Part** | | |
| *INTERNATIONAL FALLS, MN VOR/DME | JIBDU, MN FIX. | |
| | N BND | 4000 |
| | S BND | 10000 |
| *7800—MCA INTERNATIONAL FALLS, MN VOR/DME, S BND. | | |
| JIBDU, MN FIX | BEBEL, MN FIX. | |
| | N BND | 7000 |
| | S BND | 10000 |
| BEBEL, MN FIX | SQEAK, MN FIX | 10000 |
| **§ 95.6243 VOR Federal Airway V243 Is Amended To Delete** | | |
| CHOO CHOO, TN VORTAC | MCMIN, TN FIX | 4000 |
| MCMIN, TN FIX | HARME, TN FIX | *6000 |
| *3700—MOCA. | | |
| HARME, TN FIX | BOWLING GREEN, KY VORTAC | *2800 |
| *2300—MOCA. | | |
| **§ 95.6265 VOR Federal Airway V265 Is Amended To Delete** | | |
| KEATING, PA VORTAC | BRADFORD, PA VOR/DME | 4000 |
| BRADFORD, PA VOR/DME | JAMESTOWN, NY VOR/DME | 4000 |
| **§ 95.6270 VOR Federal Airway V270 Is Amended To Delete** | | |
| JAMESTOWN, NY VOR/DME | VAIRS, NY FIX | 4000 |
| VAIRS, NY FIX | WELLSVILLE, NY DME | *4500 |
| *4000—MOCA. | | |
| WELLSVILLE, NY DME | WOMAN, NY FIX | *4500 |
| *4000—MOCA. | | |
| WOMAN, NY FIX | ELMIRA, NY VOR/DME | *4000 |
| *3400—MOCA. | | |
| **§ 95.6322 VOR Federal Airway V322 Is Amended To Delete** | | |
| WYLIE, NH FIX | BUKER, NH WP | *7000 |
| *6000—MOCA. | | |
| BUKER, NH WP | BERLIN, NH DME | *6000 |
| *5100—MOCA. | | |
| BERLIN, NH DME | U.S. CANADIAN BORDER | #6500 |
| #FOR THAT AIRSPACE OVER U.S. TERRITORY. | | |
| **§ 95.6331 VOR Federal Airway V331 Is Amended To Delete** | | |
| HAZARD, KY VOR/DME | NEWCOMBE, KY VORTAC | *4000 |
| *3500—MOCA. | | |
| **§ 95.6382 VOR Federal Airway V382 Is Amended To Read in Part** | | |
| GRAND JUNCTION, CO VOR/DME | *CONES, CO VOR/DME | 12100 |

| From | To | MEA |
|---|---|---|
| *14200—MCA CONES, CO VOR/DME, SE BND. | | |
| CONES, CO VOR/DME | *DURANGO, CO VOR/DME | 15500 |
| *12500—MCA DURANGO, CO VOR/DME, NW BND. | | |
| **§ 95.6421 VOR Federal Airway V421 Is Amended To Read in Part** | | |
| BLUE MESA, CO VOR/DME | *WENDT, CO FIX. | |
| | N BND | 16300 |
| | S BND | 13400 |
| *13900—MCA WENDT, CO FIX, N BND. | | |
| WENDT, CO FIX | CAZUU, CO FIX | *16300 |
| *14700—MOCA. | | |
| **§ 95.6422 VOR Federal Airway V422 Is Amended To Read in Part** | | |
| WEBSTER LAKE, IN VOR | FLAG CITY, OH VORTAC | 2700 |
| **§ 95.6423 VOR Federal Airway V423 Is Amended To Delete** | | |
| BINGHAMTON, NY VOR/DME | ITHACA, NY VOR/DME | 3700 |
| ITHACA, NY VOR/DME | SYRACUSE, NY VORTAC | *4000 |
| *3100—MOCA. | | |
| **§ 95.6428 VOR Federal Airway V428 Is Amended To Delete** | | |
| ELMIRA, NY VOR/DME | ITHACA, NY VOR/DME | 3800 |
| ITHACA, NY VOR/DME | CORTA, NY FIX | 3600 |
| CORTA, NY FIX | GEORGETOWN, NY VORTAC | *5000 |
| *3600—MOCA. | | |
| **§ 95.6431 VOR Federal Airway V431 Is Amended To Delete** | | |
| GARDNER, MA VOR/DME | KEENE, NH VORTAC | 3600 |
| KEENE, NH VORTAC | BRATS, VT FIX | *4400 |
| *3600—MOCA. | | |
| BRATS, VT FIX | GLENS FALLS, NY VORTAC | 7000 |
| GLENS FALLS, NY VORTAC | GASSY, NY FIX | *10000 |
| *6000—GNSS MEA. | | |
| **§ 95.6437 VOR Federal Airway V437 Is Amended To Read in Part** | | |
| CHARLESTON, SC VORTAC | WESEL, SC FIX. | |
| | S BND | 1800 |
| | N BND | 4000 |
| WESEL, SC FIX | *FILLI, SC FIX | **4000 |
| *4500—MRA. | | |
| **1900—MOCA. | | |
| FILLI, SC FIX | FLORENCE, SC VORTAC | 4000 |
| **§ 95.6469 VOR Federal Airway V469 Is Amended To Read in Part** | | |
| LYNCHBURG, VA VOR/DME | RADIA, VA FIX | # |
| #LYNCHBURG R–352 UNUSABLE. | | |
| RADIA, VA FIX | RELEE, VA FIX | # |
| #LYNCHBURG R–352 UNUSABLE. | | |
| RELEE, VA FIX | EXRAS, VA FIX | #* |
| *5200—GNSS MEA. | | |
| #LYNCHBURG R–352 UNUSABLE. | | |
| EXRAS, VA FIX | BRUCY, VA FIX | #* |
| *6900—GNSS MEA. | | |
| #LYNCHBURG R–352 UNUSABLE. | | |
| BRUCY, VA FIX | BOIER, WV FIX | *10000 |
| *6900—MOCA. | | |
| *6900—GNSS MEA. | | |
| **§ 95.6478 VOR Federal Airway V478 Is Amended To Delete** | | |
| FALMOUTH, KY VOR/DME | NEWCOMBE, KY VORTAC | 3100 |
| NEWCOMBE, KY VORTAC | BECKLEY, WV VOR/DME | 5900 |
| **§ 95.6487 VOR Federal Airway V487 Is Amended To Read in Part** | | |
| CAMBRIDGE, NY VOR/DME | WEIGH, VT FIX | 4600 |
| WEIGH, VT FIX | BURLINGTON, VT VOR/DME. | |
| | N BND | 3000 |

| From | To | MEA |
|---|---|---|
| | S BND | 4600 |
| **§ 95.6489 VOR Federal Airway V489 Is Amended To Delete** | | |
| ALBANY, NY VORTAC<br>*5000—GNSS MEA. | GLENS FALLS, NY VORTAC | *7000 |
| **§ 95.6496 VOR Federal Airway V496 Is Amended To Delete** | | |
| UTICA, NY VORTAC | MALLO, NY FIX | 4500 |
| MALLO, NY FIX<br>*6000—GNSS MEA. | GLENS FALLS, NY VORTAC | *7000 |
| GLENS FALLS, NY VORTAC<br>*6000—GNSS MEA. | KERST, VT FIX | *10000 |
| KERST, VT FIX | LEBANON, NH VOR/DME | 5900 |
| **§ 95.6499 VOR Federal Airway V499 Is Amended To Read in Part** | | |
| LANCASTER, PA VOR/DME<br>*4000—MOCA. | CHLSE, PA FIX | *8000 |
| CHLSE, PA FIX<br>*8000—MCA MEGGS S BND.<br>**MOCA 4300. | *MEGSS, PA FIX | **8000 |
| MEGSS, PA | BINGHAMPTON, NY VOR/DME | 4900 |
| **§ 95.6501 VOR Federal Airway V501 Is Amended To Delete** | | |
| WELLSVILLE, NY DME<br>*4000—MOCA. | BEEPS, NY FIX | *4500 |
| **§ 95.6505 VOR Federal Airway V505 Is Amended To Delete** | | |
| GOPHER, MN VORTAC | SIREN, WI VOR/DME | 3000 |
| SIREN, WI VOR/DME | DULUTH, MN VORTAC | 4000 |
| **Is Amended To Read in Part** | | |
| SQEAK, MN FIX | BEBEL, MN FIX | 10000 |
| BEBEL, MN FIX | JIBDU, MN FIX. | |
| | N BND | 7000 |
| | S BND | 10000 |
| JIBDU, MN FIX | *INTERNATIONAL FALLS, MN VOR/DME. | |
| | N BND | 4000 |
| | S BND | 10000 |
| *7800—MCA INTERNATIONAL FALLS, MN VOR/DME, S BND. | | |
| **§ 95.6532 VOR Federal Airway V532 Is Amended To Read in Part** | | |
| PARON, AR FIX<br>*4800—MCA GATZY, AR FIX, W BND.<br>**3100—MOCA. | *GATZY, AR FIX | **3700 |
| GATZY, AR FIX<br>*5000—MRA.<br>*5500—MCA BLURB, AR FIX, E BND.<br>**3200—MOCA. | *BLURB, AR FIX | **5500 |
| **§ 95.6583 VOR Federal Airway V583 Is Amended To Delete** | | |
| FRANKSTON, TX VOR/DME | QUITMAN, TX VOR/DME | 2300 |
| QUITMAN, TX VOR/DME | PARIS, TX VOR/DME | 2100 |

| From | To | MEA | MAA |
|---|---|---|---|
| **§ 95.7001 Jet Routes**<br>**§ 95.7006 Jet Route J6 Is Amended To Delete** | | | |
| LITTLE ROCK, AR VORTAC<br>#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE. | BOWLING GREEN, KY VORTAC | #18000 | 45000 |
| BOWLING GREEN, KY VORTAC | CHARLESTON, WV VOR/DME | 18000 | 45000 |
| **§ 95.7220 Jet Route J220 Is Amended To Read in Part** | | | |
| ARMEL, VA VOR/DME | STONYFORK, PA VOR/DME | #18000 | 23000 |

| From | To | MEA | MAA |
|---|---|---|---|
| #ARMEL R–009 UNUSABLE BEYOND 74 NM. | | | |
| **§ 95.7518 Jet Route J518 Is Amended To Read in Part** | | | |
| DRYER, OH VOR/DME<br>#INDIAN HEAD R–310 UNUSABLE.<br>#J518 UNUSABLE FROM KOZAR TO INDIAN HEAD. | INDIAN HEAD, PA VORTAC | #18000 | 45000 |

| Airway Segment | | Changeover Points | |
|---|---|---|---|
| From | To | Distance | From |
| **§ 95.8003 VOR Federal Airway Changeover Point V33 Is Amended To Delete Changeover Point** | | | |
| KEATING, PA VORTAC | BRADFORD, PA VOR/DME | 30 | KEATING. |
| **V104 Is Amended To Delete Changeover Point** | | | |
| MONTPELIER, VT VOR/DME | BERLIN, NH DME | 39 | MONTPELIER. |
| **V119 Is Amended To Delete Changeover Point** | | | |
| NEWCOMBE, KY VORTAC | HENDERSON, WV | 32 | NEWCOMBE. |
| **V128 Is Amended To Delete Changeover Point** | | | |
| SMARS, IL FIX<br>#COP MEASURED FROM BDF VORTAC. | KANKAKEE, IL VOR/DME | #44 | SMARS. |
| **V144 Is Amended To Delete Changeover Point** | | | |
| BRADFORD, IL VORTAC | KANKAKEE, IL VOR/DME | 44 | BRADFORD. |
| **V265 Is Amended To Delete Changeover Point** | | | |
| KEATING, PA VORTAC | BRADFORD, PA VOR/DME | 30 | KEATING. |
| **V270 Is Amended To Delete Changeover Point** | | | |
| JAMESTOWN, NY VOR/DME | WELLSVILLE, NY VORTAC | 22 | JAMESTOWN. |
| **V382 Is Amended To Delete Changeover Point** | | | |
| .<br>CONES, CO VOR/DME | DURANGO, VO VOR/DME | 25 | CONES. |
| **V428 Is Amended To Delete Changeover Point** | | | |
| ITHACA, NY VOR/DME | GEORGETOWN, NY VORTAC | 25 | ITHACA. |
| **V505 Is Amended To Delete Changeover Point** | | | |
| GOPHER, MN VORTAC | SIREN, WI VOR/DME | 38 | GOPHER. |

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BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9906]**

**RIN 1545–BN42**

## Nuclear Decommissioning Funds

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations under section 468A of the Internal Revenue Code of 1986 (Code) relating to deductions for contributions to trusts maintained for decommissioning nuclear power plants and the use of the amounts in those trusts to decommission nuclear plants. The regulations revise and clarify certain provisions in existing regulations to address issues that have arisen as more nuclear plants have begun the decommissioning process.

**DATES:**

*Effective date:* These regulations are effective on September 4, 2020.

*Applicability Date:* For date of applicability, see § 1.468A–9.

**FOR FURTHER INFORMATION CONTACT:** Jennifer C. Bernardini, (202) 317–6853 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

This document contains amendments to the income tax regulations (26 CFR part 1) under section 468A of the Code relating to deductions for contributions to trusts maintained for decommissioning nuclear power plants and the use of the amounts in those trusts to decommission nuclear plants.

Section 468A was originally enacted by section 91(c)(1) of the Deficit Reduction Act of 1984, Public Law 98–369 (98 Stat 604) and has been amended several times, most recently by section 1310 of the Energy Policy Act of 2005, Public Law 109–58 (119 Stat 594). Temporary regulations (TD 9374) under section 468A were published in the **Federal Register** on December 31, 2007 (72 FR 74175). Final regulations finalizing and removing the temporary regulations (TD 9512) were published in the **Federal Register** on December 23, 2010 (75 FR 80697) (existing regulations). A notice of proposed rulemaking (REG–112800–16) (proposed regulations) was published in the **Federal Register** (81 FR 95929) on December 29, 2016. The proposed regulations provide additional guidance on deductions for contributions to trusts maintained for decommissioning nuclear power plants and the use of the amounts in those trusts to decommission nuclear plants under section 468A.

The Department of the Treasury (Treasury Department) and the IRS received several written and electronic comments in response to the proposed regulations. All comments are available at *www.regulations.gov.* The Treasury Department and the IRS held a public hearing on the proposed regulations on October 25, 2017.

After consideration of the comments received, including comments made at the public hearing, the proposed regulations are adopted as final regulations as revised by this Treasury decision. In general, these final regulations follow the approach of the proposed regulations with some modifications based on the recommendations made in the comments. This preamble describes the comments received by the Treasury Department and the IRS and the revisions made.

## Summary of Comments and Explanation of Provisions

### *1. Definition of Nuclear Decommissioning Costs*

#### A. Inclusion of Amounts Related to the Storage of Spent Fuel Within Definition of Nuclear Decommissioning Costs

Section 1.468A–1(b)(6) of the existing regulations defines nuclear decommissioning costs as including ''all otherwise deductible expenses to be incurred in connection with'' the disposal of nuclear assets. In the proposed regulations, the Treasury Department and the IRS addressed questions regarding whether nuclear decommissioning costs include costs related to an Independent Spent Fuel Storage Installation (ISFSI) for the construction or purchase of assets that would not necessarily qualify as ''otherwise deductible'' expenses under the existing regulations. The proposed regulations clarified the definition of nuclear decommissioning costs to specifically include ISFSI-related costs. The proposed regulations also confirmed that the requirement that an expense be ''otherwise deductible'' is not applicable to costs related to spent nuclear fuel generated by a nuclear power plant or plants. A commenter requested that the final regulations further clarify this point. The Treasury and the IRS view additional clarification as unnecessary and decline to adopt this suggestion.

The existing and proposed regulations assume operators typically store spent fuel in an on-site ISFSI, and thus the definition of nuclear decommissioning costs included expenses related to fuel storage in on-site ISFSIs. However, the Treasury Department and the IRS understand that because the Department of Energy has not begun accepting spent fuel for disposal in a permanent geologic repository, on-site ISFSIs currently being used by operators of nuclear power plants may become overcrowded and, as a result, operators may choose to look to off-site ISFSIs for future storage capacity. After reviewing the comments, the Treasury Department and the IRS have decided to address this consideration by broadening the definition of nuclear decommissioning costs in § 1.468A–1(b)(6) to include expenses related to spent fuel storage in ISFSIs both on-site and off-site from the nuclear power plant that generates such spent fuel.

#### B. Inclusion of Amounts Related to a Depreciable Asset and to Land Improvements Within Definition of Nuclear Decommissioning Costs

In response to questions about whether a cost must be currently deductible for that amount to be payable currently from the Fund under the ''otherwise deductible'' language of § 1.468A–1(b)(6) of the existing regulations, the proposed regulations broadened the definition of nuclear decommissioning costs to include the total cost of depreciable or amortizable assets by adding the words ''or recoverable through depreciation or amortization'' following ''otherwise deductible.''

Commenters suggested that the term ''otherwise deductible'' be removed from the definition of nuclear decommissioning costs. These commenters asserted that the ''otherwise deductible'' requirement is unnecessary with respect to all decommissioning costs because deductibility is not required by the legislative intent or plain language of the Code. Nuclear decommissioning costs are broadly defined in § 1.468A–1(b)(5) of the regulations to include expenses incurred before, during, and after the actual decommissioning process for the nuclear power plant unit that has ceased operations. This broad definition is consistent with Congress's recognition in enacting section 468A of the Code in 1984 (at the same time as section 461(h) relating to economic performance was enacted) that ''the establishment of segregated reserve funds for paying future nuclear decommissioning costs was of sufficient national importance that a tax deduction, subject to limitations, should be provided for amounts contributed to qualified funds.'' And further, ''[t]axpayers who do not elect this provision are subject to the general rules in the Act which do not permit accrual basis taxpayers to deduct future liabilities prior to the time when economic performance occurs (Code Sec 461).'' Joint Committee on Taxation Staff, General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, 98th Cong., 2d Sess. 270 (1984).

Nuclear decommissioning costs must be incurred for the purposes intended by Congress. However, whether nuclear decommissioning costs are ''otherwise deductible'' are determined under other provisions of the Code. Costs that meet the definition of nuclear decommissioning costs under section 468A are not independently deductible under section 468A. Specifically, under

section 468A(c)(2), these costs are deductible when economic performance occurs under section 461(h)(2) if the costs are deductible under section 162 (or are otherwise deductible under another provision of chapter 1 of the Code). Further, the Treasury Department and the IRS believe that the broader definition of nuclear decommissioning costs in the proposed regulations will eliminate most of the issues raised by commenters suggesting deletion of ''otherwise deductible,'' and thus the final regulations do not adopt this suggestion.

One commenter observed that the proposed regulations can be interpreted to mean that an expense for property will not be deemed recoverable through depreciation or amortization if the property will be considered abandoned for purposes of section 165. The commenter noted that such an interpretation could lead to inconsistent results depending on the type of cost and whether such cost is incurred while the plant is still operating versus if such cost is incurred when the plant is already retired or decommissioned. The Treasury Department and the IRS do not believe that the suggested interpretation is correct. The definition of nuclear decommissioning costs in the proposed regulations should be interpreted to include costs incurred for depreciable assets as those costs are incurred, whether or not such asset will be abandoned for purposes of section 165.

Commenters suggested that the Treasury Department and the IRS consider including additional types of assets, such as land improvements, within the definition of nuclear decommissioning costs to effectuate the purpose of section 468A. The Treasury Department and the IRS agree with this suggestion. Accordingly, the final regulations broaden the definition of nuclear decommissioning costs in § 1.468A–1(b)(6)(i) to include ''all land improvements and otherwise deductible expenses to be incurred in connection with the entombment, decontamination, dismantlement, removal, and disposal of the structures, systems and components of a nuclear power plant, whether that nuclear power plant will continue to produce electric energy or has permanently ceased to produce electric energy.''

Commenters also noted that the use of the term ''expense'' may cause confusion because the common business usage of the term ''expense'' suggests a period cost. A commenter recommended that the final regulations use the term ''expenditure,'' which in common business usage denotes an outflow of resources, as more appropriate than ''expense'' where the reference to a period cost is not specifically intended. While the Treasury Department and the IRS acknowledge the merits of this clarification, the term ''expense'' is used to describe similar concepts throughout many other sections of the existing regulations. Because adoption of the term ''expenditure'' in §§ 1.468A–1 and 1.468A–5 may cause additional confusion and inconsistency with other sections of the existing regulations where the term ''expense'' is used for similar concepts (for example, § 1.468A–4(b)(2) Treatment of Nuclear Decommissioning Fund; Modified Gross Income), the final regulations do not adopt this recommendation.

*2. Clarification of the Applicability of the Self-Dealing Rules to Transactions Between the Fund and Disqualified Persons*

The proposed regulations provided that, for purposes of the prohibitions against self-dealing provisions in existing § 1.468A–5(b), reimbursement of decommissioning costs by the Fund to a disqualified person that paid such costs is not an act of self-dealing. The Treasury Department and the IRS received no comments on this provision, and these final regulations adopt the proposed regulations on this point.

The preamble to the proposed regulations further stated that no amount beyond what is actually paid by the disqualified person, including amounts such as direct or indirect overhead or a reasonable profit element, may be included in the reimbursement by the Fund. Several commenters recommended amending the language of § 1.468A–5(b) to expand the types of expenses permitted to be reimbursed as nuclear decommissioning costs under the self-dealing rules to include direct or indirect overhead and a reasonable profit element. These commenters assert that there is no existing statutory or regulatory requirement to suggest that it is not entirely appropriate for a contributor or its affiliate to be reimbursed for overhead of any type and, in addition, a reasonable profit element, if the amount of the charge is not excessive.

Under § 1.468A–5(b)(2)(v) of the existing regulations, the payment of compensation (and payment or reimbursement of expenses) by a Fund to a disqualified person for personal services that are decommissioning costs and that are reasonable and necessary to carrying out the exempt purposes of the Fund are not an act of self-dealing if such payment is purely for the compensation (and payment or reimbursement of expenses) of such services, but only to the extent such payment would ordinarily be paid for like services by like enterprises under like circumstances. See section 4951(d)(2)(C), §§ 53.4951–1(a), 53.4941(d)–3(c), and 1.162–7. The fact that the total amount of such payment is more than the disqualified person's actual expenses paid for such personal services does not cause the Fund's payment to constitute an act of self-dealing, even if the difference is properly characterized as profit, or direct or indirect overhead. See § 53.4941(d)–3(c)(1). In response to the comments on this issue, the Treasury Department and the IRS have modified the language of § 1.468A–5(b)(2)(v) to refer to the determination of whether a payment is reasonable under section 4951(d)(2)(C), §§ 53.4951–1(a), 53.4941(d)–3(c), and 1.162–7.

Conversely, one commenter observed there is a significant risk for abuse of the self-dealing rules where nuclear power plants are decommissioned by ''contractors'' that are also the owners of the nuclear power plant because the fees for their services or activities may also include a profit margin that is not properly reported for federal income tax purposes. As a result, the tax treatment of Funds could be exploited as a tax loophole. This commenter requested that the Treasury Department and the IRS either modify the proposed regulations to require the reporting of profits in charges paid to related entities (or to the taxpayers themselves) by a Fund, and/or promulgate reporting requirements in the implementation of the final regulations. The Treasury Department and the IRS decline to adopt this change because, as discussed above, the safeguards in place under the self-dealing rules are adequate to avoid the potential exploitation identified by the commenter.

*3. Definition of ''Substantial Completion'' in § 1.468A–5(d)(3)(i)*

Existing § 1.468A–5(d)(3)(i) defines the substantial completion date as ''the date that the maximum acceptable radioactivity levels mandated by the Nuclear Regulatory Commission [NRC] with respect to a decommissioned nuclear power plant are satisfied.'' The proposed regulations amended this definition to provide that the substantial completion date is the date on which all Federal, state, local, and contractual decommissioning liabilities are fully satisfied. Because the Treasury Department and the IRS received no comments on this proposed

amendment, the final regulations adopt this change to the definition.

**Effective/Applicability Date**

Section 7805(b)(1)(A) and (B) of the Code generally provides that no temporary, proposed, or final regulation relating to the internal revenue laws may apply to any taxable period ending before the earliest of (A) the date on which such regulation is filed with the **Federal Register**, or (B) in the case of a final regulation, the date on which a proposed or temporary regulation to which the final regulation relates was filed with the **Federal Register**.

The proposed regulations provided that the regulations would apply to taxable years ending on or after the date of publication of the Treasury decision adopting the proposed rules as final regulations in the **Federal Register**. Additionally, the preamble to the proposed regulations provided that, notwithstanding the prospective effective date, taxpayers could take return positions consistent with the proposed regulations for taxable years ending on or after December 29, 2016 (the date the proposed regulations were published in the **Federal Register**).

One commenter proposed that the effective and applicability dates of these regulations be amended to permit taxpayers to rely on the provisions of the final regulations for taxable years that are open as of the date the proposed regulations were published in the **Federal Register**. After consideration, the Treasury Department and IRS decline to adopt this comment in the final regulations. As noted in the preceding paragraph, the preamble to the proposed regulations made clear that taxpayers could take return positions consistent with the notice of proposed rulemaking for taxable years ending on or after December 29, 2016 (the date the proposed regulations were published in the **Federal Register**). This allowed taxpayers to request schedules of ruling amounts from the IRS (as required by section 468A(d)(1) and § 1.468A–3) with respect to costs that were treated as nuclear decommissioning costs under the proposed regulations and to deduct those amounts in taxable years ending on or after December 29, 2016. However, for taxpayers that have not requested and obtained a schedule of ruling amounts for taxable years for which the deemed payment deadline date (as defined in § 1.468A–2(c)(1)) has passed as of September 4, 2020, under § 1.468–3(e)(v), it is impossible to obtain a schedule of ruling amounts (and therefore impossible to contribute any amount to a qualified fund) because the request for the schedule of ruling amounts would be submitted to the IRS after the deemed payment deadline date. Accordingly, while the final regulations apply to taxable years ending on or after September 4, 2020, taxpayers may apply the rules contained in the final regulations to prior taxable years for which a taxpayer's deemed payment deadline has not passed prior to September 4, 2020. See section 7805(b)(7).

**Special Analyses**

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

These final regulations have been designated by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and OMB regarding review of tax regulations. OIRA has determined that the final rulemaking is significant and subject to review under Executive Order 12866 and section 1(b) of the Memorandum of Agreement.

*1. Background and Need for Regulation*

Federal law requires operators of nuclear power plants to dismantle these plants and safely dispose of the fuel when the useful life of the plant has expired. Nuclear Regulatory Commission (NRC) rules require plant owners to demonstrate that sufficient financial resources will be available for decommissioning costs.[1] Additionally, owners are required to report to the NRC at least every two years the status of a plant's decommissioning funding. The NRC rules allow for various methods to satisfy the requirement for dedicated decommissioning funds. Section 468A of the Code is intended to facilitate these requirements by allowing taxpayers with ownership interests in nuclear power plants to elect to currently deduct the future costs of decommissioning a nuclear power plant.[2] Funds for which an election has been made under section 468A are widely used in the industry, but not all decommissioning funding vehicles are section 468A funds.

The election is made pursuant to procedures provided in existing regulations under section 468A and allows taxpayers to make contributions to a Nuclear Decommissioning Fund (''Fund'') prior to the time when actual decommissioning costs are incurred.[3] When amounts are actually distributed from the Fund the electing taxpayer faces a gross income inclusion. Generally, the income inclusion is offset with a corresponding deduction for the costs of decommissioning activities when they are actually performed. Funds are treated as separate taxable corporations, with investment incomes subject to a fixed 20 percent rate of tax.

Section 468A(a) limits the purposes for which amounts can be considered ''nuclear decommissioning costs.'' The definition of such costs forms the basis for a large portion of the rulemaking that has been issued regarding 468A and furthermore forms the bulk of the basis for the final regulations.[4] As decommissioning activity increases and technologies change, additional guidance is needed to address withdrawals from the Fund to cover new costs and cost categories that may arise for purposes of decommissioning. For example, the accumulating amounts of spent nuclear fuel and the ongoing lack of a Federal repository for that fuel have led plant owners to store spent nuclear fuel in Independent Spent Fuel Storage Installations (ISFSIs). The need to independently store spent fuel was not anticipated when previous IRS regulations were issued. The final regulations clarify that the costs of an ISFSI and related matters are decommissioning costs for purposes of section 468A.

More generally, the final regulations provide clarifications and updates to existing regulations in response to industry requests for public guidance on this and related issues. These clarifications generally have already

[1] A detailed description of nuclear decommissioning and the various Nuclear Regulatory Commission (NRC) rules are beyond the scope of this document.

[2] See generally Joint Committee on Taxation Staff, General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, 98th Cong. 2d Sess. 270 (1984).

[3] Electing taxpayers are permitted to contribute to the Fund amounts in accordance with a schedule of ruling amounts, which taxpayers must request and receive from the IRS. Very generally, the schedule of ruling amounts should reflect the total cost for decommissioning the plant over the estimated useful life of the plant. Section 468A(d); § 1.468A–3.

[4] Section 468A was added by the Deficit Reduction Act of 1984. Regulations were first promulgated in 1988 and were amended in 1992, 1994, 2007, and 2010.

been adopted by the IRS in its private letter rulings but stakeholders have requested that the regulations be amended to provide additional certainty.

*2. Overview of the Final Regulations*

The regulations provide guidance on deductions for contributions to funds maintained for decommissioning nuclear power plants and the use of the amounts in those funds to decommission nuclear plants under section 468A. Specifically, the regulations (1) broaden the definition of nuclear decommissioning costs in § 1.468A–1(b)(6) to include expenses related to spent fuel storage in ISFSIs both on-site and off-site from the nuclear power plant that generates such spent fuel; (2) clarify that the definition of nuclear decommissioning costs in § 1.468A–1(b)(6) does not only include currently deductible costs by adding the words ''or recoverable through depreciation or amortization'' following ''otherwise deductible''; (3) broaden the definition of nuclear decommissioning costs in § 1.468A–1(b)(6)(i) to include ''all land improvements and otherwise deductible expenses to be incurred in connection with the entombment, decontamination, dismantlement, removal, and disposal of the structures, systems and components of a nuclear power plant, whether that nuclear power plant will continue to produce electric energy or has permanently ceased to produce electric energy''; (4) broaden the exemption from the self-dealing rules to include reimbursements to parties related to the electing taxpayer and also expand the types of expenses permitted to be reimbursed as nuclear decommissioning costs under the self-dealing rules to include direct or indirect overhead and a reasonable profit element; and (5) provide that the substantial completion date is the date on which all Federal, state, local, and contractual decommissioning liabilities are fully satisfied.

*3. Economic Effects of the Final Regulations*

A. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the final regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these regulations.

B. Summary of Economic Effects

The final regulations provide certainty and clarity regarding the tax treatment of nuclear decommissioning costs. The Treasury Department and the IRS do not expect that the regulations will affect the decommissioning of nuclear plants in any meaningful way, including the mix or level of activities involved in decommissioning, because the management of spent nuclear fuel and related decommissioning activities are regulated by the NRC and governed by a wide range of non-tax regulations. The final regulations further do not provide any tax-based incentives that would affect in any substantial way the decision to decommission, the timing of decommissioning, or the methods chosen to decommission any plant or plants in general.

In the absence of these regulations, the Treasury Department and the IRS expect that decommissioning would generally proceed the same. The Treasury Department and the IRS further note that the final regulations largely implement existing industry expectations for tax treatment of decommissioning expenses, as informed by private letter rulings.

The Treasury Department and the IRS also considered whether the final regulations will affect decisions for owners or operators to plan, construct, or open new nuclear facilities. Future decommissioning of any new plants would take place many years from now and any issues regarding changes in technology can be expected to be dealt with through future rulemaking. Therefore, the Treasury Department and the IRS do not expect the final regulations to affect decisions about new facilities.

The Treasury Department and the IRS welcome comments on these conclusions and more generally on the economic effects of these final regulations.

**Regulatory Flexibility Act**

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601). Although a substantial number of small entities may be affected, the economic impact of this rule is unlikely to be significant.

According to the Small Business Administration's Table of Size Standards (13 CFR 121), utilities, including nuclear electric power generation with 750 or fewer employees (NAICS Code 221113), are considered small entities. According to the 2016 Statistics of U.S. Businesses (SUSB) data, there are at least seven entities with fewer than 750 employees of the 27 entities in the industry, which could be considered a substantial number of small entities for purposes of the RFA.

The economic impact of these regulations on small entities is not likely to be significant. Section 468A of the Code allows taxpayers with ownership interests in nuclear power plants to elect to currently deduct the future costs of decommissioning a nuclear power plant. The procedures for this election are set forth in existing regulations. As discussed earlier in these Special Analyses, the final regulations provide clarifications and updates to the existing regulations in response to industry requests for public guidance. These clarifications generally have already been adopted by the IRS in private letter rulings but stakeholders have requested that the regulations be amended to provide additional certainty. Because the final rule is codifying what is widely understood to be existing policy, the economic impact of this rule is not likely to be significant for any entities affected, regardless of size.

Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business and no comments were received.

**Paperwork Reduction Act**

There is no new collection of information contained in these regulations. The collection of information contained in the regulations under section 468A has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2091. Responses to these collections of information are required to obtain a tax benefit.

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

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

**Drafting Information**

The principal author of these regulations is Jennifer C. Bernardini, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS

and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.468A–1 is amended by adding paragraphs (b)(6)(i) and (ii) to read as follows:

**§ 1.468A–1 Nuclear decommissioning costs; general rules.**

* * * * *

(b) * * *

(6) * * *

(i) For the purpose of this title, the term *nuclear decommissioning costs* or *decommissioning costs* includes all expenses related to land improvements and otherwise deductible expenses to be incurred in connection with the entombment, decontamination, dismantlement, removal and disposal of the structures, systems and components of a nuclear power plant, whether that nuclear power plant will continue to produce electric energy or has permanently ceased to produce electric energy. Such term includes all expenses related to land improvements and otherwise deductible expenses to be incurred in connection with the preparation for decommissioning, such as engineering and other planning expenses, and all otherwise deductible expenses to be incurred with respect to the plant after the actual decommissioning occurs, such as physical security and radiation monitoring expenses. An expense is otherwise deductible for purposes of this paragraph (b)(6) if it would be deductible or recoverable through depreciation or amortization under chapter 1 of the Internal Revenue Code without regard to section 280B.

(ii) The term nuclear decommissioning costs or decommissioning costs, as applicable to this title, also includes expenses incurred in connection with the construction, operation, and ultimate decommissioning of a facility used solely to store, pending delivery to a permanent repository or disposal, spent nuclear fuel generated by one or more nuclear power plants (for example, an Independent Spent Fuel Storage Installation). Such term does not include otherwise deductible expenses to be incurred in connection with the disposal of spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425).

* * * * *

■ **Par. 3.** Section 1.468A–5 is amended by revising the section heading and paragraphs (b)(2)(i) and (v) and (d)(3)(i) to read as follows:

**§ 1.468A–5 Nuclear decommissioning fund—miscellaneous provisions.**

* * * * *

(b) * * *

(2) * * *

(i) A payment by a nuclear decommissioning fund for the purpose of satisfying, in whole or in part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates, whether such payment is made to an unrelated party in satisfaction of the decommissioning liability or to the plant operator or other otherwise disqualified person as reimbursement solely for actual expenses paid by such person in satisfaction of the decommissioning liability;

* * * * *

(v) Any act described in section 4951(d)(2)(B) or (C). Whether payments under section 4951(c)(2)(C) are not excessive is determined under § 1.162–7. See § 53.4941(d)–3(c)(1). The fact that the amount of such payments that are not excessive are also more than the disqualified person's actual expenses for such personal services does not cause the payments to constitute acts of self-dealing, even if the difference is properly characterized as profit, or direct or indirect overhead;

* * * * *

(d) * * *

(3) * * *

(i) The substantial completion of the decommissioning of a nuclear power plant occurs on the date on which all Federal, state, local, and contractual decommissioning requirements are fully satisfied (the substantial completion date). Except as otherwise provided in paragraph (d)(3)(ii) of this section, the substantial completion date is also the termination date.

* * * * *

■ **Par. 4.** Section 1.468A–9 is revised to read as follows:

**§ 1.468A–9 Applicability dates.**

(a) *In general.* Except as provided in paragraph (b) of this section, §§ 1.468A–1 through 1.468A–8 are effective on December 23, 2010, and apply with respect to taxable years ending after such date.

(b) *Special rules*—(1) *Taxable years ending before December 23, 2010.* Special rules that are provided for taxable years ending on or before December 23, 2010, such as the special rule for certain special transfers contained in § 1.468A–8(a)(4)(ii), apply with respect to such taxable years. In addition, except as provided in paragraph (2) of this section, a taxpayer may apply the provisions of §§ 1.468A–1 through 1.468A–8 with respect to a taxable year ending on or before December 23, 2010, if all such provisions are consistently applied.

(2) *Applicability of § 1.468A–1(b)(6) and § 1.468A–5(b)(2)(i), (b)(2)(v), and (d)(3)(i).* The rules in §§ 1.468A–1(b)(6) and 1.468A–5(b)(2)(i), (b)(2)(v), and (d)(3)(i) apply to taxable years ending on or after September 4, 2020. Taxpayers may also choose to apply the rules in § 1.468A–1(b)(6) and § 1.468A–5(b)(2)(i), (b)(2)(v), and (d)(3)(i) to prior taxable years for which a taxpayer's deemed payment deadline (as defined in § 1.468A–2(c)(1)) has not passed prior to September 4, 2020.

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: March 5, 2020.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2020–16955 Filed 9–3–20; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2020–0510]**

**RIN 1625–AA00**

## Safety Zone; Lake Pontchartrain, New Orleans, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving safety zone for certain waters of Lake Pontchartrain, New Orleans, LA. The safety zone encompasses all navigable waters from 30 02′58.3″ N, 090 12′54.6″ W to 30 04′05.3″ W, 090 00′09.0″ W. The safety zone is needed to protect persons, vessels, and the marine environment from hazards associated with a boat

parade. Persons and vessels are prohibited from entering or remaining in this zone unless specifically authorized by the Captain of the Port Sector New Orleans or a designated representative.

**DATES:** This rule is effective from 12 noon through 3 p.m. on September 7, 2020.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0510 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander Corinne Plummer, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *Corinne.M.Plummer@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

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

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. It is impracticable to publish an NPRM because we must establish this safety zone by September 7, 2020 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because the safety zone is necessary to prevent potential hazards associated with a boat parade.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with a boat parade on September 7, 2020, will be a safety concern for anyone within a 25-foot radius of the boat parade participants. Possible hazards include risks of injury or death from near or actual contact among participant vessels and mariners traversing through the safety zone. This rule is necessary to protect persons, vessels, and the marine environment during the boat parade.

## IV. Discussion of the Rule

This rule establishes a temporary moving safety zone from 12 noon through 3 p.m. on September 7, 2020. The safety zone will cover all navigable waters within 25-foot radius of the NOLA Boat and Float parade participants as they transit Lake Pontchartrain from position 30 02′58.3″ N, 090 12′54.6″ W to 30 04′05.3″ W, 090 00′09.0″ W and back to 30 02′58.3″ N, 090 12′54.6″ W. The duration of the zone is intended to protect persons, vessels, and the marine environment on these navigable waters while the vessels transit with limited mobility at minimum speed. No vessel or person will be permitted to enter or remain in the safety zone without obtaining permission from the COTP or a designated representative. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This safety zone will restrict vessel traffic from entering or remaining within a 25-foot radius of the NOLA Boat and Float parade participants as they transit Lake Pontchartrain from position 30 02′58.3″ N, 090 12′54.6″ W to 30 04′05.3″ W, 090 00′09.0″ W and back to 30 02′58.3″ N, 090 12′54.6″ W. Vessels can safely transit around the zone. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 or 67 about the zone, and the rule allows vessels to seek permission to enter the zone.

### *B. Impact on Small Entities*

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

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

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 3 hours that will prohibit entry within 25 feet of the participating vessels with limited maneuverability. It is categorically excluded from further review under paragraph L(60)a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination will be made available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0510 to read as follows:

**§ 165.T08–0510 Safety Zone; Lake Pontchartrain, New Orleans, LA.**

(a) *Location.* The following area is a safety zone: All navigable waters within a 25-foot radius of the NOLA Boat and Float parade participants as they transit Lake Pontchartrain from position 30 02′58.3″ N, 090 12′54.6″ W to 30 04′05.3″ W, 090 00′09.0″ W and back to 30 02′58.3″ N, 090 12′54.6″ W.

(b) *Effective period.* This section is effective from 12 noon. to 3 p.m. on September 7, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into or remaining within this zone is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: September 1, 2020.

**W.E. Watson,**

*Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.*

[FR Doc. 2020–19735 Filed 9–3–20; 8:45 am]

BILLING CODE 9110–04–P

## POSTAL SERVICE

## 39 CFR Part 551

## Semipostal Stamp Program

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising its discretionary Semipostal Stamp Program regulations to provide more flexibility to manage the program.

**DATES:** Effective October 5, 2020.

**FOR FURTHER INFORMATION CONTACT:** Amity C. Kirby, Manager, Stamp Products & Exhibitions, 202–268–7998, *amity.c.kirby@usps.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On June 10, 2020, the Postal Service published its proposed rule to revise its discretionary Semipostal Stamp Program regulations to provide more

flexibility to manage the program (85 FR 35404). The Postal Service received 63 comment letters from the public, associations, and members of Congress. All commenters were in favor of the revisions. Most noted that the revisions would permit resumption of sales of the Alzheimer's semipostal stamp.

**Summary of Changes**

The regulations in effect before this final rule, promulgated April 20, 2016, limited sales of discretionary semipostal stamps to one at a time and a two-year sales period, and contemplated five semipostal stamp offerings over the 10-year term of the Semipostal Stamp program. This proved impracticable. Further, the Postal Service encountered continued interest in the sale of a previously offered discretionary semipostal stamp for which the Postal Service possesses unsold inventory.

The final rule eliminates the one at a time limitation and the two-year sales period limitation, and provides more flexibility to the Postal Service. The immediate effect of this final rule is to permit resumption of sales of the Alzheimer's semipostal stamp.

**List of Subjects in 39 CFR Part 551**

Administrative practice and procedure.

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 551 as follows:

## PART 551—SEMIPOSTAL STAMP PROGRAM

■ 1. The authority citation for part 551 continues to read as follows:

**Authority:** 39 U.S.C. 101, 201, 203, 401, 403, 404, 410, 414, 416.

■ 2. Amend § 551.3, by revising paragraph (a) to read as follows:

**§ 551.3 Procedure for selection of causes and recipient executive agencies.**

* * * * *

(a) The Office of Stamp Services will accept proposals from interested persons for future semipostal stamps beginning on May 20, 2016. The Office of Stamp Services will begin considering proposals on July 5, 2016. This section should not be read to reflect the intention of the Postal Service to issue any particular number of semipostal stamps during the 10-year period of this part. Proposals may be submitted and will be considered on a rolling basis until seven years after May 20, 2016. The Office of Stamp Services may publicize this request for proposals in the **Federal Register** or through other means, as it determines in its discretion. Proposals for semipostal stamps made prior to May 20, 2016 will not be given further consideration. Nothing in this section should be construed as barring the resubmission of previously submitted causes and recipient executive agencies.

* * * * *

**§ 551.5 [Amended]**

■ 3. In § 551.5, remove and reserve paragraphs (b) and (c).

**Joshua J. Hofer,**

*Attorney, Federal Compliance.*

[FR Doc. 2020–18549 Filed 9–3–20; 8:45 am]

BILLING CODE 7710–12–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2019–0273; FRL–10012–18]**

## Pydiflumetofen; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for the inadvertent residues of pydiflumetofen in or on animal feed, nongrass, group 18, hay; grass, forage, fodder and hay, group 17, except straw; and grass, forage, fodder and hay, group 17, straw. Syngenta Crop Protection, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective September 4, 2020. Objections and requests for hearings must be received on or before November 3, 2020, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0273, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0273 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 3, 2020. Addresses for mail and hand delivery of objections and

hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2019–0273, by one of the following methods:

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

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

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 7, 2019 (84 FR 26630) (FRL–9993–93), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F8744) by Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.699 be amended by establishing tolerances for inadvertent residues of the fungicide, pydiflumetofen (3-(difluoromethyl)-*N*-methoxy-1-methyl-*N*-[1-methyl-2-(2,4,6 trichlorophenyl)ethyl]-1*H*-pyrazole-4-carboxamide) in or on rice, grain at 0.01 parts per million (ppm); non-grass animal feed (Crop Group 18), forage at 0.01 ppm; non-grass animal feed (Crop Group 18), hay at 0.03 ppm; grasses, forage at 0.15 ppm; grasses, hay at 0.50 ppm; grasses, straw at 0.04 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing. Based upon review of the data supporting the petition, EPA is establishing tolerances that vary slightly from what the petitioner requested, by using altered commodity definitions to reflect the Agency's preferred terminology and adjusted tolerance levels for several commodities. In addition, EPA is not establishing tolerances for residues of pydiflumetofen in or on rice, grain and non-grass animal feed (crop group 18), forage. The reasons for these changes are explained in Unit IV.D.

## III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for pydiflumetofen including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with pydiflumetofen follows.

On August 12, 2019, EPA published in the **Federal Register** a final rule establishing a tolerance for residues of the fungicide pydiflumetofen in or on various commodities. *See* (84 FR 39761) (FRL–9997–09). EPA is incorporating by reference the aspects of that rulemaking that remain the same for this rulemaking: The toxicological profile and points of departure/levels of concern; the determination for reducing the children's safety factor and conclusions about cumulative risk. The Agency conducted an updated risk assessment to evaluate exposure to residues of pydiflumetofen from the reduced plant-back intervals on rice, grass grown for seed, non-grass animal feed crop group 18, and tobacco and concluded that the new use patterns would not impact previously assessed drinking water, dietary (food and drinking water), or residential, exposures to humans from the reduced plant-back intervals. Therefore, the Agency's conclusions of aggregate risk remain unchanged from the August 12, 2019 rulemaking and are also incorporated into this rulemaking.

Further information about EPA's risk assessment and determination of safety supporting the tolerances for inadvertent residues established in the August 12, 2019 **Federal Register** action, as well as the new pydiflumetofen tolerance can be found at *http://www.regulations.gov* in the document entitled, ''Pydiflumetofen. Human Health Risk Assessment for New Foliar Uses on Berries, Low Growing, Crop Subgroup 13–07G; Brassica Head and Stem Crop Group 5–16; Brassica Leafy Greens Subgroup 4–16B; Bulb Vegetable Crop Subgroup 3–07A; Green Onion Crop Subgroup 3–07B; Bushberry Crop Subgroup 13–07B; Citrus Fruit Crop Group 10–10; Cottonseed Subgroup 20C; Edible-podded Legume Vegetables Subgroup 6A; Succulent Shelled Pea and Bean Subgroup 6B; Pome Fruit Crop Group 11–10; Root Vegetable Crop Subgroup 1A; Sorghum; Stone Fruit Crop Subgroups 12–12A, 12–12B, and 12–12C; Sunflower Subgroup 20B; Tree Nut Crop Group 14–12; Leaves of Root and Tuber Vegetable Crop Group 2; and New Seed Treatment Uses on Rapeseed Crop Subgroup 20A and Soybean; and Registration of a New Seed Treatment End-Use Product,'' dated July 22, 2019, in docket ID EPA–HQ–OPP–2018–0688.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to pydiflumetofen residues. More detailed information on the subject action to establish tolerances in or on animal feed, nongrass, group 18, hay; grass, forage, fodder and hay, group 17, except straw; and grass, forage, fodder and hay, group 17, straw can be found in the document entitled, ''Pydiflumetofen. Human Health Risk Assessment for Amended Registrations to Allow 30-Day Minimum Plant-Back Interval (PBI) Restrictions for Rice, Grass Grown for Seed, Non-Grass Animal Feed Crop Group 18, and Tobacco and Petition for Inadvertent Tolerances in or on These Crops/Commodities.'' at *http://*

*www.regulations.gov,* under docket ID number EPA–HQ–OPP–2019–0273.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

A multi-residue analytical method named Quick, Easy, Cheap, Effective, Rugged, and Safe (QuEChERS) is adequate as the enforcement method for plant commodities. QuEChERS as described in Eurofins validation study S14–05402. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

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

The Codex has not established MRLs for pydiflumetofen in or on any of the commodities under consideration.

### *C. Revisions to Petitioned-For Tolerances*

The requested tolerance for ''non-grass animal feed (Crop Group 18), hay'' was modified to read ''Animal feed, nongrass, group 18, hay'' to be consistent with Agency naming practices. Requested tolerances for ''grasses, forage,'' ''grasses, hay,'' and ''grasses, straw'' were revised to read ''Grass, forage, fodder and hay, group 17, except straw'' and ''Grass, forage, fodder and hay, group 17, straw'' respectively, to be more consistent with the Agency's preferred vocabulary and because EPA considers group 17 to be inclusive of a general request for tolerances on grasses.

Tolerances for inadvertent residues of pydiflumetofen were requested for non-grass animal feed (Crop Group 18), forage and rice, grain; however, the Agency is not setting tolerances because residues of pyflumetofen in field accumulation in rotational crop trials were found at <0.01 ppm in or on these commodities, and the Agency does not believe that tolerances are needed, in accordance with the Agency's guidance (OPPTS Guideline 860.1900).

The Agency is setting a tolerance in or on animal feed, nongrass, group 18, hay, of 0.04 ppm rather than at 0.03 ppm as requested based on clover hay data. The Agency is also setting a tolerance in or on grass, forage, fodder and hay, group 17, except straw of 0.7 ppm based on available data, which indicates that residues in or on grass forage and hay are within 5x, but residues on straw are much lower.

## V. Conclusion

Therefore, tolerances are established for residues of pydiflumetofen in or on animal feed, nongrass, group 18, hay; grass, forage, fodder and hay, group 17, except straw; and grass, forage, fodder and hay, group 17, straw.

## VI. Statutory and Executive Order Reviews

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

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

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

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

## VII. Congressional Review Act

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

## List of Subjects in 40 CFR Part 180

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

Dated: July 29, 2020.

**Catherine Aubee,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR chapter I as follows:

## PART 180—[AMENDED]

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

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

■ 2. In § 180.699, revise paragraph (d) to read as follows:

### § 180.699 Pydiflumetofen; tolerances for residues.

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for residues of pydiflumetofen, including its metabolites and degradates, in or on the commodities in table 2 to this paragraph (d). Compliance with the tolerance levels specified in table 2 to this paragraph (d) is to be determined by measuring only pydiflumetofen (3-(difluoromethyl)-N-methoxy-1-methyl-N-[1-methyl-2-(2,4,6-trichlorophenyl)ethyl]-1H-pyrazole-4-carboxamide) in or on the commodity:

TABLE 2 TO PARAGRAPH (d)

| Commodity | Parts per million |
|---|---|
| Animal feed, nongrass, group 18, hay | 0.04 |
| Grass, forage, fodder and hay, group 17, except straw | 0.7 |
| Grass, forage, fodder and hay, group 17, straw | 0.04 |

[FR Doc. 2020–17791 Filed 9–3–20; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 64

**[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8643]**

## Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

**DATES:** The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 674–1087.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

*Regulatory Flexibility Act.* The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

## PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

### § 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

| State and location | Community No. | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date | Date certain federal assistance no longer available in SFHAs |
|---|---|---|---|---|
| **Region VIII** | | | | |
| Colorado: | | | | |
| Columbine Valley, Town of, Arapahoe County. | 080014 | May 18, 1973, Emerg; June 15, 1978, Reg; September 4, 2020, Susp. | September 4, 2020. | September 4, 2020. |
| Glendale, City of, Arapahoe County ... | 080247 | N/A, Emerg; December 5, 2005, Reg; September 4, 2020, Susp. | .....do ..... | Do. |
| Greenwood Village, City of, Arapahoe County. | 080195 | March 16, 1976, Emerg; January 5, 1978, Reg; September 4, 2020, Susp. | .....do ..... | Do. |
| Lone Tree, City of, Douglas County ... | 080319 | N/A, Emerg; April 8, 2005, Reg; September 4, 2020, Susp. | .....do ..... | Do. |

.....do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

**Katherine B. Fox,**

*Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2020–18925 Filed 9–3–20; 8:45 am]

BILLING CODE 9110–12–P

# Proposed Rules

Federal Register
Vol. 85, No. 173
Friday, September 4, 2020

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. FAA–2020–0404; Notice No. 25–20–04–SC]**

## Special Conditions: B/E Aerospace, Bombardier Model CL–600–2B16 (604 Variant) Airplane; Seats With Pretensioner Restraint Systems

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Bombardier Inc. (Bombardier) Model CL–600–2B16 (604 variant) airplane. This airplane, as modified by B/E Aerospace, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is seats with a 3-point shoulder harness incorporating a pretensioner restraint system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send comments on or before October 19, 2020.

**ADDRESSES:** Send comments identified by Docket No. FAA–2020–0404 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

*Privacy:* The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

*Docket:* Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Shannon Lennon, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3209; email *shannon.lennon@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

### Background

On June 7, 2019, B/E Aerospace applied for a supplemental type certificate for seats with 3-point harness and pretensioner restraint systems in Bombardier Model CL–600–2B16 (604 variant) airplanes. The 604 variant is a derivative of the Bombardier Model CL–600–2B16 airplane currently approved under Type Certificate No. A21EA. This airplane variant is a twin-engine, transport category airplane with seating for 22 passengers, including crew, and a maximum take-off weight of 47,600 pounds.

### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, B/E Aerospace must show that the Bombardier Model CL–600–2B16 (604 variant) airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A21EA or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Model CL–600–2B16 (604 variant) airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model CL–600–2B16 (604 variant) airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

## Novel or Unusual Design Features

The Bombardier Model CL–600–2B16 (604 variant) airplane will incorporate the following novel or unusual design features: Seats with a 3-point shoulder harness incorporating a pretensioner restraint system to prevent head injuries.

## Discussion

B/E Aerospace has developed a system in which a pretensioning automotive retractor eliminates slack in the 3-point shoulder harness, pulling the occupant back into the seat prior to impact. This has the effect of reducing forward translation of the occupant (reduced head arc), while reducing the loads in the shoulder harness. B/E Aerospace will install, in Bombardier Model CL–600–2B16 (604 variant) airplanes, seats that incorporate a 3-point harness and pretensioner restraint system to protect seat occupants from head injuries.

Over the past 10 years, multiple sensor-driven systems have been installed in various airplanes to meet improved crashworthiness regulations. A sensor-driven system is defined as any system that activates due to a signal sent by an impact-triggered inertial sensor. These types of systems include a lap-belt airbag, a structure-mounted airbag, and a 3-point harness and pretensioner restraint system.

Shoulder harnesses have been widely used on flight-attendant seats, flight-deck seats, in business jets, and in general-aviation airplanes to reduce occupant head injury in the unlikely event of an emergency landing. Special conditions, pertinent regulations, and guidance have been published, relating to other or existing restraint systems. However, the use of a pretensioner restraint system with a 3-point harness on transport airplane seats is a novel design.

Pretensioner technology involves a step change in loading experienced by the occupant for impacts below and above that at which the device activates, because the upper torso excursion would be interrupted by activation of the shoulder harness. This could result in the head-injury criteria being higher at an intermediate impact condition than that resulting from the maximum impact condition corresponding to the test conditions specified in § 25.562.

The ideal triangular maximum-severity pulse is defined in Advisory Circular 25.562–1B *Dynamic Evaluation of Seat Restraint Systems and Occupant Protection on Transport Airplanes with Change 1,* dated January 10, 2006. For evaluating and testing less-severe pulses to assess the effectiveness of the pretensioner setting, a similar triangular pulse should be used with acceleration, rise time, and velocity change scaled accordingly. The magnitude of the required pulse should not deviate below the ideal pulse by more than 0.5g until 1.33 $t_1$ is reached, where $t_1$ represents the time interval between 0 and $t_1$ on the referenced pulse shape as shown in AC 25.562–1B. This is an acceptable method of compliance to the test requirements of these special conditions.

Additionally, the pretensioner might not provide protection, after actuation, during secondary impacts. Therefore, the case where a small impact is followed by a large impact should be addressed. If the minimum deceleration severity at which the pretensioner is set to activate is unnecessarily low, the protection offered by the pretensioner may be lost by the time a second larger impact occurs.

The existing regulations do not adequately address seats with pretensioner restraint systems. Therefore, the proposed configuration requires special conditions.

Special conditions 1 through 5 address ensuring that the pretensioner system activates when intended, to provide the necessary protection of occupants. This includes protection of a range of occupants under various accident conditions. Special conditions 6 through 11 address maintenance and reliability of the pretensioner system, including any outside influences on the mechanism, to ensure it functions as intended.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

## Applicability

As discussed above, these special conditions are applicable to the Bombardier Model CL–600–2B16 (604 variant) airplanes as modified by B/E Aerospace. Should B/E Aerospace apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A21EA to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

## Conclusion

This action affects only a certain novel or unusual design feature on one model of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

## List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

## Authority Citation

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, and 44704.

## The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Bombardier Model CL–600–2B16 (604 variant) airplanes as modified by B/E Aerospace.

In addition to the requirements of §§ 25.562, forward-facing passenger seats incorporating pretensioner restraint systems must meet the following:

1. *Head Injury Criteria*—The Head Injury Criteria value must not exceed 1,000 units at any condition at which the pretensioner does or does not deploy, up to the maximum severity pulse that corresponds to the test conditions specified in § 25.562. Tests must be performed to demonstrate this, taking into account any necessary tolerances for deployment.

2. *Protection during Secondary Impacts*—The pretensioner activation setting must be demonstrated to maximize the probability of the protection being available when needed, considering secondary impacts.

3. *Protection of Occupants Other than 50th Percentile*—Protection of occupants for a range of stature from a 2-year-old child to a 95th percentile male must be shown. For shoulder harnesses that include pretensioners, protection of occupants other than a 50th percentile male may be shown by test or analysis. In addition, the pretensioner must not introduce a hazard to passengers due to the following seating configurations:

a. The seat occupant is holding an infant.

b. The seat occupant is a child in a child restraint device.

c. The seat occupant is a pregnant woman.

4. *Occupants Adopting the Brace Position*—Occupants in the traditional brace position when the pretensioner activates must not experience adverse effects from the pretensioner activation.

5. *Inadvertent Pretensioner Actuation*

a. The probability of inadvertent pretensioner actuation must be shown to be extremely remote (*i.e.,* average

probability per flight hour of less than $10^{-7}$).

b. The system must be shown not susceptible to inadvertent pretensioner actuation as a result of wear and tear, or inertia loads resulting from in-flight or ground maneuvers likely to be experienced in service.

c. The seated occupant must not be seriously injured as a result of inadvertent pretensioner actuation.

d. Inadvertent pretensioner activation must not cause a hazard to the airplane nor cause serious injury to anyone who may be positioned close to the retractor or belt (*e.g.,* seated in an adjacent seat or standing adjacent to the seat).

6. *Availability of the Pretensioner Function Prior to Flight*—The design must provide means for a crewmember to verify the availability of the pretensioner function prior to each flight, or the probability of failure of the pretensioner function must be demonstrated to be extremely remote (*i.e.,* average probability per flight hour of less than $10^{-7}$) between inspection intervals.

7. *Incorrect Seatbelt Orientation*—The system design must ensure that any incorrect orientation (twisting) of the seatbelt does not compromise the pretensioner protection function.

8. *Contamination Protection*—The pretensioner mechanisms and controls must be protected from external contamination associated with that which could occur on or around passenger seating.

9. *Prevention of Hazards*—The pretensioner system must not induce a hazard to passengers in case of fire, nor create a fire hazard if activated.

10. *Functionality after Loss of Power*—The system must function properly after loss of normal airplane electrical power, and after a transverse separation in the fuselage at the most critical location. A separation at the location of the system does not have to be considered.

11. *High-intensity Radiated Fields (HIRF) and Lightning Protection*—For airplanes that do not already incorporate 14 CFR 25.1316 and 25.1317 into their certification basis, the equipment must meet the applicable requirements of §§ 25.1316 and 25.1317. Electrostatic discharge must also be considered in the design and testing of the equipment.

Issued in Des Moines, Washington, on August 14, 2020.

**James E. Wilborn,**

*Acting Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2020–18309 Filed 9–3–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2020–0651; Airspace Docket No. 18–AAL–13]**

**RIN 2120–AA66**

## Proposed Amendment of Federal Airway V–456

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend Alaskan Federal Airway V–456 due to the pending decommissioning of the Glenallen Non-Directional Beacon (NDB) in east central Alaska, and the cancellation of Federal Colored Airway Green 11 (G–11) under Regional Docket Number 20–AAL–4.

**DATES:** Comments must be received on or before October 19, 2020.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0651; Airspace Docket No. 18–AAL–13 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

**FOR FURTHER INFORMATION CONTACT:** Christopher McMullin, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0651; Airspace Docket No. 18–AAL–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0651; Airspace Docket No. 18–AAL–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned

with this rulemaking will be filed in the docket.

**Availability of NPRMs**

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

**Availability and Summary of Documents for Incorporation by Reference**

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

**Background**

The upcoming decommissioning of the Glennallen NDB requires the removal of Federal Colored Airway G–11. Prior to this NPRM, the FAA published another NPRM for Docket Number 20–AAL–4 in the **Federal Register** (85 FR 35818; June 12, 2020) proposing to remove two Colored Federal airways, A–7 and G–11, and amending one Colored Federal airway, A–1 in Alaska. The removal of G–11 eliminates the ability of pilots to take advantage of the lower terrain ground track between the Northway (ORT) and the Gulkana (GKN). Currently, V–456 has a Minimum Enroute Altitude (MEA) of 11,000' MSL between ORT and GKN. This action would amend V–456 and ensure pilots have the advantage of the lower MEA of 10,000'. The proposal allows for V–456 to overlay G–11, which traverses between Nebesna NDB and Glennallen NDB.

**The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to Alaskan Federal airway V–456. The proposed Alaskan Federal airway action is described below.

*V–456:* V–456 currently extends from Cold Bay, AK to Northway, AK. The proposed route will be amended from Gulkana, AK; INT Gulkana 048° (T) 043° (M) and Northway 253° (T) 247° (M); Northway, AK. The unaffected portions of the existing route would remain as charted.

Alaskan VOR Federal airways are published in paragraph 6010 (b) of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR part 71.1. The Alaskan VOR Federal Airway listed in this document will be subsequently published in the Order.

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

**Regulatory Notices and Analyses**

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

**Environmental Review**

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

**§ 71.1 [Amended]**

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

*Paragraph 6010(b) Alaskan VOR Federal Airways.*

* * * * *

**V–456 [Amended]**

From Cold Bay, AK; King Salmon, AK; Kenai, AK; Anchorage, AK; Big Lake, AK; Gulkana, AK; INT Gulkana 048° (T) 043° (M) and Northway 253° (T) 247° (M) radials; to Northway, AK.

* * * * *

Issued in Washington, DC, on August 27, 2020.

**Scott M. Rosenbloom,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2020–19496 Filed 9–3–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 37 and 38

**[Docket Nos. RM05–5–029, RM05–5–030]**

## Standards for Business Practices and Communication Protocols for Public Utilities

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003.3) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). The WEQ Version 003.3

Standards also include, in their entirety, the WEQ–023 Modeling Business Practice Standards contained in the WEQ Version 003.1 Standards, which address the technical issues affecting Available Transfer Capability and Available Flowgate Capability calculation for wholesale electric transmission services, with the addition of certain revisions and corrections. The revisions made by NAESB in the WEQ Version 003.3 Standards are designed to aid public utilities with the consistent and uniform implementation of requirements promulgated by the Commission as part of the *pro forma* Open Access Transmission Tariff.

**DATES:** Comments are due November 3, 2020.

**ADDRESSES:** Comments, identified by docket numbers RM05–5–029 and RM05–5–030, may be filed electronically at *http://www.ferc.gov* in acceptable native applications and print-to-PDF, but not in scanned or picture format. For those unable to file electronically, comments may be filed by mail or hand-delivery to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. The Comment Procedures Section of this document contains more detailed filing procedures.

**FOR FURTHER INFORMATION CONTACT:**

Michael P. Lee (technical issues), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6548

Peter Whitman (technical issues), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6225

Michael A. Chase (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6205

Mark Bennett (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8524

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

| | Paragraph Nos. |
|---|---|
| I. Overview | 1 |
| II. Background | 2 |
| A. NAESB and Past Standards | 2 |
| B. Summary of NAESB WEQ Version 003.3 | 8 |
| III. Discussion | 15 |
| A. Internet Security | 16 |
| 1. Cybersecurity | 16 |
| 2. Accreditation Requirements for Authorized Certificate Authorities | 21 |
| B. Parallel Flow Visualization | 23 |
| C. Revisions to WEQ OASIS Business Practice Standards in Light of Commission Policies | 30 |
| 1. Overview | 30 |
| 2. Posting of Third Party Offers of Planning Redispatch Services | 31 |
| 3. Information for Firm Transmission Service Curtailments | 32 |
| D. Revised and New Standards Designed To Complement NERC Reliability Standards and Developments | 40 |
| 1. Available Transfer Capacity | 41 |
| 2. Standards To Ensure Electronic Tagging (e-Tagging) | 73 |
| 3. E-Tagging Commercial Timing | 75 |
| E. Revisions to WEQ Business Practice Standards Not Requested by Commission or Developed To Comply With a Commission Directive | 77 |
| 1. OASIS Transparency, Consistency, and Efficiency Changes | 78 |
| IV. Implementation Schedule | 84 |
| V. Incorporation by Reference | 87 |
| VI. Environmental Analysis | 113 |
| VII. Regulatory Flexibility Act Certification | 114 |
| VIII. Comment Procedures | 117 |
| IX. Document Availability | 121 |

## I. Overview

1. On March 30, 2020, the North American Energy Standards Board (NAESB) filed a report (NAESB WEQ Version 003.3 Report) with the Commission informing the Commission that it had adopted and published the Wholesale Electric Quadrant (WEQ) Version 003.3 Business Practice Standards for Public Utilities (WEQ Version 003.3 Standards).[1] NAESB states that the WEQ Version 003.3 Standards include newly created standards as well as modifications to existing standards developed through the NAESB Business Practice Standards development or minor correction processes. The WEQ Version 003.3 Standards include revisions related to the surety assessment on cybersecurity performed by Sandia National Laboratories (Sandia) designed to strengthen the practices and cybersecurity protections established within the standards. NAESB also revised its OASIS suite of standards,[2] including additions and revisions to support new OASIS functionality that will allow for the posting of third party offers of planning redispatch services as well as providing additional information regarding the curtailment of firm transmission service. In addition, the WEQ Version 003.3 Standards include additions and revisions to the NAESB WEQ–023 Modeling Business Practice Standards. We address the changes proposed by NAESB in their entirety herein.

[1] *See* Docket No. RM05–5–029, Report of the North American Energy Standards Board on Wholesale Electric Quadrant Business Practice Standards Version 003.3 under RM05–5–000 (Mar. 30, 2020) (NAESB WEQ Version 003.3 Report).

[2] The OASIS suite of standards are the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

## II. Background

### *A. NAESB and Past Standards*

2. NAESB is a non-profit standards development organization established in late 2001 (as the successor to the Gas Industry Standards Board (GISB), which was established in 1994) and serves as an industry forum for the development of business practice standards and communication protocols for the wholesale and retail natural gas and electricity industry sectors. Since 1995, NAESB's predecessor GISB and subsequently NAESB itself have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.[3]

3. NAESB's standards include business practices intended to standardize and streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each industry. NAESB supports all three quadrants of the gas and electric industries—wholesale gas, wholesale electric, and retail markets quadrant.[4] All participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

4. NAESB develops its standards under a consensus process so that the standards draw support from a wide range of industry members. NAESB's procedures are designed to ensure that all persons choosing to participate can have input into the development of a standard, regardless of whether they are members of NAESB, and each standard NAESB adopts must be supported by a consensus of the relevant industry segments. Standards that fail to gain consensus support are not adopted. NAESB's consistent practice has been to submit a report to the Commission after it has revised existing business practice standards or has developed and adopted new business practice standards. NAESB's standards are initially voluntary standards, which become mandatory for public utilities upon incorporation by reference by the Commission.

5. NAESB filed its WEQ Version 003.2 Business Practices Standards (WEQ 003.2 Standards) on December 8, 2017, in Docket No. RM05–5–027.[5] After consideration of the December 8 filing, the Commission issued the WEQ Version 003.2 NOPR on May 16, 2019, wherein the Commission proposed to incorporate the WEQ Version 003.2 Standards, with certain enumerated exceptions.[6] The Commission announced that NAESB's WEQ–023 Modeling Business Practice Standards would be addressed separately, only incorporating by reference the WEQ–023 Modeling Business Practice Standards that were moved from the WEQ–001 OASIS Business Practice Standards by the changes made to the WEQ Version 003.1 Standards.[7]

6. On February 4, 2020, the Commission issued Order No. 676–I,[8] in which it amended its regulations under the Federal Power Act (FPA) [9] to incorporate by reference into its regulations as mandatory enforceable requirements, with certain enumerated exceptions, the latest version (Version 003.2) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by NAESB. The WEQ Version 003.2 Standards included the changes proposed in WEQ Version 003.1 Standards, which were the subject of an earlier notice of proposed rulemaking.[10]

7. Among the NAESB Business Practice Standards incorporated by reference in Order No. 676–I, the Commission incorporated by reference the WEQ–022 Electric Industry Registry (EIR) Business Practice Standards but did not to incorporate by reference in its entirety the WEQ–023 Modeling Business Practice Standards. The Commission only incorporated by reference the WEQ–023 Modeling Business Practice Standards that were moved from the WEQ–001 OASIS Business Practice Standards by the changes made to the WEQ Version 003.1 Standards.[11] The Commission declined to adopt the remaining WEQ–023 Modeling Business Practice Standards as they were the subject of a separate proceeding.[12]

### *B. Summary of NAESB WEQ Version 003.3*

8. NAESB's WEQ Version 003.3 Report notified the Commission that it had adopted and published the WEQ Version 003.3 Standards for Public Utilities. NAESB reports that the WEQ Version 003.3 Standards include newly created standards as well as modifications to existing standards developed through the NAESB Business Practice Standards development or minor correction processes.[13] The WEQ Version 003.3 Standards include additions and revisions to the NAESB WEQ–023 Modeling Business Practice Standards, which the Commission proposes will now be addressed herein.

9. NAESB's WEQ Version 003.3 Standards include modifications, reservations, and/or additions to the following set of existing standards: [14]

| WEQ | Business practice standards |
|---|---|
| 000 | Abbreviations, Acronyms, and Definition of Terms |
| 001 | Open Access Same-Time Information System (OASIS) |
| 002 | OASIS Standards and Communication Protocols (S&CP) |

[3] Prior to the establishment of NAESB in 2001, the Commission's development of business practice standards for the wholesale electric industry was aided by two *ad hoc* industry working groups established during the rulemaking proceeding that resulted in issuance of Order No. 889 and the creation of the OASIS, while GISB's efforts involved the development of business practice standards for the wholesale natural gas industry. Once formally established, NAESB took over the standards development previously handled by GISB and by the electric working groups.

[4] The retail gas quadrant and the retail electric quadrant were combined into the retail markets quadrant. NAESB continues to refer to these working groups as ''quadrants'' even though there are now only three quadrants.

[5] *See* Docket No. RM05–5–027, Report of the North American Energy Standards Board on Wholesale Electric Quadrant Business Practice Standards Version 003.2 under RM05–5 (Dec. 8, 2017).

[6] *See Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.,* Notice of Proposed Rulemaking, 167 FERC ¶ 61,127 (2019) (WEQ Version 003.2 NOPR).

[7] *See Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.,* Notice of Proposed Rulemaking, 156 FERC ¶ 61,055, at P 42 (2016) (WEQ Version 003.1 NOPR); WEQ Version 003.2 NOPR, 167 FERC ¶ 61,127 at P 2.

[8] *Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.,* Order No. 676–I, 85 FR 10571 (Feb. 25, 2020), 170 FERC ¶ 61,062 (2020).

[9] 16 U.S.C. 791a, *et seq.* (2018).

[10] NAESB filed WEQ Version 003.1 of the Standards for Business Practices and Communication Protocols for Public Utilities as a package on October 26, 2015 (October 2015 Filing). *See, e.g.,* WEQ Version 003.1 NOPR 167 FERC ¶ 61, 127.

[11] The following WEQ–023 Modeling Business Practice Standards were incorporated by reference in Order No. 676–I: WEQ–023–5; WEQ–023–5.1; WEQ–023–5.1.1; WEQ–023–5.1.2; WEQ–023–5.1.2.1; WEQ–023–5.1.2.2; WEQ–023–5.1.2.3; WEQ–023–5.1.3; WEQ–023–5.2; WEQ–023–6; WEQ–023–6.1; WEQ–023–6.1.1; WEQ–023–6.1.2; and WEQ–023–A Appendix A.

[12] *See* Commission proceeding at Docket No. AD15–5–000.

[13] *See* NAESB WEQ Version 003.3 Report, Transmittal at 1–2.

[14] *Id.* at 3.

| WEQ | Business practice standards |
|---|---|
| 003 | OASIS S&CP Data Dictionaries |
| 004 | Coordinate Interchange |
| 008 | Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards |
| 013 | OASIS Implementation Guide |
| 023 | Modeling |

10. The WEQ Version 003.3 Standards also include revisions related to the surety assessment on cybersecurity performed by Sandia. NAESB responded to a U.S. Department of Energy (DOE) request that NAESB act on an expedited basis to ensure the cybersecurity standards developed in response to the surety assessment were included in the WEQ Version 003.3 Standards.[15] NAESB reports that the changes strengthen the practices and cybersecurity protections established within the standards by aligning security requirements with other cybersecurity guidelines, mitigating potential vulnerabilities, and incorporating more secure communication and encryption methodologies.

11. To support directives contained in Order No. 890,[16] NAESB also revised the OASIS suite of standards. The WEQ Version 003.3 Standards include additions and revisions to support new OASIS functionality that will allow for the posting of third party offers of planning redispatch services (WEQ–001–13.2) as well as providing additional information regarding the curtailment of firm transmission service (WEQ–001–28) prescribed in the OASIS suite of standards.[17] In response to Order No. 676–I, NAESB also revised the standards as necessary to conform with the Commission's *Dynegy* policy, and stated that any standards from these efforts will be incorporated into future versions of the WEQ Business Practice Standards.

12. The WEQ Version 003.3 Standards also include changes that were made to support consistency with the North American Electric Reliability Corporation (NERC) Reliability Standards, including NERC's retirement of the NERC Interchange Scheduling and Coordination Reliability Standards and retirement of the NERC Modeling, Data, and Analysis Reliability Standards. NAESB coordinated with NERC to make modifications and revisions pertaining to electronic tagging (e-Tagging),[18] and, as well, the calculation of ATC and AFC.[19]

13. The WEQ Version 003.3 Standards also include additions, revisions, and reservations made to the WEQ–008 Transmission Load Relief (TLR)—Eastern Interconnection Business Practice Standards, which NAESB advises completes the standards development effort for the Parallel Flow Visualization (PFV) enhanced congestion management process.[20] The PFV standards are the culmination of a multi-year coordination effort between NAESB, NERC, and EIDSN, Inc.,[21] and the standards are designed to improve upon the congestion management procedures for the Eastern Interconnection through the use of real-time data in calculations for transmission loading relief obligations.

14. Moreover, as part of the standards development process, NAESB made five additional revisions to the OASIS suite of standards that were not made in response to Commission orders.[22] First, NAESB modified the OASIS suite of standards to improve OASIS query functionalities. Second, NAESB modified the OASIS suite of standards for new OASIS functionality to fully document all encumbrances to unconditional firm transmission service, such as untagged pseudo-ties. Third, NAESB modified the OASIS suite of standards to expand notice functionality and establish requirements for providing dynamic notification to transmission customers of the renewal deadline for rollover rights for point-to-point transmission service. Fourth, NAESB modified WEQ–001 OASIS Business Practice Standards for use of Next Hour Market Service and the 0–NX transmission product codes. Fifth, NAESB modified the OASIS suite of standards to modify Network Integration Transmission Service (NITS) requirements. Finally, NAESB revised the OASIS suite of standards to make three minor corrections.[23]

## III. Discussion

15. As discussed below, with certain enumerated exceptions, we propose to incorporate by reference (into the Commission's regulations at 18 CFR 38.1(b)) the NAESB WEQ Version 003.3 Standards.[24] While the Commission only recently incorporated Version 003.2 in its regulations, we are proposing to move forward on Version 003.3 because this Version of the standards contains a number of major initiatives whose incorporation by reference will improve the security and the efficiency of business transactions. These include enhanced cybersecurity standards resulting from an assessment by Sandia, improved methodologies for resolving transmission loading relief, and standards for determining available transfer capacity.

[15] *Id.* at 3–4.

[16] *Preventing Undue Discrimination & Preference in Transmission Serv.,* Order No. 890, 118 FERC ¶ 61,119, *order on reh'g,* Order No. 890–A, 121 FERC ¶ 61,297 (2007), *order on reh'g,* Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 126 FERC ¶ 61,228, *order on clarification,* Order No. 890–D, 129 FERC ¶ 61,126 (2009).

[17] NAESB WEQ Version 003.3 Report at 4. WEQ–001–13.2 adds new Third Party Offers for Planning Redispatch Services Business Practice Standards to allow for posting of third-party offers of planning redispatch services. WEQ–001–28 adds new Curtailment Posting Requirements Business Practice Standards for the posting of additional information on OASIS regarding firm transmission curtailments.

[18] With respect to e-Tagging, NAESB also modified the WEQ–004 Coordinate Interchange Business Practice Standards' Commercial Timing Tables to clarify commercial timing requirements.

[19] NAESB WEQ Version 003.3 Report at 4.

[20] *Id.*

[21] Comprised of North American Reliability Coordinators, Transmission Operators, Transmission Owners, and Balancing Authorities, EIDSN, Inc. manages the Electric Information Network (EInet), a data-sharing network for its members to promote the reliable and efficient operation of the Eastern and Quebec Interconnections. *See* EIDSN, Inc., *Our Mission, https://eidsn.org/.*

[22] NAESB WEQ Version 003.3 Report at 5.

[23] Minor corrections were made to the WEQ–001 OASIS Business Practice Standards and the WEQ–003 OASIS Data Dictionary Business Practice Standards.

[24] Consistent with our past practice, we do not propose to incorporate by reference into the Commission's regulations the following standards: Standards of Conduct for Electric Transmission Providers (WEQ–009); Contracts Related Standards (WEQ–010); and WEQ/WGQ eTariff Related Standards (WEQ–014). We do not propose to incorporate by reference standard WEQ–009 because it contains no substantive standards and merely serves as a placeholder for future standards. We do not propose to incorporate by reference standard WEQ–010 because this standard contains an optional NAESB contract regarding funds transfers and the Commission does not require utilities to use such contracts. We are not proposing to incorporate by reference standard WEQ–014, because the Commission has already adopted standards and protocols for electronic tariff filings based on the NAESB Standards.

*A. Internet Security*

1. Cybersecurity

16. The WEQ Version 003.3 Standards include revisions undertaken by NAESB at the request of the DOE to develop standards that address the cybersecurity-related recommendations made by Sandia contained within its surety assessment.[25] In response to the Sandia surety assessment, NAESB proposed changes to improve cybersecurity in the WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, and the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards.[26]

17. These proposed changes, which are listed in Appendix I, represent NAESB's response to Sandia's surety assessment on cybersecurity. In recognition of the stand-alone nature of these proposed changes, and that DOE requested that NAESB act on an expedited basis to ensure the cybersecurity standards were included in the WEQ Version 003.3 Standards, the Commission is proposing to incorporate these standards by reference with an implementation timeline different from the rest of the proposed modifications included in the WEQ Version 003.3 Standards. As discussed in more detail below, the Commission proposes that industry filers submit compliance filings for these revised cybersecurity standards, set forth in Appendix I, nine months after the publication of a final rule in this proceeding, with implementation required no sooner than three months after compliance filings are submitted to the Commission, for a total implementation period of at least 12 months.

18. For the revised cybersecurity standards, NAESB modified the OASIS suite of standards, including WEQ–001 OASIS Business Practice Standards and WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards to: (1) Align the standards' security requirements with other cybersecurity guidelines and best practices; (2) remove legacy functionality that potentially provides a vehicle for cyber-attacks; and (3) incorporate more secure communication and encryption methodologies.[27] Specifically, NAESB revised WEQ–001–13.1.3 to include a reference to 18 CFR 37.7.[28] NAESB revised WEQ–002–5 to require transmission providers or the agent to whom a transmission provider has delegated the responsibility of meeting any requirements associated with OASIS, referred to as a Transmission Services Information Provider (TSIP), to apply industry-recognized best practices in the implementation and maintenance of OASIS nodes and supporting infrastructure. Included in these modifications is a requirement that TSIPs implement guidelines for user passwords and authentication aligned with National Institute of Standards and Technology (NIST) Special Publication (SP) 800–63B. WEQ–002–5 was also modified to require TSIPs to use cryptographic models that conform to the NIST Federal Information Processing Standards (FIPS) Publication 140–3.

19. To protect OASIS nodes, NAESB further revised WEQ–002–5 to require TSIPs to: (1) Incorporate firewalls, intrusion detection, and intrusion prevention systems; (2) ensure OASIS applications are secure against common industry recognized vulnerabilities; (3) apply software patches and updates in a timely fashion, ideally within seven days of availability; and (4) perform quarterly vulnerability scans and penetration testing as well as annual business continuity and disaster recovery exercises.[29] Additionally, WEQ–002–5 includes a requirement that, at least on an annual basis, TSIPs review their OASIS nodes and make any necessary changes to implementation to conform with updates to the industry recognized best practices.

20. NAESB revised WEQ–002–2.3 to require the use of Transportation Layer Security (TLS) Version 1.2 or higher, consistent with NIST 800–52 which now requires the use of TLS Version 1.2, and the utilization of TLS Version 1.3 by January 1, 2024. WEQ–002–2.3 and WEQ–002–5.1.1 were revised to require the use of a Hypertext Transfer Protocol Secure (HTTPS) connection to access information posted on OASIS, including the use of server-side only HTTPS connections to access information that must be made publicly available. All references within the standards to Hypertext Transfer Protocol (HTTP) were removed or modified to HTTPS.[30] Finally, NAESB revised WEQ–002–2.3 and WEQ–002–2.4 to remove language that required the use of communication protocols and internet tools to support private internet and dial-up internet connections, which were deemed outdated and no longer utilized by the industry.[31]

2. Accreditation Requirements for Authorized Certificate Authorities

21. In response to the Sandia surety assessment, NAESB revised the specification document, titled the NAESB Accreditation Requirements for Authorized Certificate Authorities, which establishes technical requirements for issuing digital certificates under the WEQ–012 Public Key Infrastructure (PKI) Business Practice Standards.[32] NAESB reports that the new version of the specification document enables secure electronic commercial transactions via data encryption and entity authentication. NAESB states the revisions will help to ensure that the digital certificates issued by NAESB Authorized Certificate Authorities under the WEQ–012 PKI Business Practice Standards will continue to provide secure communications necessary to carry out commercial transactions, including e-Tagging as well as the accessing OASIS nodes and the NAESB EIR.

22. NAESB's cybersecurity-related changes to the WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, and the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards appear reasonable and do not appear inconsistent with any Commission directives or findings in other orders. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised cybersecurity standards in WEQ–000, WEQ–001, and WEQ–002, as set forth in the WEQ Version 003.3 Standards.

*B. Parallel Flow Visualization*

23. NAESB's WEQ Version 003.3 Standards include modifications to the WEQ–008 Transmission Loading Relief

[25] The Sandia surety assessment also focused on the Wholesale Gas Quadrant (WGQ) and Retail Markets Quadrant (RMQ) Internet Electronic Transport and Electronic Delivery Mechanism Standards; and a high-level dependency analysis between the gas and electric markets to evaluate the different security paradigms employed by the markets.

[26] *See* Appendix I.

[27] NAESB WEQ Version 003.3 Report at 9.

[28] *See* 18 CFR 37.7 (Auditing Transmission Service Information).

[29] NAESB WEQ Version 003.3 Report at 8.

[30] *Id.* at 7–8.

[31] *Id.* at 8.

[32] The NAESB Accreditation Requirements for Authorized Certificate Authorities is a 33-paged specification document that is not a standard, and, as such, membership ratification is not required per the NAESB process. The specification document became effective for industry use on February 19, 2020. *See* NAESB, *NAESB Accreditation Requirements for Authorized Certification Authorities, https://www.naesb.org/PKI/AssuranceLevel/.*

(TLR)—Eastern Interconnection Business Practice Standards to improve the congestion management process by incorporating PFV.[33] This standards development effort was the result of a multi-year coordination effort beginning in 2006[34] between NAESB, NERC, and EIDSN, Inc. According to NAESB, a recent field trial of the PFV process conducted by EIDSN, Inc. indicated that it provides a more accurate model of the electric system than the current process. NAESB also asserts that the field trial shows that the PFV process provides a better analysis of the impacts on flowgates and assigns transmission loading relief obligations more accurately.

24. The current congestion management procedure for the Eastern Interconnection considers e-Tags, market flows, and the network and native load (NNL) calculations to allocate relief obligations on a pro-rata basis. However, this process can sometimes cause a deviation between the actual, real-time impacts and the calculated NNL impacts used for relief obligation as the NNL calculation uses static data and assumes that all generators in the Eastern Interconnection have firm transmission service. Under the PFV enhanced congestion management process, the market flows and NNL calculation are replaced by the generation-to-load impact, which uses real-time data reported by the balancing authorities to determine the calculated energy flows on a flowgate and assign relief obligations during a transmission loading relief event.

25. The revised WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards require a balancing authority to elect one of two different methodologies for assigning curtailment priorities: Tag Secondary Network Transmission Service Method (TSNTS Method) or Generator Prioritization Method (GP Method). In the TSNTS Method, e-Tags are used to establish curtailment priority and entities using this methodology must tag not only inter-balancing authority transactions but also intra-balancing authority transactions, including pseudo-ties. Under the GP Method, a generator schedule is used, which lists the firm and non-firm transmission priorities of each generator to determine the assignment of curtailments. The revised WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards also allow entities with seams agreements incorporated into their tariffs or other governing documents to submit to the Interchange Distribution Calculator (IDC) tool[35] overrides to transmission priorities for those flowgates that are documented in the agreements.[36]

26. For entities opting to use the TSNTS Method, relief obligations are assigned through curtailments utilizing the expanded e-Tagging requirements. Together, the expanded, real-time data provided to the IDC tool under both the TSNTS Method and the GP Method results in a more accurate calculation of system impacts and provides reliability coordinators in the Eastern Interconnection an improved view of the current operating state of the bulk electric system through increased visibility of the source and magnitude of parallel interchange flows.

27. In addition, the revised WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards establish a System Data Exchange (SDX) as a central repository administered by an association of reliability coordinators in the Eastern Interconnection that is a data source for the IDC. The SDX supports data submission for dynamic schedules and pseudo-ties for the two new methodologies (*i.e.,* the TSNTS Method and the GP Method) for assigning curtailment priorities.

28. The revised WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards specify the process for balancing authorities to make an initial declaration of which of the two methodologies will be used for assigning curtailment priorities, the process for subsequent switching between methodologies (which requires a minimum of 180 calendar days' advance notice to the affected load serving entities), and the process for designating network resources when balancing authority areas are consolidated. Conforming changes are also made to the WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards which describe in detail the steps to be taken when transmission loading relief procedures are invoked, primarily to ensure that generation-to-load impacts, lower priority secondary network transmission service, transactions using non-firm grandfathered transmission service, non-firm point-to-point intra balancing authority transactions not tagged, non-firm pseudo-ties, and transactions for dynamic schedules that use lower priority non-firm transmission service are included in the calculation when assigning curtailment and relief obligations.

29. NAESB's revisions to WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards do not appear inconsistent with any Commission directives or findings in other orders. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised standards that modify the WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards, as set forth in the WEQ Version 003.3 Standards.

### *C. Revisions to WEQ OASIS Business Practice Standards in Light of Commission Policies*

#### 1. Overview

30. The NAESB WEQ Version 003.3 Standards contain three modifications to the OASIS suite of standards that NAESB developed to ensure consistency with certain policies articulated by the Commission in Order Nos. 676–I and 890. NAESB addressed the final two directives contained in FERC Order No. 890. First, NAESB modified pertinent standards[37] to support new OASIS functionality that allows for the posting of third party offers of planning redispatch services, as well as provide additional information regarding the curtailment of firm transmission

[33] *See* NAESB WEQ Version 003.3 Report at 12. To support PFV, NAESB also made consistency changes to the WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–004 Coordinate Interchange Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[34] The PFV standards development process was the subject of eight previous status reports filed with the Commission in Docket No. EL14–82–000.

[35] The revised WEQ–008 Transmission Loading Relief (TLR)—Eastern Interconnection Business Practice Standards define the IDC as ''[a] tool used by the [Reliability Coordinators] in the Eastern Interconnection which calculates the distribution of energy flows over specific flowgates and is used for assigning relief obligations and curtailments.'' The revised standards require the IDC to support the display of all impacts, including generation-to-load impacts, and other interchange transactions and intra-balancing authority transactions. The impacts on a flowgate are to be displayed at the user specified level of granularity, including the amount of impact, amount of transaction or output, and priority of transaction.

[36] NAESB WEQ Version 003.3 Report at 13.

[37] NAESB modified the WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

service.[38] NAESB also revised WEQ–001 to strike the preamble language in WEQ–001–9 and WEQ–001–10 consistent with Commission Action in Order No. 676–I.

2. Posting of Third Party Offers of Planning Redispatch Services

31. Order No. 890 required that ''transmission providers modify their OASIS to allow for the posting of third party offers to supply planning redispatch,'' [39] and the Commission reiterated the directive in Order 890–B.[40] In response, NAESB modified the OASIS suite of standards to clarify the roles and responsibilities of the third party providing the redispatch service, the transmission customer acquiring the planning redispatch service, and the transmission provider that provides the platform on OASIS for posting the planning redispatch service offer. As part of these OASIS suite of standards modifications, NAESB established two new OASIS templates [41] to support the posting by a transmission provider of third party offers of planning redispatch service. The first new template is dedicated to capturing generator information that may be used in a planning redispatch offer, including the identification of the generating unit(s) and the host balancing authority area. The second new template provides planning redispatch offer parameters, such as the identification of the redispatch generator, the amount of capacity over time, cost, and the flowgate(s) where congestion can be relieved. NAESB reports that the new process increases efficiency for third parties by allowing the third parties to reference a generator as part of a redispatch offer and no longer requires third parties to reproduce the same generator information each time an offer is made. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised OASIS suite of standards [42] that established two new OASIS templates that support the optional posting by a transmission provider of third party offers of planning redispatch service, as set forth in NAESB's WEQ Version 003.3 Business Practice Standards.

3. Information for Firm Transmission Service Curtailments

32. Order No. 890 requires transmission providers to post to OASIS ''all circumstances and events contributing to the need for a firm service curtailment, specific services and customers curtailed (including the transmission provider's own retail loads), and the duration of the curtailment.'' [43] In response, NAESB made additional modifications to the OASIS suite of standards, as well as consistency changes to WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards. NAESB's changes to the standards included modifications to existing templates and the creation of two new templates to provide the mechanism for transmission providers to post the required additional information regarding the curtailment of firm transmission service, including the curtailment of non-firm transmission service that preceded any firm transmission curtailments.

33. NAESB states that three issues arose as part of this standards development process. First, NAESB states that the information needed to meet the posting requirements is contained in two separate tools: The Interchange Distribution Calculator (IDC) tool for the Eastern Interconnection, managed by EIDSN, Inc., and the Enhanced Curtailment Calculator (ECC) tool for the Western Interconnection, managed by California Independent System Operator (CAISO). Although both the IDC and ECC tools produce information to be posted to OASIS in accordance with the standards, NAESB states that its members determined that the need for a mechanism to transfer data from the tools to OASIS should be addressed as part of any industry implementation rather than through standards modifications.

34. Second, as part of the Order No. 890 standards development efforts, NAESB and its stakeholders examined FERC Order Nos. 845 [44] and 845–A to gauge their potential effect on the NAESB effort.[45] NAESB and its stakeholders concluded, absent specific direction from the Commission to the contrary, that the issues raised in these orders were separate and distinct from the directive in FERC Order 890; NAESB therefore completed the Order No. 890 standards development requirements.

35. Third, NAESB notes that the standards include a requirement that transmission providers post information related to the curtailment of non-firm transmission in order to provide transmission customers with complete transparency regarding all firm transmission curtailments. NAESB states its stakeholders largely concluded that posting information about non-firm curtailments to OASIS fully addresses the directive in FERC Order No. 890 that information be posted regarding *all* circumstances contributing to the need for firm transmission service curtailment.

36. NAESB's revised standards appear consistent with the Commission's directive in Order No. 890. In Order No. 890, the Commission required ''transmission providers, working through NAESB, to develop a detailed template for the posting of additional information on OASIS regarding firm transmission curtailments.'' [46] Moreover, the Commission further stated that ''Transmission providers need not implement this new OASIS functionality and any related business practices until NAESB develops appropriate standards.'' [47] NAESB states that it does not intend to develop standards to facilitate the required posting of this additional information on OASIS, but instead ''by consensus it was determined that the issue should be addressed as part of any industry implementation rather than through standards modifications.'' [48]

37. NAESB states that the information needed to meet the posting requirements is contained in the IDC and ECC tools for Eastern Interconnection and Western Interconnection and that the need for a mechanism to transfer data from the tools to OASIS, should be addressed as part of any industry implementation rather than through NAESB within a standards modification and development process.

38. NAESB's modifications and consistency changes to address the

[38] NAESB WEQ Version 003.3 Report at 4.

[39] Order No. 890, 118 FERC ¶ 61,119 at P 1139.

[40] Order No. 890–B, 123 FERC ¶ 61,299 at P 131.

[41] *See* WEQ 013–3.9 and WEQ 013–3.10.

[42] NAESB modified the WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[43] Order No. 890, 118 FERC ¶ 61,119 at P 1627.

[44] *Reform of Generator Interconnection Procedures & Agreements,* Order No. 845, 163 FERC ¶ 61,043 (2018).

[45] As part of FERC Order No. 845, the Commission declined to impose additional requirements on transmission providers to post on OASIS certain, specific information regarding congestion and curtailments. Order No. 845, 163 FERC ¶ 61,043 at P 271. The Commission confirmed this decision in FERC Order No. 845–A, reiterating that transmission providers already publish data related to congestion and curtailments and noting that a significant amount of curtailment data is available through the NERC TLR logs. *Id.* P 92.

[46] Order No. 890, 118 FERC ¶ 61,119 at P 1627.

[47] *Id.*

[48] NAESB WEQ Version 003.3 Report at 11.

directive in FERC Order No. 890 appear reasonable and do not appear inconsistent with any Commission directives or findings in other orders. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's modifications to the OASIS suite of standards,[49] as well as consistency changes to WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards to support the final FERC Order No. 890 directive, as set forth in the WEQ Version 003.3 Standards.

4. WEQ–001–9 and WEQ–001–10 Preambles

39. In Order No. 676–I, the Commission declined to adopt through its incorporation by reference process the preamble language in WEQ–001–9 and WEQ–001–10. The Commission declined to incorporate by reference the two preambles because they appeared to permit transmission providers the option to implement their own entity-specific procedures, which does not help ensure consistency across the bulk power system.[50] In the WEQ Version 003.3 Standards, NAESB proposes to make the changes to each of these Business Practice Standards to reflect the Commission's Order No. 676–I decision not to incorporate by reference the preamble language. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised WEQ–001–9 and WEQ–001–10, as set forth in the WEQ Version 003.3 Standards.

*D. Revised and New Standards Designed To Complement NERC Reliability Standards and Developments*

40. The WEQ Version 003.3 Standards include additions and revisions to the WEQ–001 OASIS Business Practice Standards, WEQ–004 Coordinate Interchange Business Practice Standards, and WEQ–023 Modeling Business Practice Standards, which result from NAESB coordination with NERC. NAESB developed these additions and revisions in response to NERC's proposal, initiated via two separate Standards Requests, that NAESB review the retirements proposed by NERC within the NERC Modeling, Data, and Analysis (MOD) Reliability Standards[51] as well as the NERC Interchange Scheduling and Coordination (INT) Reliability Standards[52] in the interest of continued coordination between the organizations.

1. Available Transfer Capacity

a. Introduction

41. Available Transfer Capacity (ATC) is defined to be ''[a] measure of the transfer capability remaining in the physical transmission network for further commercial activity over and above already committed uses.''[53] Since Order Nos. 888 and 889 were issued in 1996, ATC has been a key component of the Commission's open access transmission policy. The Commission has emphasized the important role of ATC, stating that ''the calculation of ATC is one of the most critical functions under the open access transmission tariff (OATT) because it determines whether transmission customers can access alternative power supplies.''[54] The Commission has noted the broad range of transmission customers affected by ATC calculations, including loads, power producers, and power marketers.[55]

42. In Order No. 890, the Commission found that transmission owners utilized a variety of ATC calculation methodologies and very few clear rules governed their use.[56] The complexity created by these multiple approaches presented obstacles to calculating ATC consistently and accurately. In Order No. 890, the Commission adopted a number of reforms addressing the potential for remaining undue discrimination in the determination of ATC by requiring consistency in how ATC is evaluated, as well as providing greater transparency about how a transmission provider calculates and allocates ATC.[57] In Order No. 890, the Commission directed industry to develop Reliability Standards, using the NERC Reliability Standards development procedures that provide for consistency and transparency in the methodologies used by transmission owners to calculate ATC.[58] Additionally, the Commission directed public utilities, working through NAESB, to develop workable Business Practice Standards to improve the consistency and transparency of ATC calculations,[59] while reducing the opportunity for transmission providers to exercise excessive discretion that could undermine the overarching policy goal of ensuring non-discriminatory, open access.

43. In response, NERC worked with industry to develop Reliability Standards improving consistency and transparency of ATC calculation methodologies, which NERC would audit and enforce. NERC submitted its MOD standards to the Commission in April 2006.[60] The MOD standards related to ATC eventually became known as the MOD A Reliability Standards. The MOD A Reliability Standards helped to standardize the methodologies and system data needed for traditional transmission system operation and expansion planning, reliability assessment and the calculation of available transfer capability, as well as helping to enable nondiscriminatory access to the transmission system.

44. In February 2014, NERC petitioned the Commission to permit it

[49] NAESB modified the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[50] Order No. 676–I, 170 FERC ¶ 61,062 at PP 37–38.

[51] In a February 19, 2014 petition, NERC proposed to retire Reliability Standards MOD–001–1a, MOD–004–1, MOD–008–1, MOD–028–2, MOD–029–1a, and MOD–030–2 and requested approval of new Reliability Standard MOD–001–2. Generally, the ''MOD A'' series of NERC Reliability Standards pertain to transmission system modeling. The Commission issued a notice of proposed rulemaking in Docket No. RM14–7–000 that addressed NERC's proposal. *Modeling, Data, & Analysis Reliability Standards,* Notice of Proposed Rulemaking, 147 FERC ¶ 61,208 (2014) (MOD A NOPR). On June 7, 2019, NERC filed a notice of withdrawal of its petition and, after not receiving any protests, was deemed granted. Simultaneously, NERC proposed to retire the current version of the NERC MOD A standards: MOD–001–1a (Available Transmission System Capability), MOD–004–1 (Capacity Benefit Margin), MOD–008–1 (Transmission Reliability Margin Calculation Methodology), MOD–028–2 (Area Interchange Methodology), MOD–029–2a (Rated System Path Methodology), and MOD–030–3 (Flowgate Methodology).

[52] NERC submitted Standards Request R19008, requesting that NAESB review retirements proposed within NERC Reliability Standards INT–004–3.1, INT–006–5, INT–009–3, and INT–010–2.1.

[53] NERC defines the components of ATC as ''Total Transfer Capability, less Existing Transmission Commitments (including retail customer service), less a Capacity Benefit Margin, less a Transmission Reliability Margin plus postbacks and counterflow.'' AFC is defined as ''A measure of the flow capability remaining on a Flowgate for further commercial activity over and above already committed uses. It is defined as Total Flowgate Capability less Existing Transmission Commitments (ETC), less a Capacity Benefit Margin, less a Transmission Reliability Margin, plus Postbacks, and plus counterflows.'' *See* NERC ''Glossary of Terms Used in NERC Reliability Standard,'' *http://nerc.com/files/glossary_of_terms.pdf.* The Commission's regulations contain similar language. *See* 18 CFR 37.6(b)(1).

[54] *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, & Existing Transmission Commitments & Mandatory Reliability Standards for the Bulk-Power Sys.,* Order No. 729, 129 FERC ¶ 61,155, at P 2 (2009).

[55] Order No. 890, 118 FERC ¶ 61,119 at P 195.

[56] *Id.* P 62.

[57] *Id.* P 69.

[58] *Id.* P 196.

[59] *Id.*

[60] *Id.* P 9.

to retire its MOD A ATC Reliability Standards.[61] NERC argued that ATC and AFC values are commercial in nature. NERC also asked that the Commission approve MOD–001–2 which would replace, consolidate and improve upon the MOD A standards in addressing the reliability issues associated with the determination of ATC and AFC. At the same time, NERC requested that NAESB develop business practice standards for the commercial aspects of ATC and AFC.[62] NAESB first developed the WEQ–023 Modeling Business Practice Standards through its stakeholder process and submitted them to the Commission as part of the WEQ Version 003.1 Standards, filed with the Commission in its October 2015 Filing.[63] The Commission, however, did not incorporate most of those standards by reference, because it was still considering NERC's proposed retirement of MOD A Reliability Standards and had initiated a proceeding to consider proposed changes to the calculation of ATC.[64]

45. In WEQ Version 003.3, NAESB made additional revisions and included new standards to the WEQ–023 Modeling Business Practice Standards: WEQ–023–1 (General Requirements), WEQ–023–2 (ATC Requirements), WEQ–023–3 (CBM Scheduling Requirements), WEQ–023–4 (TRM Requirements), which were all developed as a result of NAESB's review of NERC Reliability Standards MOD–001–1a, MOD–004–1, MOD–008–1, MOD–028–2, MOD–029–2a, and MOD–030–3, and the proposed NERC Reliability Standard MOD–001–2.

b. NAESB Standards

46. In response to NERC's proposed retirement of the MOD A Reliability Standards NAESB developed the WEQ–023 Modeling Business Practice Standards. They are composed of six subordinate sections and an appendix. WEQ–023–1 includes general requirements and lists the three allowable methodologies for calculating ATC or AFC. WEQ–023–2 describes these three allowable methodologies: area interchange, rated system path, and flowgate. WEQ–023–3 describes the calculation of capacity benefit margin (CBM), for those transmission providers that use CBM. Similarly, WEQ–023–4 describes the calculation of transmission reliability margin (TRM), for those transmission providers that use TRM. WEQ–023–5 describes how postbacks should be used. WEQ–023–6 requires a description and posting of grandfathered agreements. Finally, WEQ–023–A includes a table and examples for the use of postback conditions in calculation of ATC or AFC. As noted above, the latter two requirements and the Appendix were incorporated by reference in Order No. 676–I.

47. NAESB states that these modifications ensure that all commercially relevant requirements needed by the industry to calculate ATC and AFC are included in the WEQ–023 Modeling Business Practice Standards. The WEQ–023 Modeling Business Practice Standards, in part, incorporate forty-five requirements and sub-requirements previously included in NERC Reliability Standard MOD–001–2. The WEQ–023 Modeling Business Practice Standards also include two new requirements not previously included in the NERC Reliability Standards addressing contract path management. These two requirements, which are contained in WEQ–023–1.4 and WEQ–023–1.4.1, limit the amount of firm transmission service across a path between balancing authorities to the contract path limit for that given path.

48. NAESB also modified WEQ–001–13.1.5 to replace references to the NERC MOD–A Reliability Standards with references to WEQ–023 Modeling Business Practice Standards[65] and made consistency changes to WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards.

c. Commission Proposal

49. The Commission stated in Order No. 729 that calculation of ATC is one of the most critical functions under the OATT, because it determines whether transmission customers can access alternative power supplies. It found that the improved transparency and consistency of ATC calculation methodologies would limit transmission service providers' wide discretion in calculating ATC and ensure that customers are treated fairly in seeking alternative power supplies.[66] Because of the importance of the ATC calculation and as a result of the proposed retirement of NERC's MOD A Reliability Standards, the Commission is proposing to revise its regulations to establish the general criteria transmission owners must use in calculating ATC. The Commission also is proposing to adopt the NAESB standards as they appear generally consistent with those criteria. The Commission, however, seeks comment herein on whether the NAESB standards could be improved by providing additional detail to further protect transmission customers. We seek comment on whether the proposed regulatory text included below will provide a clear basis for establishing that transmission provider ATC calculations must be transparent, consistent, and not unduly discriminatory or preferential. We also seek comment on whether we should develop additional new regulations to maintain the current level of detail related to ATC calculations; if so, what level of detail those regulations should have.

i. Proposed Regulation

50. The Commission is proposing to revise its regulations governing the calculation of ATC and TTC in 18 CFR 37.6(b)(2)(i):

(2) Calculation methods, availability of information, and requests. (i) Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider's transmission tariff and shall be based on Commission-approved Reliability Standards, *business practice and electronic communication standards, and related implementation documents,* as well as current industry practices, standards and criteria. *Transmission Providers shall calculate ATC and TTC in coordination with*

[61] *Petition of NERC for Approval of Proposed Reliability Standard MOD–001–2 & Ret. of Reliability Standards MOD–001–1a, MOD–004–1, MOD–008–1, MOD–028–2, MOD–029–1a & MOD–030–2,* Docket No. RM14–7–000 (Feb. 10, 2014).

[62] *See, NAESB MOD Effort Status Report under RM05–5, et al.,* Docket No. RM14–7 (Dec. 19, 2014). The Commission subsequently held a workshop to discuss actions the Commission could take to ensure that Transmission Providers continue to calculate ATC in a manner that ensures nondiscriminatory access to wholesale electric transmission services. *See Supplemental Notice of Workshop—New Date,* Docket No. AD15–5–000 (Mar. 31, 2015). The Transcript of the April 21, 2015 technical workshop on available transmission capability held in Washington, DC is available in eLibrary under Docket No. AD15–5–000.

[63] *Report of the N. American Energy Standards Bd. on Version 003.1 of the Wholesale Elec. Quadrant Bus. Practice Standards under RM05–5,* Docket No. RM05–5–025 (Oct. 26, 2015).

[64] *See Available Transfer Capability Standards for Wholesale Elec. Transmission* Services, Docket No. AD15–5–000 (Dec. 30, 2014) (noticing a Commission staff workshop to discuss actions the Commission could take to ensure that transmission providers continue to calculate and post ATC in a manner that ensures nondiscriminatory access to wholesale electric transmission services).

[65] WEQ–001–13.1.5 revisions include new links to the *Available Transfer Capability Implementation Document—ATCID,* as specified in 1a Business Practice Standard WEQ–023–1.3, previously NERC MOD–001–1a; the *CBM Implementation Document—CBMID,* as specified in Business Practice Standard WEQ–023–1.5, which was previously NERC MOD–004–1, and the *TRM Implementation Document—TRMID* as specified in Business Practice Standard WEQ–023–1.6; previously NERC MOD–008–1.

[66] *See* Order No. 729, 129 FERC ¶ 61,155 at P 2.

*and consistent with capability and usage on neighboring systems, calculate system capability using factors derived from operations and planning data for the time frame for which data are being posted (including anticipated outages), and update ATC and TTC calculations as inputs change. Such calculations shall be conducted in a manner that is transparent, consistent, and not unduly discriminatory or preferential.*[67]

51. This proposed regulation, in conjunction with the WEQ–023 Modeling Business Practice Standards, will help ensure that all transmission customers will be treated fairly when seeking alternative power supplies,[68] and will provide for comparable and not unduly discriminatory or preferential treatment of native load customers and transmission service customers. As the Commission stated in Order No. 729, ''the potential for discrimination and decline in reliability level does not lie primarily in the choice of an available transfer capability calculation methodology, but rather in the consistent application of its components, input and exchange data, and modeling assumptions.'' [69] We preliminarily find that this proposed regulation will ensure that transmission owners implement the NAESB standards in a way that helps to ensure non-discriminatory treatment to all transmission customers.

ii. NAESB Standards

52. We propose to incorporate by reference these WEQ–023 Modeling Business Practice Standards into the Commission's regulations at 18 CFR 38.1(b). However, as discussed below, we have concerns that certain of these business practice standards may lack the detail currently provided by the currently enforceable NERC MOD A Reliability Standards. Because the calculation of ATC determines whether transmission customers can access alternative power supplies,[70] these calculations have significant commercial implications. Accordingly, we request parties to submit comments on whether the NAESB Business Practice Standards WEQ–023–1 (General Requirements), WEQ–023–2 (ATC Requirements), WEQ–023–3 (CBM Scheduling Requirements), and WEQ–023–4 (TRM Requirements), as explained in the paragraphs below, provide sufficient details to protect transmission customers. Further, we seek comment on whether the Commission should start its own process to adopt more specific regulations regarding ATC calculations or by modifying the *pro forma* OATT or, alternatively, ask NAESB to consider providing additional details and more specific requirements in further revisions to these standards in a subsequent WEQ Version filing.

53. The currently effective NERC Reliability Standard MOD–001–1a (General Requirements), which NERC proposes to retire, provides both transparency into and consistency of ATC computations for transmission customers. It includes nine requirements, and the loss or replacement of Requirements R3 through R7 may raise concerns regarding both transparency and consistency. For example, Requirements R3.6, R3.6.1, and R3.6.2 of MOD–001–1a require each Transmission Service Provider [71] to describe in its ATC Implementation Document (ATCID) how it accounts for generation and transmission outages. Although NAESB's proposed revisions in WEQ–023–1.1.1.2 and WEQ–023–1.3.2 require the Transmission Service Provider to describe how it accounts for outages, these requirements provide significantly less detail than MOD–001–1a regarding the means by which the outages should be accounted. This lack of detail raises concerns of consistency in the ATCID, as specified in WEQ–023–1.3. We seek comment as to whether these changes could reduce transparency and consistency in ATC calculations, and if so, how this should be remedied.

54. Requirements R3.2, R3.2.1, and R3.2.2 of MOD–001–1a require each Transmission Service Provider to describe how counterflows are accounted for in its ATCID. NAESB's proposed revisions in WEQ–023–1 do not require the inclusion of this description in the ATCID, despite the fact counterflows are a key variable in the determination of ATC. We seek comment on whether additional information on the incorporation of counterflows is necessary for increased transparency in ATC calculations, and if so, how this should be remedied.

55. Requirement R3.5 of MOD–001–1a requires each Transmission Service Provider to describe how it allocates transfer or flowgate capability among multiple lines or sub-paths, among multiple owners or users, or between Transmission Service Providers in its ATCID. NAESB's proposed revisions in WEQ–023–1 do not appear to require a Transmission Service Provider to describe how ATC or AFC will be allocated. We seek comment on whether the potential absence of a description of allocation of ATC may reduce transparency and thereby increase discretion and the potential for discrimination to occur, and if so, how this should be remedied.

56. Requirements R4 and R5 of MOD–001–1a require each Transmission Service Provider to notify certain entities before implementing a new ATCID and to make that document publicly available. NAESB does not appear to have proposed new requirements for sharing changes before implementation in WEQ–023–1.7, which could lead to a potential transparency concern. We seek comment as to whether not sharing changes before implementation will reduce transparency for transmission customers, and if so, how this should be remedied.

57. Of particular note, Requirements R6 and R7 of MOD–001–1a obligate each Transmission Operator to use assumptions no more limiting that those used in its planning of operations calculations. Ensuring that the criteria a Transmission Service Provider uses to plan and operate its system are consistent with the criteria used in scheduling commercial transactions provides an assurance that transmission customers will have access to transfer capability that is physically available. We seek comment on whether the potential absence of such a requirement in the NAESB WEQ–023–1 Modeling Business Practice Standards raises consistency issues and could create additional discretion and the potential for the consistency of ATC calculations to decline, and if so, how this should be remedied.

58. The currently effective NERC Reliability Standard MOD–004–1 (Capacity Benefit Margin), which NERC also proposes to retire, provides transparency and consistency for transmission customers. This standard includes 12 requirements, and the loss or replacement of several of these existing NERC requirements in the NAESB WEQ–023 Modeling Business Practice Standards raise concerns for the Commission. For example, Requirements R1.1, R1.2, and R1.3 of MOD–004–1 currently obligate a Transmission Service Provider to provide descriptions of how CBM values are determined and allocated. WEQ–023–1.5, simply requires a

[67] Proposed regulatory text to be added to 18 CFR 37.6(b)(2)(i) is indicated by underlining.

[68] *See* Order No. 729, 129 FERC ¶ 61,155 at P 2.

[69] *Id.* P 11 (citing Order No. 890, 118 FERC ¶ 61,119 at P 1029).

[70] *Id.* P 2.

[71] NERC defines a Transmission Service Provider as ''The entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable Transmission Service agreements.'' *See* NERC ''Glossary of Terms Used in NERC Reliability Standard,'' *http://nerc.com/files/glossary_of_terms.pdf.*

Transmission Service Provider that maintains CBM to post a CBM Implementation Document (CBMID) that describes the process to schedule CBM. We seek comment as to whether eliminating the description of the development of CBM values and the allocation of CBM risks a reduction of detail and transparency to users of CBM or other transmission customers. Similarly, Requirements R3, R3.1, and R3.2 of MOD–004–1 provide detail on how load-serving entities determine that their CBM needs are set aside. NAESB WEQ–023–1.5 does not appear to address whether load-serving entities retain a role in the CBM determination process. The currently effective Requirements R5, R5.1, and R5.2 of MOD–004–1 require that at least every 13 months a Transmission Service Provider updates CBM for the future 13-month period, and to provide some details on how it calculates CBM. NAESB WEQ–023–1.5 does not include requirements related to the updating of CBM values or details of its calculation. We seek comment on whether this potential absence will decrease transparency in the ATC calculations, and if so, how this should be remedied.

59. Requirements R7, R8, R9, R9.1, and R9.2 of MOD–004–1 currently require a Transmission Service Provider to notify load-serving entities if they were allocated CBM, and to provide supporting data and documentation. The NAESB WEQ–023 Modeling Business Practice Standards do not appear to include requirements for notification or public posting, but rather in WEQ–023–1.7 provide that information shall be available within 45 days of a request. We seek comment on whether the net effect of these changes may raise concerns regarding the transparency to users of CBM or other transmission customers, and if so, how this should be remedied.

60. The currently effective NERC Reliability Standard MOD–008–1 (Transmission Reliability Margin), again, which NERC proposes to retire, provides detail, transparency and accuracy for transmission customers. This NERC Reliability Standard includes five requirements, and the loss or replacement of several of these existing NERC requirements within the NAESB WEQ–023 Modeling Business Practice Standards raise concerns. Specifically, Requirements R1, R1.1, R1.2, and R1.3 provide detail regarding the information that the Transmission Service Provider must represent in its Transmission Reliability Margin Implementation Document (TRMID), including the components of uncertainty considered in establishing TRM. NAESB WEQ–023–4.1 requires only that a Transmission Operator that determines TRM maintain a TRMID that specifies the components it includes in TRM, but without specification as to these inputs. We seek comment on whether this potential lack of detail could lead to inconsistency and increased discretion, and if so, how this should be remedied.

61. Requirement R4 of MOD–008–1 requires the Transmission Service Provider to update TRM at least once every 13 months. NAESB WEQ–023–4 does not include specific requirements to update TRM values. We seek comment on whether the potential lack of such requirements could contribute to insufficient transparency and discretion, and if so, how this should be remedied.

62. As discussed above, the NERC MOD A Reliability Standards include the three ''ATC methodology'' standards, which contain the specific requirements applicable to each entity that selects and implements that ATC methodology. NERC proposes to retire each of the three. The first of these three ATC methodology standards, NERC Reliability Standard MOD–028–2 (Area Interchange Methodology), describes the area interchange methodology for determining available transfer capability. NERC used this standard to increase consistency and reliability in the development and documentation of transfer capability calculation for short-term use performed by entities using the area interchange methodology to support analysis and system operations.[72] The Area Interchange Methodology is described in WEQ–023–2.1. MOD–028–2 consists of eleven requirements. We seek comment on how three of these MOD–028–2 requirements, Requirements R2.2, R3, and R6, are reflected in NAESB WEQ–023–2.1. MOD–028–2 Requirement R1 provides details regarding the content that a Transmission Service Provider is required to include in its ATCID, specifically with respect to its methodology for determining Total Transfer Capability (TTC). The NAESB standard WEQ–023–2.1 only requires a general description of these factors and appears to provide a lesser degree of detail regarding certain components of the determination such as source/sink and point of delivery (POD)/point of receipt (POR).

63. MOD–028–2 Requirement R2.2 currently requires each Transmission Operator to calculate TTC using a model that meets a scope specified in the requirement and includes rating information specified by the generator owners and transmission owners whose equipment is represented in the model. In addition, MOD–028–2 Requirement R2.2 requirement obligates a transmission provider to use a transmission model that contains the modeling data and topology for immediately adjacent and beyond Reliability Coordination areas when computing TTC. WEQ–023–2.1 does not appear to require the models to use data and topology for either immediately adjacent or beyond Reliability Coordination areas. We seek comment as to whether the potential absence of this requirement in NAESB's Area Interchange Methodology, WEQ–023–2.1 could raise coordination issues for transmission customers when scheduling transactions across areas, and if so, how this should be remedied.

64. MOD–028–2 Requirement R3 details the information that a Transmission Operator must include from adjacent and other Transmission Service Providers in its determination of TTC for the on-peak and off-peak intra-day and next-day time periods, including expected generation and transmission outages, additions, and retirements, load forecasts, and unit commitment and dispatch order. NAESB WEQ–023–2.1 does not appear to include such a coordination requirement. We seek comment as to whether the removal of such a coordination requirement could potentially constitute a lack of specificity in the NAESB Business Practice Standards that could detract from the usefulness of computed ATC values, and if so, how this should be remedied.

65. MOD–028–2 Requirement R6 provides details on the process by which each Transmission Operator must establish TTC, which it must communicate to the Transmission Service Provider, including the representation of neighboring area system operating limits. The NAESB WEQ–023–2.1 Modeling Business Practice Standards appear to provide no guidance on the process for establishing TTC. We seek comment on whether NAESB WEQ–023–2.1, Area Interchange Methodology, should include additional guidance in the calculation of TTC will increase transparency and consistency in ATC calculations, and if so, how this should be remedied.

66. The second of the three ATC methodology standards, NERC Reliability Standard MOD–029–2a (Rated System Path Methodology) describes the rated system path methodology for determining ATC. This

[72] *See, e.g.,* Order No. 729, 129 FERC ¶ 61,155 at P 54.

NERC Reliability Standard provides consistency, accuracy and transparency in the development and documentation of transfer capability calculations for short-term use performed by entities used the rated system path methodology supports analysis and system operations.[73] This NERC Reliability Standard includes eight requirements, and we seek comment on how two of the requirements, Requirements R1 and R4, are addressed in the NAESB WEQ–023 Modeling Business Practice Standards. The Rated System Path Methodology is described in WEQ–023–2.2.

67. First, under MOD–029–2a Requirement R1, a Transmission Operator must calculate total transfer capability using a model that meets detailed scope and criteria specified in the requirement. However, WEQ–023–2.2.1 only requires that an entity choosing to use the rated system path methodology must use the lesser of the maximum allowable contractual allocation or the Transmission Operator's reliability limit. The NAESB WEQ–023–2.2 Modeling Business Practice Standards do not appear to have standards that account for geographic specifications, time period consistency, remedial action systems, and in-service elements that are not present. Similarly, MOD–029–2a Requirement R2 lists a detailed process by which the Transmission Operator must establish total transfer capability, however, NAESB WEQ–023–2.2 does not appear to describe a similar process in its standards. We seek comment as to whether these potential discrepancies could lead to an inappropriate decrease in modeling consistency or accuracy and, if so, how this should be remedied.

68. MOD–029–2a Requirement R4 requires the Transmission Operator to make available to the Transmission Service Provider the appropriate most recent value for TTC and the TTC study report within seven days of its finalization. The NAESB WEQ–023 Modeling Business Practice Standards includes a standard, WEQ–023–1.7, under which certain specified entities with a reliability need may request clarification of a transmission provider's total transfer capability, or its ATCID, CBMID, or TRMID, and receive the requested information within 45 days, and under WEQ–023–2.2.2 the Transmission Operator shall provide the Transmission Service Provider with the most current values of TTC within seven calendar days of their establishment. We seek comment as to whether these provisions in the WEQ–023–2.2 are sufficient to maintain the transparency and data availability provided under the current MOD A standards, and if not, how this should be remedied.

69. The third of the three ATC ''methodology'' standards, NERC Reliability Standard MOD–030–3 (Flowgate Methodology), describes the flowgate methodology for determining available transfer capability and has eleven requirements. The purpose of this NERC Reliability Standard is to provide consistency, accuracy, and reliability in the development and documentation of transfer capability calculations for short-term use performed by entities using the flowgate methodology to support analysis and system operations.[74] The Flowgate Methodology is described in WEQ–023–2.3.

70. MOD–030–3 Requirements R1 and R2 provide detail regarding the information a Transmission Service Provider must include in its ATCID. Requirement R1 includes the criteria used to determine which facilities should be considered potential flowgates, and what information is to be used about adjacent balancing authority areas. Requirement R2 contains a list of minimum characteristics used to identify a particular set of transmission facilities as a flowgate. We seek comment on whether an appropriate degree of transparency and consistency in the identification of flowgates is maintained through WEQ–023–1.1.1.3.1 and elsewhere under the NAESB WEQ–023 Modeling Business Practice Standards and if so, how this should be remedied.

71. MOD–030–3 Requirements R3.2 and R3.3 require each Transmission Operator to provide a transmission model that meets specified criteria and establish requirements for daily and monthly updates of the modeling values used in AFC calculations, including adjacent areas. We seek comment as to whether a requirement to update available flowgate capability calculations is necessary in NAESB WEQ–023–2.3 or elsewhere in the NAESB WEQ–023 Modeling Business Practice Standards. Similarly, Requirement R4 details how a Transmission Service Provider shall represent the sources and sinks associated with transmission service when conducting AFC calculations. These NERC requirements do not appear to be carried into the NAESB WEQ–023–2.3 Modeling Business Practice Standards. We seek comment on whether these omissions could lead to a reduction of calculation accuracy or an unwarranted increase in discretion and if so, how this should be remedied.

72. As discussed above, we seek comment on the adequacy of the NAESB WEQ–023 Modeling Business Practice Standards to replace the existing NERC MOD A Reliability Standards when their proposed retirement becomes effective, and whether to encourage NAESB to include additional detail or other further modifications in future versions of the Modeling Business Practice Standards. In summary, while we propose to incorporate these standards by reference, we also seek comments on: (i) The overall effectiveness of the standards in NAESB's WEQ–023 Modeling Business Practice Standards; (ii) whether the NAESB Business Practice Standards sufficiently limit transmission provider discretion over ATC; (iii) whether customer concerns expressed in response to the April 2015 technical workshop regarding inconsistencies between transmission systems in treatment of outages need to be addressed; (iv) whether the posting and sharing of data and information used in determining ATC is sufficiently transparent; (v) whether the specificity of modeling requirements is sufficient to ensure nondiscriminatory access; (vi) whether the ATC calculation components described correspond with operations, modeling, and planning data used by Transmission Providers; (vii) whether the level of detail required in the ATCID is sufficient to ensure nondiscriminatory access; and (viii) whether the Commission should seek to address the concerns raised in response to these comments through a new request to NAESB and its stakeholder process.

2. Standards To Ensure Electronic Tagging (e-Tagging)

73. The WEQ Version 003.3 Standards modify the WEQ–004 Coordinate Interchange Business Practice Standards to ensure e-Tagging transactions will continue to function as needed for commercial purposes. The WEQ–004 Coordinate Interchange Business Practice Standards revisions incorporate commercially relevant requirements proposed for retirement by NERC from the NERC INT Reliability Standards[75] and include a requirement to register

[73] *Id.* P 62.

[74] *Id.* P 66.

[75] In addition to its proposed retirement of the MOD A Reliability Standards in its RM19–17–000 petition, NERC proposed to retire currently-effective Reliability Standards and requirements in other categories, including INT–004–3.1 and INT–010–2.1 (in their entirety), and INT–006–5, Requirements R3.1, R4 and R5, and INT–009–3, Requirement R2.

pseudo-ties in the NAESB Electric Industry Registry (EIR).[76]

74. NAESB's revised WEQ–004 Coordinate Interchange Business Practice Standards to ensure e-Tagging transactions continue to function as needed for commercial purposes do not appear inconsistent with any Commission directives or findings in other orders. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised standards modify the WEQ–004 Coordinate Interchange standards to ensure e-Tagging transactions will continue to function as needed for commercial purposes, as set forth in NAESB's WEQ Version 003.3 Standards.

3. E-Tagging Commercial Timing

75. The WEQ Version 003.3 Standards also revise the Appendix D—Commercial Timing Tables[77] in the WEQ–004 Coordinate Interchange Business Practice Standards. The Appendix D—Commercial Timing Tables were revised to ensure entities do not receive additional time to conduct market assessments beyond the prescribed timing parameters. The revisions therefore provide additional clarity as to the timing requirements for conducting e-Tagging transactions and correct an unrelated typographical error in Appendix A—e-Tagging Service Performance Requirements and Failure Procedures.

76. NAESB's revised WEQ–004 Coordinate Interchange Business Practice Standards, Appendix D—Commercial Timing Tables, and corrected Appendix A—e-Tagging Service Performance Requirements and Failure Procedures provide additional clarity regarding the timing requirements for conducting e-Tagging transactions, and do not appear inconsistent with any Commission directives or findings in other orders. Accordingly, we propose to incorporate by reference, into the Commission's regulations at 18 CFR 38.1(b), NAESB's revised standards that modify the Appendix D—Commercial Timing Tables, WEQ–004 Coordinate Interchange Business Practice Standards, as set forth in NAESB's WEQ Version 003.3 Standards.

*E. Revisions to WEQ Business Practice Standards Not Requested by Commission or Developed To Comply With a Commission Directive*

77. In addition to the standards revisions that NAESB made to comply with various Commission directives and requests, the WEQ Version 003.3 Standards also include revisions undertaken by NAESB to support the Parallel Flow Visualization (PFV) congestion management process (described above), as well as changes to the OASIS suite of standards that support transparency, consistency, and efficiency.

OASIS Transparency, Consistency, and Efficiency Changes

78. The WEQ Version 003.3 Standards include additions, revisions, and reservations intended to increase transparency, consistency, and/or efficiency for the industry in the utilization of OASIS. As a result, the WEQ Version 003.3 Standards include changes to the OASIS suite of standards. First, the OASIS suite of standards was modified to provide additional query functionality within OASIS by accommodating multiple query variables.[78] These changes allow for multiple transmission service requests and transmission service reservations to be returned in a single query response, reducing the need for a transmission customer or transmission provider to conduct multiple queries.

79. Second, the OASIS suite of standards was modified[79] to establish a mechanism within OASIS to document all encumbrances to unconditional firm transmission service, such as untagged pseudo-ties. NAESB states this new mechanism provides increased visibility regarding encumbrances on OASIS, which will serve to prevent encumbered unconditional firm transmission capacity from being released as non-firm ATC or AFC. Further, NAESB states the new mechanism will result in improved transparency regarding encumbrances which will help to ensure that any encumbered capacity is only used for its intended purpose.

80. Third, the OASIS suite of standards was revised[80] to provide new functionality and improve efficiencies regarding dynamic notifications to transmission customers and rollover rights renewal. The HTTP format for dynamic notifications was replaced with a generic email format that could be utilized for any status notifications deadline.

81. Fourth, the WEQ–001 OASIS Business Practice Standards were modified to provide clarity regarding the use of Next Hour Market Service and the 0–NX transmission product code.[81] NAESB states the revised standards clarify that the 0–NX transmission product code is the lowest curtailment priority and can be used for purposes outside of the identification of Next Hour Market Service.

82. Fifth, modifications were made to NITS-related standards[82] within the WEQ OASIS suite of standards. NITS allows transmission customers the ability to integrate and economically dispatch network resources to serve network load, making the treatment of these customers comparable to how the transmission provider would utilize its own system to serve its native load customers. NAESB states substantive changes provide increased flexibility in the use of scheduling rights, improve efficiencies to the query functionality, support the use of fractional megawatt values in generator attributes, and create new dynamic notifications.

83. Accordingly, we propose to incorporate by reference into the Commission's regulations at 18 CFR 38.1(b) NAESB's additions, revisions, and reservations to the OASIS suite of standards, which include the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and WEQ–013 OASIS Implementation Guide Business

[76] The NAESB EIR tool serves as the central repository for information utilized by the wholesale electric industry in commercial scheduling and transmission management operations. *See* NAESB WEQ Version 003.3 Report, Transmittal at 17–18.

[77] WEQ–004–D includes two tables that establish timing requirements regarding the submittal and commercial assessments of e-Tags for the Eastern Interconnection and Western Interconnection, respectively. These tables are complementary to timing tables regarding reliability assessments of e-Tags for the Eastern Interconnection and Western Interconnection included as part of NERC Reliability Standard INT–006–4.

[78] The WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[79] The WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards, the WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[80] The WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

[81] The WEQ–001 OASIS Business Practice Standards.

[82] The WEQ–001 OASIS Business Practice Standards, the WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ–003 OASIS Data Dictionary Business Practice Standards, and the WEQ–013 OASIS Implementation Guide Business Practice Standards.

Practice Standards, as set forth in NAESB's WEQ Version 003.3 Standards.

## IV. Implementation Schedule

84. As discussed briefly above, the Commission proposes to incorporate by reference into its regulations the proposed NAESB Business Practice Standards that address the revisions related to the surety assessment on cybersecurity performed by Sandia on a different timeline than for the remainder of the changes proposed by NAESB in WEQ Version 003.3. The Commission proposes that industry filers submit compliance filings on proposed cybersecurity nine months after the publication of a final rule in this proceeding, with implementation required no sooner than three months after compliance filings are submitted to the Commission, for a total implementation period of at least 12 months.

85. The Commission notes that for the WEQ Version 003.3 Standards that pertain to OASIS, NAESB includes in its Business Practice Standards WEQ 002–6, a 12-month implementation period. WEQ 002–6 provides a nine-month proposed timeline for transmission providers to implement all changes required to support the OASIS-related standards and an additional three months following this implementation period for transmission customers to complete any necessary actions. WEQ–002–6 also requires OASIS nodes to maintain full support for queries and uploads as formatted under the past version of the OASIS-related standards during the full 12-month proposed implementation timeline.

86. The Commission proposes to implement the WEQ Version 003.3 Standards, other than those related to cybersecurity,[83] under an 18-month implementation timeline. Nonetheless, the Commission acknowledges that based upon when the Commission issues a final rule, industry may be required to incorporate certain changes proposed under WEQ Version 003.3 Standards while also implementing changes required by Order No. 676–I.[84] There is the potential for industry to be required to incorporate the changes made in the WEQ 003.2 Standards as adopted by the Commission in Order No. 676–I either immediately prior to or simultaneously with the changes required in the WEQ Version 003.3 Business Practice Standards based upon when the Commission decides to issue a final rule herein.[85] Given this possibility, the Commission requests comments on how best to proceed with the implementation of the remaining WEQ 003.3 Business Practice Standards, including the standards related to PFV and OASIS, but not those related to cybersecurity, to be incorporated by reference. Specifically, rather than being implemented on the separate timeline for the cybersecurity, as described herein: Should the Commission require the industry to implement WEQ Version 003.2 prior to WEQ Version 003.3. Alternatively, should the Commission cancel the implementation obligation of WEQ Version 003.2 and instead require implementation of all accepted WEQ Version 003.3 standards, including WEQ Version 003.2 changes, within 18 months.[86] Please provide comment as to a preferred approach and timeline for implementation of these various WEQ Standards.

## V. Incorporation by Reference

87. The Office of the Federal Register requires agencies incorporating material by reference to discuss, in the preamble of the proposed rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials.[87] The regulations also require agencies to summarize in the preamble of the proposed rule the material it incorporates by reference. The standards we are proposing to incorporate by reference in this NOPR consist of 14 suites of business practice standards applicable to public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce or for the sale of electric energy at wholesale in interstate commerce and any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions. These can be summarized as follows.

88. The WEQ–000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards provide a single location for all abbreviations, acronyms, and defined terms referenced in the WEQ Business Practice Standards. These standards provide common nomenclature for terms within the wholesale electric industry, thereby reducing confusion and opportunities for misinterpretation or misunderstandings among industry participants.

89. The OASIS suite of business practice standards (WEQ–001 Open Access Same-Time Information Systems (OASIS), WEQ–002 OASIS Standards and Communication Protocols, WEQ–003 OASIS Data Dictionary, and WEQ–013 OASIS Implementation Guide) support the FERC posting and reporting requirements that provide information about each transmission provider's performance of the requirements of its *pro forma* OATT. The OASIS system is used for scheduling transmission on the bulk power system, comprises the computer systems and associated communications facilities that public utilities are required to provide for the purpose of making available to all transmission users comparable interactions, and provides transmission service information and any back-end supporting systems or user procedures that collectively perform the transaction processing functions for handling requests on OASIS. These standards establish business practices and communication protocols that provide for consistent implementation across OASIS sites as well as consistent methods for posting to OASIS.

90. The WEQ–001 OASIS Business Practice Standards define the general and specific transaction processing requirements and related business processes required for OASIS. The standards detail requirements related to standard terminology for transmission and ancillary services, attribute values defining transmission service class and type, ancillary and other services definitions, OASIS registration procedures, procurement of ancillary and other services, path naming, next hour market service, identical transmission service requests, redirects, resales, transfers, OASIS postings, procedures for addressing ATC or AFC methodology questions, rollover rights, conditional curtailment option reservations, auditing usage of Capacity Benefit Margin, coordination of requests for service across multiple transmission systems, consolidation, preemption and right-of-first refusal process, and NITS requests.

91. The WEQ–002 OASIS Standards and Communication Protocols Business Practice Standards define the technical standards for OASIS. These standards

[83] A complete list of the specific cybersecurity business practice standards is included at Appendix I.

[84] The Commission is not proposing an implementation timeline for the ATC-related standards at this time. The implementation of NAESB's ATC-related standards under WEQ–023 will be coordinated with the retirement of the NERC MOD A standards being addressed in Docket Nos. RM19–16–000 and RM19–17–000.

[85] On April 3, 2020, the Commission issued a notice granting an 18-month extension to implement the changes incorporated by reference in Order No. 676–I.

[86] This would include all WEQ Version 003.3 standards except for the cybersecurity standards which have an earlier implementation timeline, as discussed herein, as well as the implementation of the NAESB ATC-related standards contained in WEQ–023, which will be coordinated with the retirement of the NERC MOD A standards.

[87] 1 CFR 51.5. *See* Incorporation by Reference, 79 FR 66267 (Nov. 7, 2014).

detail network architecture requirements, information access requirements, OASIS and point-to-point interface requirements, implementation, and NITS interface requirements.

92. The WEQ–003 OASIS Data Dictionary Business Practice Standards define the data element specifications for OASIS.

93. The WEQ–004 Coordinate Interchange Business Practice Standards define the commercial processes necessary to facilitate interchange transactions via Request for Interchange (RFI) and specify the arrangements and data to be communicated by the entity responsible for authorizing the implementation of such transactions (the entities responsible for balancing load and generation).

94. The WEQ–005 Area Control Error (ACE) Equation Special Cases Business Practice Standards define commercial-based requirements regarding the obligations of a balancing authority to manage the difference between scheduled and actual electrical generation within its control area. Each balancing authority manages its ACE in accordance with the NERC Reliability Standards. These standards detail requirements for jointly owned utilities, supplemental regulation service, and load or generation transfer by telemetry.

95. The WEQ–006 Manual Time Error Correction Business Practice Standards define the commercial based procedures to be used for reducing time error to within acceptable limits of true time. These standards have subsequently been marked reserved by NAESB. In Order No. 676–I, the Commission incorporated by reference WEQ Version 003.1 of the Manual Time Error Correction Business Practice Standards, effectively rejecting NAESB's proposal to retire these standards.[88]

96. The WEQ–007 Inadvertent Interchange Payback Business Practice Standards define the methods in which inadvertent energy is paid back, mitigating the potential for financial gain through the misuse of paybacks for inadvertent interchange. Inadvertent interchange is interchange that occurs when a balancing authority cannot fully balance generation and load within its area. The standards allow for the repayment of any imbalances through bilateral in-kind payback, unilateral in-kind payback, or other methods as agreed to.

97. The WEQ–008 Transmission Loading Relief—Eastern Interconnection Business Practice Standards define the business practices for cutting transmission service during a TLR event. These standards detail requirements for the use of interconnection-wide TLR procedures, interchange transaction priorities for use with interconnection-wide TLR procedures, and the Eastern Interconnection procedure for physical curtailment of interchange transactions.

98. The WEQ–011 Gas/Electric Coordination Business Practice Standards define communication protocols intended to improve coordination between the gas and electric industries in daily operational communications between transportation service providers and gas-fired power plants. The standards include requirements for communicating anticipated power generation fuel for the upcoming day as well as any operating problems that might hinder gas-fired power plants from receiving contractual gas quantities.

99. The WEQ–012 Public Key Infrastructure (PKI) Business Practice Standards establish the cybersecurity framework for parties partaking in transactions via a transmission provider's OASIS or e-Tagging system. The NAESB PKI framework secure wholesale electric market electronic commercial communications via encryption of data and the electronic authentication of parties to a transaction using a digital certificate issued by a NAESB certified certificate authority. The standards define the requirements for parties utilizing the digital certificates issued by the NAESB certificate authorities.

100. The WEQ–013 OASIS Implementation Guide Business Practice Standards detail the implementation of the OASIS Business Practice Standards. The standards detail requirements related to point-to-point OASIS transaction processing, OASIS template implementation, preemption and right-of-first-refusal processing, NITS application and modification of service processing, and secondary network transmission service.

101. The WEQ–015 Measurement and Verification of Wholesale Electricity Demand Response Business Practice Standards define a common framework for transparency, consistency, and accountability applicable to the measurement and verification of wholesale electric market demand response practices. The standards describe performance evaluation methodology and criteria for the use of equipment, technology, and procedures to quantify the demand reduction value—the measurement of reduced electrical usage by a demand resource.

102. The WEQ–021 Measurement and Verification of Energy Efficiency Products Business Practice Standards define a common framework for transparency, consistency, and accountability applicable to the measurement and verification of wholesale electric market energy efficiency practices. The standards establish energy efficiency measurement and verification criteria and define requirements for energy efficiency resource providers for the measurement and verification of energy efficiency products and services offered in the wholesale electric markets.

103. The WEQ–022 EIR Business Practice Standards define the business requirements for entities utilizing the NAESB managed EIR, a wholesale electric industry tool that serves as the central repository for information needed in the scheduling of transmission through electronic transactions. The standards describe the roles within EIR, registration requirements, and cybersecurity.

104. The WEQ–023 Modeling Business Practice Standards provide technical details concerning the calculation of ATC for wholesale electric transmission services. The WEQ–023 standards are intended to address the aspects of certain of the NERC MOD A Reliability Standards relating to modeling, data and analysis that are included in the NERC's proposed retirement of its MOD A Reliability Standards.

105. In addition, NAESB has adopted an additional eight suites of standards that, consistent with our past decisions, we are not proposing to incorporate by reference.[89]

106. Our regulations provide that copies of the standards incorporated by reference may be purchased from the North American Energy Standards

[88] Order No. 676–I, 170 FERC ¶ 61,062 at P 46.

[89] The suites of NAESB business practice standards we are not proposing to incorporate by reference in this NOPR are: (1) The WEQ–009 Standards of Conduct for Electric Transmission Providers, which NAESB has now eliminated as they duplicate the Commission's regulations; (2) the WEQ–010 Contracts Related Business Practice Standards that establish model contracts for the wholesale electric industry, and which the Commission has not incorporated as they are not mandatory; (3) the WEQ–014 WEQ/WGQ eTariff Related Business Practice Standards, which provide an implementation guide describing the various mechanisms, data tables, code values/reference tables, and technical specifications used in the submission of electronic tariff filings to the Commission, which the Commission has not incorporated as these submittals are governed by the Commission's eTariff regulations; and (4) the WEQ–016, WEQ–017, WEQ–018, WEQ–019, and WEQ–020 Business Practice Standards that were developed as part of the Smart Grid implementation and which the Commission adopted as non-mandatory guidance in 18 CFR 2.27. *See Standards for Business Practices and Communication Protocols for Public Utilities,* Order 676–H, 148 FERC ¶ 61,205, at P 90 (2014).

Board, 801 Travis Street, Suite 1675, Houston, TX 77002, Phone: (713) 356–0060, website: *http://www.naesb.org/*. Copies of the standards may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE, Washington, DC 20426, Phone: (202) 502–8371, website: *http://www.ferc.gov*.[90]

107. NAESB is a private consensus standards developer that develops voluntary wholesale and retail standards related to the energy industry. The procedures used by NAESB make its standards reasonably available to those affected by the Commission regulations, which generally is comprised of entities that have the means to acquire the information they need to effectively participate in Commission proceedings.[91] NAESB provides a free electronic read-only version of the standards for a three business day period or, in the case of a regulatory comment period, through the end of the comment period.[92] Participants can join NAESB, for an annual membership cost of $7,500, which entitles them to full participation in NAESB and enables them to obtain these standards at no additional cost.[93] Non-members may obtain a complete set of Standards Manuals, Booklets, and Contracts from any of the quadrants (WEQ, WGQ, or Retail) on CD for $2,000 and the Individual Standards Manual or Booklets for each standard by email for $250 per manual or booklet.[94] In addition, NAESB considers requests for waivers of the charges on a case by case basis based on need.

## VI. Information Collection Statement

108. The following collection of information contained in this proposed rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d).[95] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[96] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

109. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

110. The following burden estimate is based on the projected costs for the industry to implement the new and revised business practice standards adopted by NAESB and proposed to be incorporated by reference in this NOPR.[97] The NERC Compliance Registry, as of April 28, 2020, identifies approximately 162 in the United States that are subject to this proposed rulemaking.

DOCKET NOS. RM05–5–029 AND RM05–05–030

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden (hrs.) & cost ($) per response (4) | Total annual burden hours & total annual cost ($) (3) * (4) = (5) |
|---|---|---|---|---|---|
| FERC–516E | 162 | 1 | 162 | 6 hrs.; $498 | 972 hrs.; $80,676 |
| FERC–717 | 162 | 1 | 162 | 30 hrs.; $2,490 | 4,860 hrs.; $403,380 |
| Total | | | 324 | $2,988 | 5,832 hrs.; $484,056 |

*Costs to Comply with Paperwork Requirements:*

*The estimated annual costs are as follows:*

*FERC–516E: 162 entities × 1 response/entity × (6 hours/response × $83.00/hour) = $80,676*

*FERC–717: 162 entities × 1 response/entity × (30 hours/response × $83.00/hour) = $403,380*

*Titles:* FERC–516E, Electric Rate Schedule and Tariff Filings and FERC–717, Standards for Business Practices and Communication Protocols for Public Utilities.

*Action:* Proposed amendment to regulations pertaining to the existing collections of information FERC–516E and FERC–717.

*OMB Control Nos:* 1902–0290 (FERC–516E) and 1902–0173 (FERC–717).

*Respondents:* Business or other for profit, and not for profit institutions.

*Frequency of Responses:* On occasion.

*Necessity of the Information:* This proposed rule, if implemented, will amend its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003.3) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). WEQ Version 003.3 includes standards developed in accordance with recommendations of the Department of Energy sponsored cybersecurity surety assessment of the NAESB Business Practice Standards that was conducted in 2019. Additional standards were developed in response to the directives from FERC Order No. 890, such as the standards developed to support Parallel Flow Visualization,

[90] 18 CFR 284.12 (2019).

[91] As a private, consensus standards developer, NAESB needs the funds obtained from its membership fees and sales of its standards to finance the organization. The parties affected by these Commission regulations generally are highly sophisticated and have the means to acquire the information they need to effectively participate in Commission proceedings.

[92] Procedures for non-members to evaluate work products before purchasing are available at *https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf. See* Incorporation by Reference, 79 FR at 66271, n.51 & 53 (citing to NAESB's procedure of providing no-cost, no-print electronic access), NAESB Comment at 1, *http://www.regulations.gov/#!documentDetail;D=OFR-2013-0001-0023*).

[93] North American Energy Standards Board, *NAESB Membership Application, https://www.naesb.org/pdf4/naesbapp.pdf.*

[94] North American Energy Standards Board, *NAESB Materials Order Form, https://www.naesb.org//pdf/ordrform.pdf.*

[95] 44 U.S.C. 3507(d).

[96] 5 CFR 1320.11.

[97] Commission staff estimates that industry is similarly situated in terms of hourly cost (wages plus benefits). Based on the Commission average cost (wages plus benefits) for 2020, $83.00/hour is used.

intended to improve congestion management procedures for the Eastern Interconnection. The WEQ Version 003.3 Standards also include, in their entirety, the WEQ–023 Modeling Business Practice Standards contained in the WEQ Version 003.1 Standards, which address the technical issues affecting ATC and AFC calculation for wholesale electric transmission services, with the addition of certain revisions and corrections. The revisions made by NAESB in the WEQ Version 003.3 Standards are designed to aid public utilities with the consistent and uniform implementation of requirements promulgated by the Commission as part of the *pro forma* Open Access Transmission Tariff.

*Internal Review:* The Commission has reviewed NAESB's proposal and has made a preliminary determination that the proposed revisions are both necessary and useful. In addition, the Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

111. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663].

112. Comments concerning the information collections proposed in this NOPR and the associated burden estimates should be sent to the Commission at this docket and be email to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov*. Please refer to the appropriate docket number of this notice of proposed rulemaking Docket Nos. RM05–5–029 and RM05–5–030 in your and OMB Control Nos. 1902–0290 (FERC–516E) and 1902–0173 (FERC–717) in your submission.

## VII. Environmental Analysis

113. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[98] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of electric power that requires no construction of facilities.[99] Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

## VIII. Regulatory Flexibility Act Certification

114. The Regulatory Flexibility Act of 1980 (RFA)[100] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA does not mandate any particular outcome in a rulemaking. It only requires consideration of alternatives that are less burdensome to small entities and an agency explanation of why alternatives were rejected.

115. The Small Business Administration (SBA) revised its size standards (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees, including affiliates. Under SBA's standards, some transmission owners will fall under the following category and associated size threshold: Electric bulk power transmission and control, at 500 employees.[101] The Commission estimates that 24 of the 162 respondents are small or 14.8% of the respondents affected by this NOPR.

116. The Commission estimates that the impact on these entities is consistent with the paperwork burden of $2,988 per entity used above.[102] The Commission does not consider $2,988 to be a significant economic impact. Based on the above, the Commission certifies that implementation of the proposed Business Practice Standards will not have a significant impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis is required.

## IX. Comment Procedures

117. The Commission invites interested persons to submit comments on the matters and issues proposed in this document to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 3, 2020. Comments must refer to Docket Nos. RM05–5–029 and RM05–5–030, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

118. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

119. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

120. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

## X. Document Availability

121. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

122. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

123. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email

[98] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[99] *See* 18 CFR 380.4(a)(2)(ii); 380.4(a)(5); 380.4(a)(27).

[100] 5 U.S.C. 601–612.

[101] 13 CFR 121.201, Sector 22 (Utilities), NAICS code 221121 (Electric Bulk Power Transmission and Control).

[102] 36 hours at $83.00/hour = $2,988.

the Public Reference Room at *public.referenceroom@ferc.gov*.

**List of Subjects**

*18 CFR Part 37*

Electric utilities, Reporting and recordkeeping requirements.

*18 CFR Part 38*

Business practice standards, Electric utilities, Incorporation by reference.

By direction of the Commission.

Issued: July 16, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission proposes to amend parts 37 and 38, chapter I, title 18, Code of Federal Regulations, as follows:

## PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS

■ 1. The authority citation for part 37 continues to read as follows:

**Authority:** 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 37.6, by revising paragraph (b)(2)(i) to read as follows:

### § 37.6 Information to be posted on the OASIS.

* * * * *

(b) * * *

(2) * * *

(i) Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider's transmission tariff and shall be based on Commission-approved Reliability Standards, business practice and electronic communication standards, and related implementation documents, as well as current industry practices, standards and criteria. Transmission Providers shall calculate ATC and TTC in coordination with and consistent with capability and usage on neighboring systems, calculate system capability using factors derived from operations and planning data for the time frame for which data are being posted (including anticipated outages), and update ATC and TTC calculations as inputs change. Such calculations shall be conducted in a manner that is transparent, consistent, and not unduly discriminatory or preferential.

* * * * *

## PART 38—STANDARDS FOR PUBLIC UTILITY BUSINESS OPERATIONS AND COMMUNICATIONS

■ 3. The authority citation for part 38 continues to read as follows:

**Authority:** 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 4. Revise § 38.1 to read as follows:

### § 38.1 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

(a) Any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce or for the sale of electric energy at wholesale in interstate commerce and any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions must comply with the business practice and electronic communication standards promulgated by the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) that are incorporated by reference in paragraph (b) of this section.

(b) The material cited in this paragraph (b) was approved by the Director of the Federal Register for incorporation by reference in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the material may be obtained from North American Energy Standards Board (NAESB), 801 Travis Street, Suite 1675, Houston, TX 77002, Tel: (713) 356–0060. NAESB's website is at *www.naesb.org*. The material may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE, Washington, DC 20426, Tel: (202) 502–8371, *www.ferc.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html*. The NAESB WEQ Business Practice Standards; Standards and Models approved for incorporation by reference are:

(1) WEQ–000, Abbreviations, Acronyms, and Definition of Terms ([WEQ] Version 003.1, September 30, 2015) (including only the definitions of Interconnection Time Monitor, Time Error, and Time Error Correction);

(2) WEQ–000, Abbreviations, Acronyms, and Definition of Terms ([WEQ] Version 003.3, Mar. 30, 2020);

(3) WEQ–001, Open Access Same-Time Information Systems (OASIS), [OASIS] Version 2.2 ([WEQ] Version 003.3, Mar. 30, 2020) (with minor corrections applied April 26, 2019 and March 20, 2020);

(4) WEQ–002, Open Access Same-Time Information Systems (OASIS) Business Practice Standards and Communication Protocols (S&CP), [OASIS] Version 2.2 ([WEQ] Version 003.3, Mar. 30, 2020);

(5) WEQ–003, Open Access Same-Time Information Systems (OASIS) Data Dictionary, [OASIS] Version 2.2 ([WEQ] Version 003.3, Mar. 30, 2020) (with minor corrections applied July 3, 2019);

(6) WEQ–004, Coordinate Interchange ([WEQ] Version 003.3, Mar. 30, 2020);

(7) WEQ–005, Area Control Error (ACE) Equation Special Cases ([WEQ] Version 003.3, Mar. 30, 2020);

(8) WEQ–006, Manual Time Error Correction ([WEQ] Version 003.1, Sept. 30, 2015);

(9) WEQ–007, Inadvertent Interchange Payback ([WEQ] Version 003.3, Mar. 30, 2020);

(10) WEQ–008, Transmission Loading Relief (TLR)—Eastern Interconnection ([WEQ] Version 003.3, Mar. 30, 2020);

(11) WEQ–011, Gas/Electric Coordination ([WEQ] Version 003.3, Mar. 30, 2020);

(12) WEQ–012, Public Key Infrastructure (PKI) ([WEQ] Version 003.3, Mar. 30, 2020);

(13) WEQ–013, Open Access Same-Time Information Systems (OASIS) Implementation Guide, [OASIS] Version 2.2 ([WEQ] Version 003.3, Mar. 30, 2020);

(14) WEQ–015, Measurement and Verification of Wholesale Electricity Demand Response ([WEQ] Version 003.3, Mar. 30, 2020);

(15) WEQ–021, Measurement and Verification of Energy Efficiency Products ([WEQ] Version 003.3, Mar. 30, 2020);

(16) WEQ–022, Electric Industry Registry ([WEQ] Version 003.3, Mar. 30, 2020); and

(17) WEQ–023, Modeling. ([WEQ] Version 003.3, Mar. 30, 2020).

**NOTE:** The Following Appendix Will Not Be Published in the Code of Federal Regulations.

**Appendix I**

STANDARDS AFFECTED BY THE PROPOSED REVISIONS TO IMPLEMENT RECOMMENDATIONS FOLLOWING SANDIA'S SURETY ASSESSMENT ON CYBERSECURITY

| Standard | Revisions |
|---|---|
| **WEQ–000–1** | |
| Deleted seven abbreviations/acronyms | DNS—Domain Name Service<br>IPCP—Internet Protocol Control Protocol<br>NTP—Network Time Protocol<br>PPP—Point to Point Protocol<br>SLIP—Serial Line Internet Protocol<br>SNMP—Simple Network Management Protocol<br>SSL—Secure Sockets Layer |
| Added one abbreviation/acronym | OWASP—Open Web Application Security Project |
| **WEQ–001** | |
| Revised one standard | WEQ–001–13.1.3.3 |
| **WEQ–002** | |
| Revised 14 standards | WEQ–002–2.3<br>WEQ–002–2.4<br>WEQ–002–4.2.1.1<br>WEQ–002–4.2.1.2<br>WEQ–002–4.2.1.3<br>WEQ–002–4.2.2<br>WEQ–002–5<br>WEQ–002–5.1.1<br>WEQ–002–5.1.2<br>WEQ–002–5.1.3<br>WEQ–002–5.6<br>WEQ–002–101.2.3.1<br>WEQ–002–101.3.3.2<br>WEQ–002–101.3.3.3 |

[FR Doc. 2020–15866 Filed 9–3–20; 8:45 am]
BILLING CODE 6717–01–P

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### 29 CFR Parts 2509 and 2550

**RIN 1210–AB91**

### Fiduciary Duties Regarding Proxy Voting and Shareholder Rights

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Labor (Department) is proposing to amend the ''Investment duties'' regulation issued in 1979 to address the application of the prudence and exclusive purpose duties under the Employee Retirement Income Security Act of 1974 (ERISA) to the exercise of shareholder rights, including proxy voting, the use of written proxy voting policies and guidelines, and the selection and monitoring of proxy advisory firms. This document also states that Interpretive Bulletin 2016–01 no longer represents the view of the Department regarding the proper interpretation of ERISA with respect to the exercise of shareholder rights by fiduciaries of ERISA-covered plans, and notes that it will be removed from the Code of Federal Regulations when a final rule is adopted.

**DATES:** Comments on the proposal must be submitted on or before October 5, 2020.

**ADDRESSES:** You may submit written comments, identified by RIN 1210–AB91, to either of the following addresses:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: Proxy Voting and Shareholder Rights NPRM.

*Instructions:* All submissions received must include the agency name and Regulatory Identifier Number (RIN) for this rulemaking. Persons submitting comments electronically are encouraged not to submit paper copies. Comments will be available to the public, without charge, online at *www.regulations.gov* and *www.dol.gov/agencies/ebsa* and at the Public Disclosure Room, Employee Benefits Security Administration, Suite N–1513, 200 Constitution Avenue NW, Washington, DC 20210.

*Warning:* Do not include any personally identifiable or confidential business information that you do not want publicly disclosed. Comments are public records posted on the internet as received and can be retrieved by most internet search engines.

**FOR FURTHER INFORMATION CONTACT:** Jason A. DeWitt, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

*Customer Service Information:* Individuals interested in obtaining information from the Department of Labor concerning ERISA and employee benefit plans may call the Employee Benefits Security Administration (EBSA) Toll-Free Hotline, at 1–866–444–EBSA (3272) or visit the Department of Labor's website (*www.dol.gov/ebsa*).

**SUPPLEMENTARY INFORMATION:**

## A. Background

Title I of the Employee Retirement Income Security Act of 1974 (ERISA) establishes minimum standards for the operation of private-sector employee benefit plans and includes fiduciary

responsibility rules governing the conduct of plan fiduciaries. In connection with proxy voting, the Department's longstanding position is that the fiduciary act of managing plan assets includes the management of voting rights (as well as other shareholder rights) appurtenant to shares of stock, and that fiduciaries must carry out their duties relating to the exercise of such rights prudently and solely for the economic benefit of plan participants and beneficiaries.[1]

The Department has decided to propose a regulation regarding the application of ERISA's fiduciary duties to the exercise of shareholder rights by ERISA-covered plans due to significant changes in the way ERISA plans invest and in the investment world more broadly since the Department first spoke formally on these topics, a persistent misunderstanding among some stakeholders that ERISA fiduciaries are required to vote all proxies, and in light of recent actions by the Securities and Exchange Commission (SEC) related to the proxy voting process.

The Department first addressed this topic during a time of widespread shareholder activism and corporate takeovers that had placed an intense focus on shareholder voting by ERISA plans. For instance, a 1985 Senate hearing highlighted the ''pivotal role'' pension funds were being forced to play in takeover attempts,[2] which according to a January 1985 Department report had reached ''epidemic proportions.'' [3] A significant factor viewed as contributing to the rise of takeovers was the ''widespread conviction'' that fund managers and other fiduciaries were obligated under ERISA to tender their shares to the highest cash bidder.[4] On the other hand, investment managers were seen as reluctant to vote shares against anti-takeover proposals of a current or prospective client,[5] potentially creating a conflict of interest with their fiduciary obligations to plan participants and beneficiaries.[6] One proposed solution was to require the voting of shares to be directed by plan sponsors themselves rather than investment managers.[7]

The Department released one of its first official statements on proxy voting in 1988, in the form of an opinion letter to Avon Products, Inc. (the ''Avon Letter''). ''In general,'' the Department stated, ''the fiduciary act of managing plan assets which are shares of corporate stock would include the voting of proxies appurtenant to those shares of stock.'' [8] While ERISA allows named fiduciaries to designate investment managers to manage plan assets,[9] ERISA also requires named fiduciaries ''to periodically monitor the activities of the investment manager with respect to the management of plan assets,'' [10] a duty that encompasses the monitoring of decisions made and actions taken by investment managers with regard to proxy voting.[11] The Avon Letter and subsequent sub-regulatory guidance from the Department (outlined below) has resulted in a misplaced belief among some stakeholders that fiduciaries must always vote proxies, subject to limited exceptions, in order to fulfill their obligations under ERISA.[12]

In 1994, the Department issued its first interpretive bulletin on proxy voting, Interpretive Bulletin 94–2 (IB 94–2).[13] IB 94–2 recognized that fiduciaries may engage in shareholder activities intended to monitor or influence corporate management in situations where the responsible fiduciary concludes that, after taking into account the costs involved, there is a reasonable expectation that such shareholder activities (by the plan alone or together with other shareholders) will enhance the value of the plan's investment in the corporation. The Department expected that increased shareholder engagement by pension funds—encouraged by the new interpretive bulletin—would improve corporate performance and help ensure companies treated their employees well.[14] However, the Department also reiterated its view that ERISA does not permit fiduciaries, in voting proxies or exercising other shareholder rights, to subordinate the economic interests of

[1] Throughout this preamble, the Department's discussion of plan fiduciaries includes named fiduciaries under the plan, along with any persons that named fiduciaries have designated to carry out fiduciary responsibilities as permitted under ERISA section 405(c)(1).

[2] Testimony of Robert Monks, Department of Labor's Enforcement of the Employee Retirement Income Security Act, Hearings before the S. Subcomm. on Oversight of Gov. Mgmt., S. Hrg. 99–310 (June 25–26, 1985), at 5 (1985 ERISA Hearings).

[3] Office of Pension and Welfare Benefit Programs, Summary of Conclusions from Public Hearings (Jan. 1985) (1985 DOL Report), included in 1985 ERISA Hearings, at 454, 498 (''Projections are that ERISA plans will hold more than half of all the equity securities in the United States before the turn of the century. Perhaps not entirely by coincidence, take-over fever reached epidemic proportions in 1984.'').

[4] Testimony of Ian Lanoff, 1985 ERISA Hearings, at 26 (former administrator of Department's benefits office testifying that ''some representatives of corporate America have blamed the pension plans for always taking the short-term view in takeover situations, and always tendering. And they somehow construe this as being required by ERISA or their fiduciary responsibilities.''); 1985 DOL Report, included in 1985 ERISA Hearings, at 498; Joint Department of Labor/Department of Treasury Statement of Pension Investments (Jan. 31, 1989), reprinted in 16 Pens. & Ben. Rep. (BNA) 215 (Feb. 6, 1989).

[5] 1985 DOL Report, included in 1985 ERISA Hearings, at 495 (citing written statement by Professor Roger F. Murray).

[6] Testimony of Robert Monks, 1985 ERISA Hearings, at 10.

[7] 1985 DOL Report, included in 1985 ERISA Hearings, at 10, 494–95 (citing written statement by Professor Roger F. Murray).

[8] Letter to Helmuth Fandl, Chairman of the Retirement Board, Avon Products, Inc. 1988 WL 897696 (Feb. 23, 1988).

[9] ERISA sections 405(c)(1), 402(c)(3).

[10] Avon Letter.

[11] The Department also issued a second opinion letter on proxy voting in 1990, in which it reiterated—as it has consistently done in the years since—that fiduciaries must discharge their duties relating to proxy voting solely in the interest of participants and beneficiaries and for the exclusive purpose of providing plan benefits. See Letter to Robert Monks, 1990 WL 1085069 (Jan. 23, 1990).

[12] See, *e.g.,* Barbara Novick, *Revised and Extended Remarks at Harvard Roundtable on Corporate Governance Keynote Address ''The Goldilocks Dilemma''* (Nov. 6, 2019), *www.blackrock.com/corporate/literature/publication/barbara-novick-remarks-harvard-roundtable-corporate-governance-the-goldilocks-dilemma-110619.pdf,* at 15 (Avon Letter indicated ''that asset managers should generally vote shares as part of their fiduciary duty''); Daniel M. Gallagher, *Outsized Power & Influence: The Role of Proxy Advisers,* Washington Legal Foundation (Aug. 2014), *https://s3.us-east-2.amazonaws.com/washlegal-uploads/upload/legalstudies/workingpaper/GallagherWP8-14.pdf,* at 3; Business Roundtable Comment Letter on SEC Proposed Amendments to Rule 14a–8 (Feb. 3, 2020), *www.sec.gov/comments/s7-22-19/s72219-6742505-207780.pdf,* at 2–3 (''many institutional investors historically interpreted SEC and Department of Labor rules and guidance as requiring institutional investors to vote every share on every matter on a proxy'') (citing Gallagher); Manifest Information Services Ltd, *Response to ESMA Discussion Paper 'An Overview of the Proxy Advisory Industry: Considerations on Possible Policy Options'* (June 2012), *www.esma.europa.eu/file/10536/download?token=ou-vCUE0,* at 37 (comment letter from European proxy voting agency describing DOL proxy guidance as concerning ''duties of . . . fiduciaries . . . to vote the shares in companies held by their pension plans''); Charles M. Nathan, *Future of Institutional Share Voting Revisited: A Fourth Paradigm* (Sep. 27, 2011), *https://corpgov.law.harvard.edu/2011/09/27/future-of-institutional-share-voting-revisited-a-fourth-paradigm* (''the current system for voting portfolio securities by application of uniform voting policies . . . is perceived as successfully addressing the commonly understood fiduciary duty of institutional investors to vote all of their portfolio securities on all matters''); see also U.S. Department of Labor, Transcript of Press Conference on Corporate Activist Role in Pension Planning (July 28, 1994), at 15–16 (then-Secretary Robert Reich stating that IB 94–2 ''makes very clear that . . . pension fund managers, trustees, [and] fiduciaries have an obligation to vote proxies'' unless the costs ''substantially outweigh'' the benefits) (1994 DOL Press Conference).

[13] 59 FR 38860 (July 29, 1994).

[14] See 1994 DOL Press Conference, at 2–4, 10, 15–16; see also Leslie Wayne, *U.S. Prodding Companies to Activism on Portfolios,* N.Y. Times (July 29, 1994), *www.nytimes.com/1994/07/29/business/us-prodding-companies-to-activism-on-portfolios.html* (quoting official stating that the Department is ''trying to encourage corporations to be activist owners,'' and that ''such activism is consistent with your fiduciary duty and we expect it will improve your corporate performance'').

participants and beneficiaries to unrelated objectives.

In October 2008, the Department replaced IB 94–2 with Interpretive Bulletin 2008–02 (IB 2008–02).[15] The Department's intent was to update the guidance in IB 94–2 and to reflect interpretive positions issued by the Department after 1994 on shareholder engagement and socially-directed proxy voting initiatives. IB 2008–02 stated that fiduciaries' responsibility for managing proxies includes both deciding to vote or not to vote.[16] IB 2008–02 further stated that the fiduciary duties described at ERISA sections 404(a)(1)(A) and (B) require that in voting proxies the responsible fiduciary shall consider only those factors that relate to the economic value of the plan's investment and shall not subordinate the interests of the participants and beneficiaries in their retirement income to unrelated objectives. In addition, IB 2008–02 stated that votes shall only be cast in accordance with a plan's economic interests. IB 2008–02 explained that if the responsible fiduciary reasonably determines that the cost of voting (including the cost of research, if necessary, to determine how to vote) is likely to exceed the expected economic benefits of voting, the fiduciary has an obligation to refrain from voting.[17] The Department also reiterated in IB 2008–02 that any use of plan assets by a plan fiduciary to further political or social causes ''that have no connection to enhancing the economic value of the plan's investment'' through proxy voting or shareholder activism is a violation of ERISA's exclusive purpose and prudence requirements.[18]

In 2016, the Department issued Interpretive Bulletin 2016–01 (IB 2016–01), which reinstated the language of IB 94–2 with certain modifications.[19] IB 2016–01 reiterated and confirmed that, ''in voting proxies, the responsible fiduciary [must] consider those factors that may affect the value of the plan's investment and not subordinate the interests of the participants and beneficiaries in their retirement income to unrelated objectives.'' [20]

The Department has tried to convey in its sub-regulatory guidance that fiduciaries need not vote all proxies. A fiduciary's duty is only to vote those proxies that are prudently determined to have an economic impact on the plan after the costs of research and voting are taken into account. Nevertheless, a misunderstanding that fiduciaries must research and vote all proxies continues to persist, causing some plans to expend their assets unnecessarily on matters not economically relevant to the plan. As discussed below, this problem has been exacerbated by the fact that since 1988 the amount and types of shareholder proposals have increased substantially.[21] Therefore, the Department has decided to propose rule amendments that expressly state that fiduciaries must not vote in circumstances where plan assets would be expended on shareholder engagement activities that do not have an economic impact on the plan, whether by themselves or after the costs of engagement are taken into account. The designation of any final rule resulting from this notice of proposed rulemaking as regulatory or deregulatory will be informed by public comments received on the proposal. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

**B. Purpose of Regulatory Action**

For the reasons outlined above and the reasons that follow, the Department believes that it should address issues regarding the application of fiduciary obligations under sections 403(c) and 404(a) of ERISA with respect to exercises of shareholder rights, including proxy voting, through a proposed regulation that amends the ''Investment duties'' regulation at 29 CFR 2550.404a–1 and provides a public notice and comment process. In that regard, IB 2016–01 no longer represents the view of the Department regarding the proper interpretation of ERISA with respect to the exercise of shareholder rights by fiduciaries of ERISA-covered plans. Accordingly, the Department intends to remove it from the Code of Federal Regulations when a final rule is adopted.

*i. General Principles*

ERISA mandates that fiduciaries discharge their duties ''solely in the interest'' and ''for the exclusive purpose'' of providing benefits to participants and their beneficiaries.[22] The Supreme Court has described this duty as requiring that fiduciaries act with an ''eye single'' to the interests of participants and beneficiaries,[23] and appellate courts have described ERISA's fiduciary duties as ''the highest known to the law.'' [24] The Department similarly has rejected a construction of ERISA that would render the statute's tight limits on the use of plan assets illusory and that would permit plan fiduciaries to expend trust assets to promote myriad public policy preferences, including through shareholder engagement activities, voting proxies, or other investment policies.[25]

*ii. Changes in the Investment Landscape*

The financial marketplace and the world of shareholder engagement have changed considerably since the Department released the Avon Letter over thirty years ago. Several trends underlie the Department's current action to clarify its previous guidance regarding an ERISA fiduciary's obligations:

• *Increase in the percentage of corporate America's stock held by, and plan assets managed by, institutional investors, diminishing the scope of proxy voting obligations attributable to ERISA fiduciaries:* In 2007 institutional investors owned 76.4 percent of the 1,000 largest American companies, a 63 percent increase over their 47 percent ownership of America's largest companies in 1987.[26] This growth in institutional ownership has continued. By 2017, institutional investors owned 80.3 percent of the 500 largest American companies.[27] Additionally, institutional investor ownership in U.S. corporate equities grew from $1.1 trillion in 1985 to $25.4 trillion in 2019.[28] Contrary to the Department's projections in 1985,[29] the share of individual stock holdings in private pension funds decreased from

[15] 73 FR 61731 (Oct. 17, 2008).

[16] Id. at 61732.

[17] Id.

[18] Id. at 61734.

[19] 81 FR 95879 (Dec. 29, 2016).

[20] Id. at 95882. In addition, the Department issued a Field Assistance Bulletin to provide guidance on IB 2016–01 on Apr. 23, 2018. See FAB 2018–01, *www.dol.gov/sites/dolgov/files/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-01.pdf.*

[21] See infra at notes 79 to 85.

[22] ERISA section 404(a)(1). See also ERISA section 403(c)(1) (''[T]he assets of a plan shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries'').

[23] *Pegram* v. *Herdrich,* 530 U.S. 211, 235 (2000) (quoting *Donovan* v. *Bierwirth,* 680 F.2d 263, 271 (2d Cir. 1982)).

[24] See, *e.g., Tibble* v. *Edison Int'l,* 843 F.3d 1187, 1197 (9th Cir. 2016).

[25] See IB 2016–01, 81 FR at 95881.

[26] The Conference Board, *Institutional Investment Report: Trends in Institutional Investor Assets and Equity Ownership of U.S. Corporations* (Sept. 2008); see also Barry Burr, *Institutional Investors Increase Ownership of U.S. Companies to All-Time High,* Pensions & Investments, (Sept. 5, 2008).

[27] Charles McGrath, *80% of Equity Market Cap Held by Institutions.* Pensions & Investments, (April 25, 2017).

[28] Department calculations based on U.S. Federal Reserve statistics. Institutional investors include retirement and pension funds, insurance companies, mutual funds, closed-end funds, exchange-traded funds, brokers and dealers, and nonfinancial corporate businesses.

[29] See *supra* note 3 (quoting 1985 DOL Report estimating that ERISA plans will hold more than half of all equity securities before the turn of the century).

almost 22 percent in 1985 to about 5 percent in 2019.[30] ERISA plan assets were about 27 percent invested in corporate debt and equity instruments in 1993,[31] but by 2017 this figure had declined to approximately 11 percent.[32] This decrease in the share of ERISA plan assets invested in individual securities was accompanied by a corresponding increase in securities held through institutions such as mutual funds, reducing the volume of proxy voting rights that ERISA fiduciaries hold in individual securities of corporate issuers.

• *Broader diversification of ERISA plan assets:* Since the 1980s, the scope and type of plan investments has changed, which has significantly reduced the volume of securities directly held by plans. The development and growth of financial vehicles such as exchange-traded funds, sector-based equity products, hedge funds, as well as an increased focus on passive investing, have altered the investment landscape in which ERISA fiduciaries now operate. ERISA plans have taken advantage of these new investment vehicles. For example, alternative investments like hedge funds, private equity, and venture capital firms have grown dramatically since 1990.[33] The share of large private pension plan assets held in alternative investments, such as hedge funds and private equity, nearly quadrupled between 2008 and 2017.[34]

• *Change in proxy voting behavior:* In concert with a marked increase in the size of the investment marketplace controlled by institutional investors, there also has been a substantial change in investor voting behavior and proxy voting policies. ISS Analytics, a data analytics service of Institutional Shareholder Services—the largest proxy advisory firm, which controls approximately 60 percent of the market—has documented several changes in proxy voting trends, observing that ''investor voting behavior among owners of U.S. companies has changed significantly—perhaps almost revolutionarily—over the past two decades.'' [35] According to ISS Analytics, ''for the overwhelming majority of share capital represented in the U.S., voting is certainly no longer a compliance exercise.'' [36] Instead, ''proxy voting policies are becoming more complex, as investors continue to add to the list of factors they consider in their review and analysis of governance practices, including board independence, board accountability, diversity, myriads of executive compensation factors, shareholder rights, and environmental and social factors.'' [37]

• *Mixed evidence on effectiveness of shareholder voting:* As discussed above, one factor prompting the rise in shareholder activities by ERISA fiduciaries was the belief that participating in such activities was likely to enhance the value of a plan's investment in a particular security.[38] Since that time, however, research regarding whether proxy voting has reliable positive effects on shareholder value and a plan's investment in the corporation has yielded mixed results.[39]

*iii. The Avon Letter and Proxy Voting*

As the Department first stated in the Avon Letter, the fiduciary duty to manage plan assets that are shares of corporate stock encompasses responsibility over the voting of proxies appurtenant to those shares of stock. This responsibility is subject to ERISA's core fiduciary duties of loyalty and care. A fiduciary's exercise of voting rights (or other shareholder rights) must be performed solely for the plan's economic interests, which under no circumstances may be subordinated to non-pecuniary goals. Accordingly, the use of plan assets for purposes other than enhancing the value of the plan's investments—through proxy voting or otherwise—violates the fiduciary duties of loyalty and care under ERISA. The economic interests of participants and beneficiaries must be the basis of fiduciary decision-making.

The Avon Letter has been read by some outside of its factual context as creating a general presumption that ERISA fiduciaries responsible for managing plan assets that are shares of corporate stock should always vote the proxies appurtenant to those shares.[40] For fiduciaries with such an understanding, the letter presented them with an ambiguous duty that in practice was often very difficult to discharge without the assistance of third-party proxy advisory firms. The Department is now concerned that some fiduciaries and proxy advisory firms—in part relying on the Avon Letter—may be acting in ways that unwittingly allow plan assets to be used to support or pursue proxy proposals for environmental, social, or public policy agendas that have no connection to increasing the value of investments used for the payment of benefits or plan administrative expenses, and in fact may have unnecessarily increased plan expenses.[41] In addition, informed by the changed circumstances over the past 30 years and the potential for continued fiduciary breaches that can result from a belief that such presumption applies as a legal matter, the Department

[30] Department calculations based on U.S. Federal Reserve statistics.

[31] DOL calculation based on statistics from U.S. Department of Labor, Employee Benefits Security Administration, *Private Pension Plan Bulletin: Abstract of 1993 Form 5500 Annual Reports,* (Winter 1996), Table A3, *www.dol.gov/agencies/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan-bulletins-abstract-1993.*

[32] DOL calculation based on statistics from U.S. Department of Labor, Employee Benefits Security Administration, *Private Pension Plan Bulletin: Abstract of 2017 Form 5500 Annual Reports,* (Sept. 2019), Table C4, *www.dol.gov/sites/dolgov/files/EBSA/researchers/statistics/retirement-bulletins/private-pension-plan-bulletins-abstract-2017.pdf.*

[33] World Economic Forum, *Alternative Investments 2020: An Introduction to Alternative Investments,* at 8 (July 2015), *www3.weforum.org/docs/WEF_Alternative_Investments_2020_An_Introduction_to_AI.pdf.*

[34] Victoria Ivashina & Josh Lerner, *Looking for Alternatives: Pension Investments around the World, 2008 to 2017* at Table 5 (Aug. 24, 2018). *www.bostonfed.org/-/media/Images/research-conference-2018/papers/looking-for-alternatives-pension-investments-around-the-world-2008-to-2017.pdf.* These statistics are based on a balanced panel of 210 equally weighted large private pension plans.

[35] Kosmas Papadopoulos, *The Long View: US Proxy Voting Trends on E&S Issues from 2000 to 2018,* Harvard Law School Forum on Corp. Gov. & Fin. Reg. (Jan. 31, 2019), *https://corpgov.law.harvard.edu/2019/01/31/the-long-view-us-proxy-voting-trends-on-es-issues-from-2000-to-2018* (2019 ISS Proxy Voting Trends).

[36] Id.

[37] Id.

[38] See discussion, *supra.*

[39] Regarding the mixed evidence on whether shareholder engagement improves firm value, see, *e.g.,* Matthew R. Denes, Jonathan M. Karpoff & Victoria B. McWilliams, *Thirty Years of Shareholder Activism: A Survey of Empirical Research,* 44 J. Corp. Fin. 405, 407 (2017); Tracie Woidtke, *Public Pension Fund Activism and Firm Value: An Empirical Analysis,* Manhattan Institute (2015), *https://media4.manhattan-institute.org/pdf/lpr_20.pdf;* Maria Goranova & Lori Verstegen Ryan, *Shareholder Activism: A Multidisciplinary Review,* 40 Journal of Management 1230, 1251–1253 (July 2014) (collecting research regarding the ''equivocal results'' of shareholder activism on corporate performance); James R. Copland, David F. Larcker & Brian Tayan, *The Big Thumb on the Scale: An Overview of the Proxy Advisory Industry* (May 2018), *www.gsb.stanford.edu/sites/gsb/files/publication-pdf/cgri-closer-look-72-big-thumb-proxy-advisory.pdf;* see also Dorothy S. Lund, *The Case Against Passive Shareholder Voting,* 43 J. Corp. Law 493, 526 (2018) (''In light of the fact that any investment in voting will likely generate higher costs than benefits for the fund, it is surprising that passive funds vote at all.''); David Yermack, *Shareholder Voting and Corporate Governance,* 2 Ann. Rev. Fin. Econ. 2.1, 2.15 (2010) (''Activist institutions frequently state that their goal is not to improve the value of individual investment positions, but rather to create positive externalities by signaling optimal governance practices market wide'').

[40] See *supra* note 12.

[41] See, *e.g.,* U.S. Dep't of Labor Office of Inspector General Report No. 09–11–001–12–121, *Proxy-Voting May Not be Solely for the Economic Benefit of Retirement Plans* (Mar. 31, 2011), *www.oig.dol.gov/public/reports/oa/2011/09-11-001-12-121b.pdf,* at 4 (''EBSA does not have adequate assurances that fiduciaries or third parties voted proxies solely for the economic benefit of plans.'').

believes that it is important to expressly reject the notion of such a presumption.

In proposing this regulation, the Department wishes to be clear: There is no fiduciary mandate under ERISA always to vote proxies appurtenant to shares of stock. The Department's longstanding position—that ''the decision as to how proxies should be voted with regard to the issues that might affect the economic value of the underlying securities is a fiduciary act of plan asset management'' [42]—does not mean that ERISA requires fiduciaries to always vote such proxies.[43] Instead, ERISA mandates that fiduciaries manage voting rights prudently and for the ''exclusive purpose'' of securing economic benefits for plan participants and beneficiaries—which may or may not require a proxy vote to be cast.[44] In the Department's view there is no presumption that abstaining from voting proxies appurtenant to shares of stock is a per se fiduciary breach. Rather, fiduciaries must vote proxies in a manner that is in the best interest of the plan. The proposed regulation is designed to reflect these principles while permitting fiduciaries to execute such duties in a cost-efficient manner.

*iv. Recent SEC Actions Regarding Proxy Voting*

As part of its ongoing proxy reform initiative, the SEC has issued guidance and adopted rule amendments that, to the extent applicable to ERISA fiduciaries, address some of the Department's concerns about ERISA fiduciaries properly discharging their duties with respect to proxy voting activities and appropriately selecting and overseeing proxy advisory firms. Although persons subject to SEC's jurisdiction would also be ERISA investment advice fiduciaries to the extent they meet the five-part test in the Department's regulation at 29 CFR 2510.3–21, the SEC's actions would not apply to ERISA fiduciaries that are outside of the SEC's jurisdiction. The Department believes that it would be appropriate to consider updating its regulations to ensure more consistent conduct by all plan fiduciaries.

On August 21, 2019, the SEC issued guidance regarding proxy voting responsibilities of investment advisers.[45] The guidance described a number of steps investment advisers could take where the investment adviser has assumed the authority to vote proxies on behalf of a client to demonstrate that it is making voting determinations in a client's best interest and in accordance with the investment adviser's proxy voting policies and procedures. Among other things, the investment adviser must conduct a reasonable investigation into matters on which the adviser votes and vote in the best interest of each client for whom the adviser performs proxy voting services, and should consider reasonable measures to determine that it is casting proxy votes on behalf of its clients consistently with the adviser's voting policies and procedures and in its client's best interest.[46]

The SEC guidance also provides that before casting votes, investment advisers that retain proxy advisory firms to provide voting recommendations or voting services should consider additional steps to evaluate whether the voting determinations are consistent with the investment adviser's voting policies and procedures and in the client's best interest. The SEC guidance also provides that investment advisers should consider whether the proxy advisory firm has the capacity and competency to adequately analyze the matters for which the investment adviser is responsible for voting. The SEC guidance also explains that an investment adviser's decision regarding whether to retain a proxy advisory firm should also include a reasonable review of the proxy advisory firm's policies and procedures regarding how it identifies and addresses conflicts of interest.[47] Further, as part of the investment adviser's ongoing compliance program, the investment adviser must annually review and document the adequacy of its voting policies and procedures.[48]

On July 22, 2020, the SEC adopted rule amendments that, among other things, require proxy advisory firms that are engaged in a solicitation to provide specified disclosures, adopt written policies and procedures designed to ensure that proxy voting advice is made available to securities issuers, and provide proxy advisory firm clients with a mechanism by which the clients can reasonably be expected to become aware of a securities issuer's views about the proxy voting advice so that the clients can take such views into account as they vote proxies.[49] At the same time, the SEC issued supplemental guidance to assist investment advisers in assessing how to consider the additional information that may become more readily available to them as a result of these amendments, including in circumstances where the investment adviser uses a proxy advisory firm's electronic vote management system that ''pre-populates'' the adviser's proxies with suggested voting recommendations and/or voting execution services.[50] The Department believes that activities of proxy advisory firms have similar relevance for fiduciaries under ERISA.

**C. Provisions of the Rule**

This proposed rule would amend the current ''Investment duties'' regulation 29 CFR 2550.404a–1 and address the prudence and exclusive purpose duties under sections 404(a)(1)(A) and 404(a)(1)(B) of ERISA in the context of proxy voting and other exercises of shareholder rights by the responsible ERISA plan fiduciaries.[51]

Paragraph (e)(1) of the proposed rule provides that the fiduciary duty to manage plan assets that are shares of stock includes the management of shareholder rights appurtenant to those plan assets, such as the right to vote proxies.

Paragraph (e)(2)(i) provides that when deciding whether to exercise

[42] Pension and Welfare Benefits Administration, Proxy Project Report (Mar. 2, 1989), at 2; see also Testimony of David Walker, Ass't Sec'y for Pension and Welfare Benefits, Tax Policy Aspects of Mergers and Acquisitions, before the H. Ways and Means Comm., Serial 101–10 (Feb. 2, 1989), at 525 (''[P]ension plan fiduciaries [have an obligation] to vote shares that could have an effect on the economic value of the stock in accordance with what is in interest of plan participants and beneficiaries, recognizing the plan as a separate legal entity designed for the purpose of providing retirement income.'').

[43] See also Comment Letter to SEC from Institutional Shareholder Services, Inc. (Nov. 7, 2018), *www.sec.gov/comments/4-725/4725-4629940-176410.pdf,* at 7 (''[I]nvestment advisers have no absolute duty to vote every proxy relating to their clients' portfolios'').

[44] The Supreme Court as recently as 2014 unanimously held in the context of ERISA retirement plans that benefits must be understood to refer to ''*financial*'' rather than ''nonpecuniary'' benefits. See *Fifth Third Bancorp* v. *Dudenhoeffer,* 573 U.S. 409, 421 (2014) (the ''benefits'' to be pursued by ERISA fiduciaries as their ''exclusive purpose'' do not include ''nonpecuniary benefits'') (emphasis in original).

[45] See Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers, 84 FR 47420 (Sept. 10, 2019) (2019 SEC Guidance).

[46] 2019 SEC Guidance, 84 FR at 47423–47424.

[47] Id. at 47424–47425.

[48] Id.

[49] SEC Release No. 34–89372 (July 22, 2020), *Exemptions from the Proxy Rules for Proxy Voting Advice* (2020 SEC Proxy Voting Advice Amendments).

[50] SEC Release No. IA–5547 (July 22, 2020), *Supplement to Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers* (2020 SEC Supplemental Guidance).

[51] As explained in paragraph (e)(2)(ii)(B) and paragraph (e)(4)(i) of the proposal, the responsibility for exercising shareholder rights lies exclusively with the plan trustee except to the extent that either (1) the trustee is subject to the directions of a named fiduciary pursuant to ERISA section 403(a)(1), or (2) or the power to manage, acquire, or dispose of the relevant assets has been delegated by a named fiduciary to one or more investment managers pursuant to ERISA section 403(a)(2).

shareholder rights and when exercising such rights, including the voting of proxies, fiduciaries must carry out their duties prudently and solely in the interests of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying the reasonable expenses of administering the plan pursuant to ERISA sections 403 and 404.

Paragraph (e)(2)(ii) sets forth specific standards that fiduciaries must meet when deciding whether to exercise shareholder rights and when exercising shareholder rights. Specifically, the paragraph states that plan fiduciaries must (1) act solely in accordance with the economic interest of the plan considering only factors that they prudently determine will affect the economic value of the plan's investment based on a determination of risk and return over an appropriate investment horizon consistent with the plan's investment objectives and the funding policy of the plan; (2) consider the likely impact on the investment performance of the plan based on such factors as the size of the plan's holdings in the issuer relative to the total investment assets of the plan, the plan's percentage ownership of the issuer, and the costs involved; (3) not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to any non-pecuniary objective, or sacrifice investment return or take on additional investment risk to promote goals unrelated to these financial interests of the plan's participants and beneficiaries or the purposes of the plan; (4) investigate material facts that form the basis for any particular proxy vote or other exercise of shareholder rights (*e.g.,* the fiduciary may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider without appropriate supervision and a determination that the service provider's proxy voting guidelines are consistent with the economic interests of the plan and its participants and beneficiaries); (5) maintain records on proxy voting activities and other exercises of shareholder rights, including records that demonstrate the basis for particular proxy votes and exercises of shareholder rights; and (6) exercise prudence and diligence in the selection and monitoring of persons, if any, selected to advise or otherwise assist with exercises of shareholder rights, such as providing research and analysis, recommendations regarding proxy votes, administrative services with voting proxies, and recordkeeping and reporting services.

The proposed provisions confirm that when making their voting decisions, fiduciaries must perform reasonable investigations, understanding that certain proposals may require a more detailed or particularized voting analysis. Information that will better enable fiduciaries to determine whether or how to vote proxies on particular matters includes the cost of voting, including opportunity costs; the type of proposal (*e.g.,* those relating to social or public policy agendas versus those dealing with issues that have a direct economic impact on the investment); voting recommendations of management;[52] and an analysis of the particular shareholder proponents. In the Department's view, fiduciaries must be prepared to articulate the anticipated economic benefit of proxy-vote decisions in the event they decide to vote.

As stated above, the Department recognizes that fiduciaries may reasonably delegate their proxy voting authority to investment managers. In such cases, ERISA requires fiduciaries to monitor proxy voting decisions made by their investment managers to ensure such entities are voting, or refraining from voting, in a manner that maximizes investment returns and does not sacrifice economic benefits for non-pecuniary objectives, as described above. Therefore, it is the view of the Department that, consistent with the duty to monitor, fiduciaries should require documentation of the rationale for proxy-voting decisions so that fiduciaries can periodically monitor proxy-voting decisions made by third parties. A plan fiduciary must also assess and monitor an investment manager's use of any proxy advisory firm, including any review by the manager of the advisory firm's policies and procedures for identifying and addressing conflicts of interest.[53]

Similarly, any ERISA plan fiduciary that uses a proxy advisory firm is responsible for ensuring that the proxy advisory firm's practices with respect its services to the ERISA plan are consistent with the prudence and loyalty obligations that govern the fiduciary's proxy voting actions.[54] In particular, fiduciaries must be aware that conflicts of interest can arise at proxy advisory firms that could affect vote recommendations. For example, in certain instances a proxy advisory firm may issue proxy voting recommendations while the company that is the subject of such recommendations is a client of the firm's consulting business.[55] When using a proxy advisory firm, ERISA fiduciaries must exercise prudence and diligence in selecting and monitoring the firm, as both are fiduciary acts. Such diligence should include assessing whether the proxy advisory firm is able to competently analyze proxy issues, identify and address potential conflicts of interest, and adhere to the plan's proxy voting policy guidelines. Particular attention must be given to proxy advisory firms that provide both proxy advisory services to investors and consulting services to issuers on matters subject to proxy resolutions.[56] In

[52] Corporate directors owe their own fiduciary duties to their corporation, and can be subjected to shareholder lawsuits for breach of those duties. See, *e.g., Aronson* v. *Lewis,* 473 A.2d 805 (Del. 1984) (citing *Loft, Inc.* v. *Guth,* 2 A.2d 225 (Del. Ch. 1938), aff'd, 5 A.2d 503 (Del. 1939)) (''The existence and exercise of this power carries with it certain fundamental fiduciary obligations to the corporation and its shareholders.'').

[53] Many investment managers are registered as investment advisers with the SEC. As such, they are required by an SEC rule to: (i) Adopt and implement written policies and procedures reasonably designed to ensure they vote securities in a client's best interest, and which procedures must include how the adviser will address material conflicts of interest that may arise between the adviser's interests and those of its client; (ii) disclose to clients about how they may obtain information about how the adviser voted with respect to their securities; and (iii) describe to clients the adviser's proxy voting policies and procedures and, upon request, furnish a copy of the policies and procedures to the requesting client. See 17 CFR 275.206(4)–6; see also 2019 SEC Guidance, 84 FR at 47424 (addressing considerations that an investment adviser should take into account if it retains a proxy advisory firm to assist it in discharging its proxy voting duties).

[54] For example, research has shown that a significant number of asset managers automatically vote in accordance with the recommendations of proxy advisory firms. See, *e.g.,* Paul Rose, *Robovoting and Proxy Vote Disclosure* (Nov. 2019), *https://corpgov.law.harvard.edu/2019/11/25/robovoting-and-proxy-vote-disclosure* (detailing the prevalence of such ''robovoting'' by firms that contract with proxy advisory firms and expressing concern regarding this lack of diligence).

[55] See, *e.g.,* GAO Report 07–765, *Issues Relating to Firms That Advise Institutional Investors on Proxy Voting* (June 2007), at 4, 9–10. By contrast, section 201 of the Sarbanes-Oxley Act of 2002, Public Law 107–204, mandates the independence of auditors in part by prohibiting a public accounting firm that performs an audit from simultaneously offering non-audit services.

[56] The SEC has issued guidance on the elements an investment adviser should consider in retaining or continuing to retain a proxy advisory firm, including the process an investment adviser should take to review and assess a proxy advisory firm's policies and procedures for identifying and addressing conflicts of interest. See 2019 SEC Guidance, 84 FR at 47425. The SEC issued supplementary guidance for investment advisers on how to consider additional information that may become more readily available to them as a result of the amendments to the proxy rule for proxy voting advice, including when an investment adviser utilizes a proxy advisor's electronic vote management system that ''pre-populates'' with suggested voting recommendations and/or for

addition, the Department's long-established position is that compliance with the duty to monitor necessitates proper documentation of the activities that are subject to monitoring.

Consistent with these principles, paragraph (e)(2)(iii) of the proposal states that, where the authority to vote proxies or exercise shareholder rights has been delegated to an investment manager pursuant to ERISA section 403(a)(2) or a proxy voting firm or other person performs advisory services as to the voting of proxies, plan fiduciaries shall require such investment manager, proxy voting firm, or other advisor to document the rationale for proxy voting decisions or recommendations sufficient to demonstrate that the decision or recommendation was based on the expected economic benefit to the plan, and that the decision or recommendation was based solely on the interests of participants and beneficiaries in obtaining financial benefits under the plan. To facilitate transparency, the Department also reminds fiduciaries that proxy voting guidelines must be made available to plan participants, either as a separate document or by including them in the plan's existing investment policy statement. When an investment manager's rationale on a vote for recurring issues is to follow a uniform internal policy, the manager should document the reasons for any vote that goes against the policy, which would generally only require a brief explanation directly in the proxy-voting record.

Paragraph (e)(3) sets forth certain proposed requirements and limitations pertaining to proxy voting. The proposed rule provides in paragraph (e)(3)(i) that a plan fiduciary must vote any proxy where the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after considering those factors described in paragraph (e)(2)(ii) and taking into account the costs involved (including the cost of research, if necessary, to determine how to vote). As a corollary, paragraph (e)(3)(ii) provides that a plan fiduciary must *not* vote any proxy unless the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after considering those factors described in paragraph (e)(2)(ii) and taking into account the costs involved.

These provisions are intended to reflect the fact that there will be circumstances when fiduciaries are required to vote a proxy and there will be circumstances when a fiduciary is required not to vote a proxy. In those circumstances when a fiduciary prudently determines that the fiduciary's duties to the plan require the fiduciary to vote, the fiduciary must exercise care, skill, prudence, diligence, and loyalty when making voting decisions on behalf of the plan.[57]

The Department recognizes that because the decision regarding whether a proxy vote will or will not affect the economic value of a plan's investments is critical in triggering a fiduciary's obligations under ERISA to vote or abstain from voting, fiduciaries may need to conduct an analytical process which could in some cases be resource-intensive (requiring, among other things, organizing proxy materials, diligently analyzing portfolio companies and the matters to be voted on, determining how the votes should be cast, and submitting proxy votes to be counted), and that these activities may often burden fiduciaries out of proportion to any potential benefit to the plan.[58] Given that widely diversified plans significantly dilute the effect of a single holding, and the mixed evidence regarding whether proxy voting affects firm value,[59] the Department is concerned that the costs for fiduciaries to prudently exercise proxy voting rights often will exceed any potential economic benefits to a plan.

To address this concern, the Department has proposed potential options for fiduciaries that are intended to reduce the need for fiduciaries to consider proxy votes that are unlikely to have an economic impact on the plan, thereby allowing plans to focus resources on matters most likely to have an economic impact. These various options (labeled ''permitted practices'' in the proposed rule) will thus help fiduciaries more cost-effectively comply with the obligations under paragraphs (e)(3)(i) and (ii). Under the proposed provisions, a fiduciary may adopt proxy voting policies that encompass one or more of the permitted practices, and the fiduciary may then apply those proxy voting policies to proxy votes. The development and adoption of such policies is subject to the fiduciary's duties of prudence and loyalty. However, paragraph (e)(3)(v) ensures that such proxy voting policies would not preclude a fiduciary from voting in any particular case in which a fiduciary subsequently determines that the proxy matter being voted upon would have an economic impact on the plan, or from refraining from voting based on a subsequent determination that the matter being voted upon would not have an economic impact.

Accordingly, the Department proposes to assist plan fiduciaries by providing in paragraph (e)(3)(iii) that it is permissible to adopt general proxy voting policies or parameters for exercising voting rights that are prudently designed to serve the plan's economic interest. Paragraphs (e)(3)(iii)(A), (B), and (C) provide examples of such policies.

In paragraph (e)(3)(iii)(A), the Department proposes that a fiduciary may adopt a policy of voting proxies in accordance with the voting recommendations of a corporation's management on proposals or types of proposals that the fiduciary has prudently determined are unlikely to have a significant impact on the value of the plan's investment, subject to any conditions determined by the fiduciary as requiring additional analysis because the matter being voted upon concerns a matter that may present heightened management conflicts of interest or is likely to have a significant economic impact on the value of the plan's investment. Under this permitted practice, a fiduciary may, consistent with its obligations set forth in ERISA section 404(a)(1)(A) and (B), maintain a proxy voting policy that relies on the fiduciary duties that officers and directors owe to a corporation based on state corporate laws.[60] On that basis, the proxy voting policy may state that the responsible plan fiduciary, if it so determines, ordinarily will follow the recommendations of a corporation's management. Furthermore, empirical observations indicate that nearly all management proposals are approved with little opposition.[61] Fiduciaries retain the right to override this practice or any voting policy if they

voting execution services. See 2020 SEC Supplemental Guidance. In the event fiduciaries believe the retention of a proxy advisory firm is appropriate, the Department likewise views the SEC's guidance as reasonable direction for the diligence that ERISA plan fiduciaries should perform when reviewing and assessing a proxy advisory firm. The Department notes, however, that the SEC standards do not necessarily capture all the actions that ERISA may require as a result of that review and assessment.

[57] ERISA section 404(a)(1).

[58] The SEC described a number of functions performed by proxy voting advice businesses and observed that in the absence of such services, investment advisers and other clients of these businesses may require considerable resources to independently conduct the work necessary to analyze and make voting determinations. See 2020 SEC Proxy Voting Advice Amendments, at 140–141.

[59] See *supra* note 39.

[60] See *Aronson* v. *Lewis, supra* note 51.

[61] See The Conference Board, Proxy Voting Analytics (2015–2018), at 105, (2018), *https://law.rutgers.edu/sites/law/files/RR-1674-18-R.pdf.*

subsequently determine that prudence dictates a different voting decision pursuant to paragraphs (e)(3)(i) and (ii).

The Department proposes in paragraph (e)(3)(iii)(B) that a fiduciary may determine in its proxy voting policy to focus its resources only on particular types of proposals that the fiduciary has prudently determined are likely to have a significant impact on the value of the plan's investment, such as proposals relating to corporate events (mergers and acquisitions transactions, dissolutions, conversions, or consolidations), corporate repurchases of shares (buy-backs), issuances of additional securities with dilutive effects on shareholders, or contested/elections for directors.

Paragraph (e)(3)(iii)(C) proposes that a fiduciary may adopt a policy of refraining from voting on proposals or particular types of proposals when the plan's holding of the issuer relative to the plan's total investment assets is below quantitative thresholds that the fiduciary prudently determines, considering its percentage ownership of the issuer and other relevant factors, is sufficiently small that the matter being voted upon is unlikely to have a material impact on the investment performance of the plan's portfolio (or investment performance of assets under management in the case of an investment manager). The Department believes that establishing a specific quantitative upper limit for the threshold (*i.e.,* a cap) under paragraph (e)(3)(iii)(C) may help fiduciaries by reducing the circumstances when borderline cases might result in plans performing individual cost/benefit analyses to decide whether to vote proxy proposals, a likely inefficient use of plan resources. The Department also believes that determining materiality based on a percentage of plan assets could be a straightforward way for fiduciaries to apply such a cap, and specifically solicits comments on whether in setting this upper limit, the Department should look to financial practices and existing regulations regarding quantitative measures of materiality. The Department solicits comments on whether a maximum cap should be defined and, if so, what factors should be considered in setting a cap. In particular, the Department solicits comments on whether a five-percent cap would be appropriate, or some other percent level of plan assets.[62]

The proposed permitted practices provisions in paragraph (e)(3)(iii) include conditions that are intended to require a fiduciary to make prudence-based judgments about the policies. The specified types of proposals are not intended to be limiting, and a fiduciary could prudently determine other criteria for determining in advance the types of proposals on which to focus. These proposed provisions are also intended to be applied flexibly rather than in a binary ''all or none'' manner, and may be used either independently or in conjunction with each other.

A fiduciary should adopt proxy voting policies that are appropriate for a plan's particular facts and circumstances. For example, a fiduciary declining to submit any proxy votes for holdings below a prudently determined quantitative materiality threshold may modify the policy in advance to allow proxy voting if needed for the portfolio holding to achieve a quorum for its shareholders' meeting.[63] As another example, a fiduciary could determine not to spend plan assets on proxy votes for nonbinding proposals, unless it is aware that such a proposal will somehow still have an economic impact on the value of the plan's investment. A fiduciary could also utilize the permitted practices to create a proxy voting policy that votes in accordance with management's recommendations for uncontested elections of directors and ratification of independent auditors and certain types of non-binding proposals, but primarily reserves its proxy voting resources for corporate events that are expected to have a significant economic impact on the value of the plan's holding, such as share buy-backs, dilutive issuances of securities, and contested elections for directors of the board. Plans could also fashion policies or exceptions from policies to account for circumstances where a plan's vote share is more likely to affect the outcome of a vote and the fiduciary believes changing the outcome would have an economic impact on the plan.

Paragraph (e)(3)(iv) would require plan fiduciaries to review any proxy voting policies adopted pursuant to paragraph (e)(3)(iii) at least once every two years. Paragraph (e)(3)(iv) is intended to permit fiduciaries to prudently determine a review cycle for their proxy voting policies, but establishes a maximum interval of no more than two years, which the Department believes is an appropriate limit to ensure a plan's proxy voting policies remain prudent given ongoing changes in financial markets and the investment world. The Department also understands that this provision is consistent with industry practices regarding periodic review and approval of investment policy statements.[64] The Department solicits comments on whether some other maximum interval would be appropriate to better ensure that plan policies adopted pursuant to paragraph (e)(3)(iii) remain prudent without unnecessarily burdening plan fiduciaries.

Finally, the Department's proposed rule acknowledges in paragraph (e)(3)(v) that a fiduciary's fundamental priority is to act in the best interest of participants and beneficiaries. In the view of the Department, no policies adopted under paragraph (e)(3)(iii) would interfere with, or impose liability for, submitting a proxy vote when the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after taking into account the costs involved. Rather, in situations where a fiduciary has prudently determined it is in the economic interest of the plan to vote, a fiduciary responsible for proxy voting must carry out this responsibility ''solely'' and ''for the exclusive purpose of'' the participants' and beneficiaries' interest in the economic value of the plan assets.

In addition to the solicitation of public comments on the particular proposed permitted practices, the Department requests comment on whether the proposed permitted practices should contain additional examples regarding when advance proxy voting directions may be exercised pursuant to specific parameters designed to serve the plan's economic interest and, if so, what situations those examples should cover. For example, the Department requests comment on whether the permitted practice in paragraph (e)(3)(iii)(B) should have additional specified types of proposals and, if so, which types of proposals. The Department also requests comment on whether the permitted practices in paragraphs (e)(3)(iii)(A) and (B) should be subject to quantitative limitations on plan holdings like those referenced in paragraph (e)(3)(iii)(C).

Paragraphs (e)(4)(i) and (ii) adopt provisions from the Department's prior IBs and state that the responsibility for exercising shareholder rights lies

[62] The proposal is not intended to suggest or express a view on whether in any particular case investing five percent of a plan's portfolio in one holding would comply with ERISA's diversification requirement, 29 U.S.C. 1104(a)(1)(C).

[63] The direct and indirect costs incurred by the corporation related to delaying the shareholders' meeting, such as additional proxy solicitation, legal, and administrative costs, would be an economic detriment to the plan's holding.

[64] See also PBGC regulations at 29 CFR 4002.1(a)(4) (stating that PBGC Board must review the Corporation's Investment Policy Statement at least every two years and approve the Investment Policy Statement at least every four years).

exclusively with the plan trustee, except to the extent that either (1) the trustee is subject to the directions of a named fiduciary pursuant to ERISA section 403(a)(1), or (2) or the power to manage, acquire, or dispose of the relevant assets has been delegated by a named fiduciary to one or more investment managers pursuant to ERISA section 403(a)(2). Where the authority to manage plan assets has been delegated to an investment manager pursuant to section 403(a)(2) of ERISA, the investment manager has exclusive authority to vote proxies or exercise other shareholder rights appurtenant to such plan assets, except to the extent the plan or trust document or investment management agreement expressly provides that the responsible named fiduciary has reserved to itself (or to another named fiduciary so authorized by the plan document) the right to direct a plan trustee regarding the exercise or management of some or all of such shareholder rights.

Paragraph (e)(4)(ii) provides proposed language concerning the obligations of an investment manager of a pooled investment vehicle that holds assets of more than one employee benefit plan that may be subject to an investment policy statement that conflicts with the policy of another plan. Compliance with ERISA section 404(a)(1)(D) requires the investment manager to reconcile, insofar as possible, the conflicting policies (assuming compliance with each policy would be consistent with ERISA section 404(a)(1)(D)). In the case of proxy voting, to the extent permitted by applicable law, the investment manager must vote (or abstain from voting) the relevant proxies to reflect such policies in proportion to each plan's economic interest in the pooled investment vehicle. Such an investment manager may, however, develop an investment policy statement consistent with Title I of ERISA and this section, and require participating plans to accept the investment manager's investment policy, including any proxy voting policy, before they are allowed to invest. In such cases, a fiduciary must assess whether the investment manager's investment policy statement and proxy voting policy are consistent with Title I of ERISA and this regulation before deciding to retain the investment manager.

Paragraph (g) provides for the effective date for the proposed rule. Under paragraph (g), the proposed rule would be effective on a date thirty days after the date of the publication of the final rule. The Department notes that on June 30, 2020 (85 FR 39113), it published in the **Federal Register** a proposed rule on Financial Factors in Selecting Plan Investments. Both this proposal and the Financial Factors in Selecting Plan Investments proposal are amendments to § 2550.404a–1. Both proposals include a proposed paragraph (g), but the Financial Factors in Selecting Plan Investments proposal proposes an effective date of 60 days after publication of a final rule. Depending on the publication date of the respective final rules, the Department may need to revise paragraph (g) to separately effectuate the final rules. For example, if a final rule on Financial Factors in Selecting Plan Investments is published exactly 30 days before a final rule on Fiduciary Duties Regarding Proxy Voting and Shareholder Rights, and no changes were made to the proposed effective dates as part of the final rules, then no revision to paragraph (g) would be necessary. The Department requests comment on how to structure the effective date of this proposed rule, including whether it should be adjusted to ensure it matches the effective date of the rule on Financial Factors in Selecting Plan Investments, if finalized. The Department also requests comment on whether any transition or applicability date provisions should be added to for any of the provisions of the proposal.

Paragraph (h) provides that should a court of competent jurisdiction hold any provision of the rule invalid, such action will not affect any other provision. Including a severability clause provides clear guidance that the Department's intent is that any legal infirmity found with part of the proposed rule should not affect any other part of the proposed rule. The Department notes that it included the exact same paragraph in the proposed rule on Financial Factors in Selecting Plan Investments.

## D. Request for Public Comments

The Department invites comments from interested persons on all facets of the proposed rule. Commenters are free to express their views not only on the specific provisions of the proposed regulation as set forth in this document, but on other issues germane to the subject matter of the proposal. Comments should be submitted in accordance with the instructions at the beginning of this document. Comments on the proposal must be submitted on or before October 5, 2020. The Department believes that this period of time will afford interested persons an adequate amount of time to analyze the proposed rule and submit comments.

## E. Regulatory Impact Analysis

*Executive Orders*

The Department has examined the effects of this rule as required by Executive Order 12866,[65] Executive Order 13563,[66] Executive Order 13771,[67] the Congressional Review Act,[68] the Paperwork Reduction Act of 1995,[69] the Regulatory Flexibility Act,[70] Section 202 of the Unfunded Mandates Reform Act of 1995,[71] and Executive Order 13132.[72]

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Under Executive Order 12866, ''significant'' regulatory actions are subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. OMB has determined that this rule is economically significant within the meaning of section 3(f)(1) of the Executive Order 12866. Therefore, the

[65] Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993).

[66] Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 18, 2011).

[67] Reducing Regulation and Controlling Regulatory Costs, 82 FR 9339 (Jan. 30, 2017).

[68] 5 U.S.C. 804(2) (1996).

[69] 44 U.S.C. 3506(c)(2)(A) (1995).

[70] 5 U.S.C. 601 *et seq.* (1980).

[71] 2 U.S.C. 1501 *et seq.* (1995).

[72] Federalism, 64 FR 43255 (Aug. 10, 1999).

Department has provided an assessment of the potential costs, benefits, and transfers associated with this proposed rule. OMB has reviewed the proposal pursuant to the Executive order. Pursuant to the Congressional Review Act, OMB has designated this proposed rule as a ''major rule,'' as defined by 5 U.S.C. 804(2).

1. Introduction

ERISA plan assets comprise a substantial stake of the shares of public companies. In 2017, plan assets contained stock holdings of $2.1 trillion, including 28 percent of defined benefit plan assets and 15 percent of defined contribution plan assets.[73] However, ERISA pension holdings represent a decreasing share of all corporate equity. ERISA defined benefit and defined contribution plans held just 5.5 percent of total corporate equity in 2019, down from a high of 22 percent in 1985.[74]

Prior to its annual meeting, a publicly traded company sets a record date and sends out a list of proposals on which shareholders will vote. A shareholder must hold shares as of the record date in order to vote at a shareholder meeting. There are two types of proposals: Management proposals and shareholder proposals. Management proposals—including director elections, audit firm ratification proposals, and proposals regarding the company's executive compensation program (also known as ''say-on-pay'' proposals)—account for 98 percent of proposals and are largely mandated by law or exchange listing requirements. Over the period 2011 to 2017, shareholder proposals accounted for about 2 percent of proposals but often were more controversial and thus received more attention than management proposals.[75] Shareholder votes on some proposals, such as director elections, are binding. Votes on many other proposals, including shareholder proposals and say-on-pay proposals, are not binding and serve only as shareholder recommendations for the company's board.[76]

As shareholders, ERISA-covered plans have the right to vote on proposals. Some of these proposals may have an economic impact on a plan's investment, while others may not. The responsible plan fiduciary generally must decide whether (and how) to vote the plan's shares on each proposal. As noted earlier in the preamble, the determination of whether or not the vote will affect the economic value of a plan's investment portfolio is critical in triggering a fiduciary's obligations under ERISA to vote or abstain from voting. For example, if a shareholder vote approves an economically beneficial transaction, the value of the plan's investment could increase.[77] Fiduciaries may need to conduct an analytical process that could in some cases be resource-intensive (requiring, among other things, organizing proxy materials, diligently analyzing portfolio companies and the matters to be voted on, determining how the votes should be cast, and submitting proxy votes to be counted), and these activities may often impose burdens on fiduciaries that are disproportional to any potential economic benefit to the plan. To address this concern, the Department proposes several potential options for fiduciaries to consider that are intended to reduce the need for them to consider proxy votes thereby freeing resources for fiduciaries to focus on activities most likely to have an economic impact on the plan's investment. This proposed rule preserves fiduciaries' role in casting such votes, and includes provisions to ensure that fiduciaries make proxy voting decisions for the exclusive purpose of securing net economic benefits for plans and their participants as ERISA requires.

1.1. Need for Regulation

The cost of determining whether or how a responsible fiduciary should vote a plan's shares on a proposal is generally borne by the plan. If the proposal has no or negligible implications for the value of the plan's investment, it would be better for the plan to simply refrain from voting than to incur even small costs making this determination. Even if the proposal has substantial implications for the company, the cost of voting still may be higher than the potential benefit to the plan, especially if each fiduciary separately must collect and analyze the information necessary to reach an appropriate conclusion. The cost may be lower if the fiduciary can rely on an impartial, expert third-party adviser who specializes in such matters and provides similar services to many shareholders. Likewise, the cost may be lower if the fiduciary can rely on recommendations from the company's management on proposals where the interests of the plan and management are aligned.[78]

The Department has two main concerns. First, the Department is concerned that responsible plan fiduciaries, in their efforts to decide whether or how to vote plan shares—and where applicable, to vote them—and exercise other shareholder rights, may impose costs on plans that exceed the consequent economic benefits to them. Some stakeholders believe that fiduciaries must always vote proxies, subject to limited exceptions, in order to fulfill their obligations under ERISA.[79]

Second, the Department has reason to believe that responsible fiduciaries may sometimes rely on third-party advice without taking sufficient steps to ensure that the advice is impartial and rigorous. Such action would fall short of ERISA's standards of fiduciary care and loyalty in the exercise of plans' shareholder rights. Both of these concerns point to the risk that a plan's proxy voting activity sometimes will impair rather than benefit participants' economic interests. The Department's objective in issuing this proposed rule is to ensure that plan fiduciaries only incur costs to vote proxies and exercise other shareholder rights that are economically justified. The Department further seeks to ensure that plans' shareholder rights are exercised by responsible fiduciaries consistent with ERISA's fiduciary requirements.

Large ERISA plans and certain financial intermediaries holding ERISA-covered assets file annual reports with the Department that include some information on certain fees paid directly to specific service providers. The

[73] Department estimates are based on Form 5500 annual reports filed by plans with 100 or more participants. These estimates include only stocks held directly or through Direct Filing Entities, not through mutual funds.

[74] Department calculations based on U.S. Federal Reserve statistics.

[75] Morris Mitler, Dorothy Donohue & Sean Collins, *Proxy Voting by Registered Investment Companies, 2017,* ICI Research Perspective (July 2019), at 4 (hereinafter ''ICI Proxy Voting Report'').

[76] Id. at 6; see also 15 U.S.C. 78n–1.

[77] See Art Durnev & E. Han Kim, *To Steal or Not to Steal: Firm Attributes, Legal Environment, and Valuation,* 60 Journal of Finance 1461–1493 (2005); see also Gerald F. Davis & E. Han Kim, *Business Ties and Proxy Voting by Mutual Funds,* 85 Journal of Financial Economics 552–570 (2007).

[78] In 2010, TIAA–CREF senior vice president Jonathan Feigelson noted: ''Though we dedicate a significant amount of resources to corporate governance research and the voting of proxies, we still would have difficulty processing the 80,000 plus unique agenda items voted by our staff annually without utilizing [proxy advisory firm] research.'' See letter to Elizabeth Murphy, Secretary, Securities and Exchange Commission, *Re: Concept Release on the U.S. Proxy System,* File No. S7–14–10 (Nov. 8, 2010), *www.sec.gov/comments/s7-14-10/s71410-263.pdf.* In 2017, the average mutual fund voted on 1,500 separate proposals. See ICI Proxy Voting Report, at 5. Furthermore, institutional investors' incentives to remain informed and hold specific voting positions varies according to how much the fund benefits from voting. The more the fund is invested in a company, the more likely it is to perform independent research on the proposal. See Peter Iliev & Michelle Lowry, *Are Mutual Funds Active Voters?,* 28 Review of Financial Studies.446–85 (2014).

[79] See supra note 12.

reported information sheds little light on the costs attendant to voting proxies or exercising other shareholder rights. The information omits very small direct payments, direct payments by small plans, and essentially all indirect payments. The last omission may be particularly important because plans may delegate asset management, including proxy voting, to third-party asset managers, who then may hire proxy advisory firms. In that case, plans' reports would bundle proxy voting costs, including any proxy advisory fees, into asset management fees. A preliminary examination of all ERISA plan and intermediary fee reports identifies just 18 direct payments to one of the two leading proxy advisory firms, and none to the other. Measured against the reporting plans' total assets, the 18 reported payments averaged 0.2 basis points. The reports additionally identify 46 payments to a second service provider known to provide proxy advice, which averaged 0.2 basis points, and 363 payments to a third, which averaged 6.3 basis points. It is unclear whether all of these payments relate to proxy voting, as the service providers may provide other services as well. Many reported payments to the third service provider in particular appear likely to be for other types of services in addition to, or rather than, proxy voting services, because a majority of the plans reporting such payments also reported having no direct stock holdings. This may help explain why reported payments to the third provider are higher than payments to the first two service providers.

While these reported costs might generally seem small, actual total proxy voting costs could be substantially higher for some or many plans, and even small costs may not be justified. As noted above, not all plan payments to proxy advisory firms are reported. Nearly all of the reported payments came from multiemployer plans. A large majority of multiemployer plans and nearly all single-employer plans reported no payment to any known proxy advisory firm. The magnitude of unreported costs is unknown. Other costs that are not reported separately are likely included as part of the fees paid to third-party asset managers who hire proxy advisory firms and/or do their own research on proposals. In addition, even small voting costs may somewhat impair participants' financial interest in their benefits if the votes pertain to issues that have little or no bearing on share value or are otherwise immaterial to the plan's financial interest. As stated earlier, research regarding whether proxy voting has reliable positive effects on shareholder value generally has yielded mixed results.[80] The Department invites comments on whether, to what extent, and under what circumstances plans' proxy votes are likely or unlikely to increase the value of their shares or otherwise advance their participants' economic interest.

The Department's concerns about plans' voting costs sometimes exceeding attendant benefits has been amplified by the recent increase in the number of environmental and social shareholder proposals introduced. It is likely that many of these proposals have little bearing on share value or other relation to plan interests.[81] From 2011 through 2017, shareholders submitted 462 environmental proposals and 841 social shareholder proposals, and resubmitted at least once 41 percent of environmental and 51 percent of social proposals.[82] These proposals increasingly call for disclosure, risk assessment, and oversight, rather than for specific policies or actions, such as phasing out products or activities.[83] Support for environmental and social proposals grew between 2004 and 2018.[84] Few received majority support, but the number of environmental proposals winning majority support ticked up sharply in 2018.[85] By one count, the number of such proposals submitted or resubmitted grew from approximately 130 in 2000 to more than 240 by 2016, before falling to approximately 180 in 2018.[86] The Department is aware, however, that in 2019, the SEC proposed a rule amendment that could have the effect of reducing the overall number of shareholder proposals that appear on issuer proxy statements.[87]

Beyond voting costs, the Department is also concerned that plans may incur substantially larger costs to exercise shareholder rights more vigorously, such as by sponsoring or campaigning for shareholder proposals. Such activities may deliver little or no benefit to plans because they concern issues that have little bearing on share value or other plan interests.

The Department invites comments on the degree to which plans are incurring costs to vote on proposals or exercise other shareholder rights and how they have balanced those costs against any perceived duty or requirement to vote proxies. The Department requests comments on the relative size of the regulatory and deregulatory provisions that would be associated with this rule.

A number of stakeholders have questioned whether third-party proxy advice is impartial, sufficiently rigorous, and consistent with ERISA's fiduciary duties, as would be necessary to reliably advance ERISA investors' interests. Some question whether proxy advisory firms' practices are sufficiently transparent for investors to be able to determine whether their interests are being advanced. Some stakeholders also question whether the market for proxy advice is too concentrated and insufficiently competitive, which could impair investors' access to quality, affordable advice.[88] Proxy advice that is not rigorous or not aligned with a plan's interest could lead to a responsible plan fiduciary voting shares when voting costs exceed any benefit, or when voting would otherwise run counter to the plan's interest.

The Department notes that the SEC recently amended its rules governing proxy solicitations to help ensure that investors who use proxy voting advice receive more accurate, transparent, and complete information on which to make their voting decisions.'' [89] In its economic analysis of its proposal, the SEC stated that proxy advisory firms can capture economies of scale for several of the services they provide, including voting advice.[90]

The SEC noted that the proxy voting advice industry in the United States consists of three major firms,[91] and is

[80] See *supra* note 39.

[81] See John G. Matsusaka, Oguzhan Ozbas, & Irene Yi, *Can Shareholder Proposals Hurt Shareholders? Evidence from SEC No-Action Letter Decisions,* U.S.C. CLASS Research Paper No. CLASS17–4 (2019), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2881408,* at 25; Joseph P. Kalt, L. Adel Turki, Kenneth W. Grant, Todd D. Kendall & David Molin, *Political, Social, and Environmental Shareholder Resolutions: Do They Create or Destroy Shareholder Value?,* National Association of Manufacturers (June 2018), *www.shopfloor.org/wp-content/uploads/2018/06/nam_shareholder_resolutions_survey.pdf.*

[82] Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a–8, 84 FR 66458, 66491 (Dec. 4, 2019) (2019 SEC Rule 14a–8 Proposal).

[83] 2019 ISS Proxy Voting Trends.

[84] 2019 SEC Rule 14a–8 Proposal, 84 FR at 66484; see also 2019 ISS Proxy Voting Trends.

[85] 2019 SEC Rule 14a–8 Proposal, 84 FR at 66486.

[86] 2019 ISS Proxy Voting Trends.

[87] 2019 SEC Rule 14a–8 Proposal.

[88] See, *e.g., Proxy Season 2018: Examining Developments & Looking Forward,* presented by the Center for Capital Markets Competitiveness and NASDAQ, *https://www.centerforcapitalmarkets.com/wp-content/uploads/2018/10/ProxySeasonSurvey_v3_Digital.pdf.*

[89] 2019 SEC Proxy Voting Advice Amendments, at 1.

[90] Id. at 141, 201.

[91] Id. at 150. In the proposal, the SEC identified two additional firms which claimed a large number of pension and profit sharing clients as providing proxy advice, but the SEC subsequently stated in

Continued

highly concentrated among the two leading proxy advisory firms, Institutional Shareholder Services, Inc. (ISS) and Glass, Lewis & Co., LLC (Glass Lewis). Clients of proxy advisory firms include investment advisers, banks, and insurers that may be voting ERISA plan shares.

In proposing its amendments, the SEC described concerns regarding proxy advisory firms, including the adequacy of disclosure of any actual or potential conflicts of interest, the accuracy and material completeness of the information underlying proxy advice, and the inability of proxy advice clients to receive information and views from the registrant, potentially contrary to that presented in the advice, in a manner that is consistently timely and efficient.[92] Moreover, with respect to a small fraction of proposals, some commenters have asserted that proxy advisory firms have made factual and/or analytic errors in additional definitive proxy materials.[93] Such shortcomings make it more difficult for a responsible ERISA fiduciary to rely on a proxy advisory firm's recommendations. A fiduciary who does so rely could risk violating ERISA's fiduciary requirements.

Critics additionally complain that proxy advisory firms sometimes inappropriately provide the same recommendations to investors with different duties or obligations. Uniform voting policies for clients with different investment strategies and objectives have also been noted as a problem. Such a concern recently led the SEC to state that ''where an investment adviser undertakes proxy voting responsibilities on behalf of multiple funds, pooled investment vehicles, or other clients, it should consider whether it should have different voting policies for some or all of these different funds, vehicles, or other clients, depending on the investment strategy and objectives of each.'' [94]

The Department has tried to convey in its prior sub-regulatory guidance that fiduciaries need not vote all proxies. A fiduciary's duty is to vote those proxies that are prudently determined to have an economic impact on the plan after the costs of research and voting are taken into account. Nevertheless, a misunderstanding that fiduciaries must research and vote all proxies continues to persist, causing some plans to expend their assets unnecessarily on matters not economically relevant to the plan. Accordingly, this proposed rule is necessary to interpret ERISA and expressly state that fiduciaries must not vote in circumstances where plan assets would be expended on shareholder engagement activities that do not have an economic impact on the plan, whether by themselves or after the costs of engagement are taken into account. The Department believes that addressing these issues in the form of a notice and comment regulation will help safeguard the interests of participants and beneficiaries in their plan benefits.

1.2. Affected Entities

This proposal would affect ERISA-covered pension, health, and other welfare plans that hold shares of corporate stock. It would affect plans with respect to stocks they hold directly, as well as with respect to stocks they hold through ERISA-covered intermediaries, such as common trusts, master trusts, pooled separate accounts, and 103–12 investment entities. The proposal would not affect plans with respect to stock held through registered investment companies, because the proposal does not apply to such funds' internal management of such underlying investments.

ERISA-covered plans with 100 or more participants (large plans) annually report data on their stock holdings on Form 5500 Schedule H (see Table 1). Approximately 29,000 defined contribution plans and 5,500 defined benefit plans, with approximately 86 million participants, hold either common stocks or employer stocks, totaling approximately $2.1 trillion. Common stocks constitute about 20 percent of total assets of those plans holding common stock but not employer securities. Out of the 29,000 plans that hold common stock, but not employer securities, about 24,000 plans hold common stock through an ERISA-covered intermediary and approximately 3,700 plans hold common stock directly. A smaller number of plans hold stock both directly and indirectly.[95] In addition to the large pension plans, approximately 619,000 small pension plans hold assets and may invest in stock.[96] Additionally 597 health and other welfare plans file the schedule H and report holding either common stocks or employer stocks. The Department solicits comments regarding the number of plans that exercise shareholder rights and thus would be affected by this proposal.

TABLE 1—NUMBER OF PENSION PLANS HOLDING COMMON STOCKS OR EMPLOYER STOCKS BY TYPE OF PLAN, 2017 [a]

| | Defined benefit | Defined contribution | Total plans |
|---|---|---|---|
| Common Stock | | | |
| Direct Holdings | 1,460 | 2,241 | 3,701 |
| Indirect Holdings | 3,035 | 20,701 | 23,736 |
| Direct and Indirect Holdings | 982 | 664 | 1,646 |
| Total | 5,476 | 23,606 | 29,082 |
| Employer Securities | ..... | 6,457 | 6,457 |
| Common Stock and Employer Securities | ..... | 634 | 634 |
| Total Plans Holding Stocks | 5,476 | 29,430 | 34,906 |

[a] DOL calculations from the 2017 Form 5500 Pension Research Files.

the final amendments that, based on commenters, these two additional firms did not advise investment advisers and institutional investors on their voting determinations and would therefore not be affected by the amendments. Id. at 150 n. 502. The SEC indicated that was because they vote on behalf of their clients rather than providing them with research reports and voting recommendations. Id. at 30.

[92] Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice, 84 FR 66518, 66525 (Dec. 4, 2019). Id. at 66525.

[93] Id. at 66545–46.

[94] 2019 SEC Guidance, 84 FR at 47423.

[95] DOL estimates from the 2017 Form 5500 Pension Research Files.

[96] The Form 5500 does not require these plans to categorize the assets as common stock, so the Department does not know if they hold stock.

While this proposal would directly affect ERISA-covered plans that possess the relevant shareholder rights, the activities covered under the proposal would be carried out by responsible fiduciaries on plans' behalf. Many plans hire asset managers to carry out fiduciary asset management functions, including proxy voting. In 2017, large ERISA plans reportedly used approximately 18,000 different service providers, some of whom provide services related to the exercise of plans' shareholder rights. Such service providers include trustees, trust companies, banks, investment advisers, and investment managers.[97]

In addition, this proposal would indirectly affect proxy advisory firms. ERISA plans' demand for proxy advice might decline if fiduciaries refrain from voting shares under the provisions of this proposal or under proxy voting policies adopted pursuant to paragraph (e)(3)(iii). Plan fiduciaries may want customized recommendations about which particular proxy proposals would have an economic impact on their particular plan and how they should cast their vote. Plans' preferences for proxy advice services could shift to prioritize services offering more rigorous and impartial recommendations. These effects may be more muted, however, if the SEC rule amendments enhance the transparency, accuracy, and completeness of the information provided to clients of proxy voting firms in connection with proxy voting decisions.

1.3. Benefits

This proposed rule would benefit plans by providing improved guidance regarding how ERISA's fiduciary duties apply to proxy voting. As discussed above, sub-regulatory guidance that the Department has issued over the years may have led to a misunderstanding among some that fiduciaries are required to vote on all proxies presented to them. This misunderstanding may lead some plans to expend plan assets unnecessarily to research and vote on proxy proposals not likely to have a material impact on the value of the plan's investments. The proposed rule is intended to eliminate that confusion and ensure ERISA fiduciaries execute shareholder rights in an appropriate and cost-efficient manner. The proposal clarifies the duties of fiduciaries in regard to proxy voting and the monitoring of proxy advisory firms. Plan fiduciaries would be better able to conserve plan assets by having clear direction and permitted practices to refrain from researching and voting on proposals that they prudently determine have no economic impact on the value of the plan's investment. When votes are cast on behalf of plans, they would more frequently advance plans' economic interests. Cost savings and other benefits to plans would flow to plan participants and beneficiaries and plan sponsors.

The proposed rule would replace existing guidance on fiduciary responsibilities for exercising shareholders' rights. The proposed rule provides more certainty than sub-regulatory guidance and is subject to public notice and comment. And unlike guidance, a substantive regulation sets forth binding requirements.

The proposed regulation could increase the investment return on plan assets by specifying when plan fiduciaries should or should not exercise their shareholder rights to vote proxies. The proposal also requires fiduciaries to maintain records on proxy voting activities and other exercises of shareholder rights, including records demonstrating the basis for particular proxy votes and other exercises of shareholder rights. Plan fiduciaries are responsible for maximizing the economic benefits to the plan, including in their management of proxy voting rights, which may require voting proxies or declining to vote them. If the cost of obtaining information that informs the vote exceeds the likely economic benefits to the plan of voting, then fiduciaries should not vote. This course of action will save resources and increase societal benefits.

Another benefit of the rule is it allows plan fiduciaries and asset managers to focus on where they can add value the most. The rule allows plan fiduciaries to determine if diverting resources away from proxy voting and into researching new investment opportunities presents a better use of time and resources to increase value. They can then act on this decision and bring added value to the plan and its participants and beneficiaries. To the extent that the proposed regulation increases the investment return on plan assets, it would broaden participants' and beneficiaries' retirement security, thereby strengthening a central purpose of ERISA. For the plans and participants that would be affected by the proposed rule, the benefits they would experience from higher investment returns, compounded over many years, could be considerable. The Department seeks information that could be used to quantify the increase in investment returns.

The societal resources freed for other uses due to voting fewer proxies (minus potential upfront transition costs) would represent benefits of the rule; in other words, the increased returns would be associated with investments generating higher pre-fee returns, which means the higher returns qualify as benefits of the rule. However, to the extent that there are any externalities, public goods, or other market failures, those might generate costs to society on an ongoing basis. For example, a fiduciary may vote for a proposal on a corporate merger or acquisition transaction to maximize shareholder value even though implementation of the proposal would bring about impacts in an affected geographic area that would be adverse for local businesses or residents. Finally, some portion of the increased returns would be associated with transactions in which there is an opposite party experiencing a decreased return of equal magnitude. This portion of the rule's impact would, from a society-wide perspective, be appropriately categorized as a transfer, and is discussed further below (though it should be noted that, if there is evidence of wealth differing across the transaction parties, it would have implications for marginal utility of the assets).

The proposal's provisions establish certain ''permitted practices'' that allow plans to prudently adopt proxy voting policies to guide their proxy voting decisions. These permitted practices would assist plan fiduciaries in carrying out their duties under paragraphs (e)(3)(i) and (ii) in a cost-effective manner that preserves plan resources. The Department anticipates that plans would derive savings from the proposal's ''permitted practices'' provisions. The proposed permitted practices are designed to provide clear examples of proxy voting policies that a fiduciary may determine are prudent. The expenditure of plan resources is generally warranted only when proposals have a meaningful bearing on share value or when plan fiduciaries have determined that the interests of the plan are unlikely to be aligned with the positions of a company's management. In general, such proposals include those that are substantially related to the company's business activities or that relate to corporate events (mergers and acquisitions transactions, dissolutions, conversions, or consolidations), corporate repurchases of shares (buy-backs), issuances of additional securities with dilutive effects on shareholders, and contested elections for directors, where plans' exposure to the stock is

[97] DOL estimates from the 2017 Form 5500 Schedule C.

sufficiently large to justify the expenditure.

The proposal also emphasizes that plan resources may not be expended in circumstances where the fiduciary prudently determines that a proxy vote would not affect the economic value of the plan's investment. The Department also believes that the expenditure of plan resources to decide whether and how to vote on other proposals that are unlikely to have an impact on a plan's economic value may be unwarranted and, given the particular facts and circumstances, could constitute a fiduciary breach. The Department invites comments on this view, including any examples of proposals that could fall under the proposed permitted practices but for which such expenditures to vote would be justified and consistent with ERISA's fiduciary requirements.

The Department also invites comments on whether the proposed rule, if finalized, would enable plans to retain proxy advisory firms at lower cost or with more attractive fee arrangements, since a much narrower range of responsibilities might be encompassed, and on whether the proposed rule would lead to new, narrower advisory engagements or new services.

1.4. Costs

The proposal includes requirements that a responsible fiduciary must satisfy when exercising a plan's shareholder rights appurtenant to specific security holdings or monitoring third parties providing proxy advice. It requires a responsible fiduciary to determine that the exercise of shareholder rights advances the plan's economic interest, investigate the basis for voting on proposals, and maintain records showing the basis of their decisions. The proposal also requires a fiduciary to require an investment manager and proxy adviser to document their decisions and recommendations.

The Department believes that the incremental costs of these provisions will be small on a per plan basis because the Department anticipates that most, if not all plans, will adopt policies that utilize the permitted practices and the activities described in the proposal already are reflected in common practice and are best practices. If plan fiduciaries choose not to use any of the permitted practices, the costs of the proposed rule, including determining whether each proxy vote will have an economic impact, may be significantly greater While the Department believes responsible plan fiduciaries would spend some time familiarizing themselves with the rule, it expects that these costs would be minimal. The Department requests comments and data it could use to quantify such costs.

The Department's IB 2008–02 guidance addressed ''the exercise of shareholder rights'' explaining that ''the duty to monitor necessitates proper documentation.'' [98] Its 2008 guidance on economically targeted investing likewise explained that a written record of the basis for economically targeted investment decisions may be necessary to demonstrate compliance with ERISA.[99] The Department acknowledges, however, that such practices are not universal. In the course of its enforcement activity, the Department sometimes encounters instances where documentation is absent or does not meet the requirements of this proposal. Accordingly, the Department invites comments addressing to what degree existing practices already satisfy these proposed requirements and what the cost would be to fully satisfy them. The Department additionally believes that the availability of economies of scale limit the costs of this proposal. The Department understands that under the proposal, most of the relevant fiduciary duties will reside with, and most of the required activities will be performed by, third-party asset managers, as is already common practice. Such asset managers are often large and provide the relevant fiduciary services for a large number of plans. The Department invites comments on the assignment of the responsibilities under this proposal and the degree to which economies of scale might limit the proposal's costs. Costs for maintaining the required documentation are discussed in the Paperwork Reduction Act section of this document.

As noted earlier, this proposal's permitted practices and other provisions would eliminate or reduce plans' costs for voting on many proposals, because plans would not vote on proposals the responsible plan fiduciary has determined are not economically relevant to the plan. The Department generally does not expect this proposal to change the costs associated with plans' remaining voting activity. Provisions requiring responsible fiduciaries to monitor and document voting policies and activities would generally be satisfied by current best practices that satisfy earlier Department guidance. Neither does the Department expect plans to incur substantial costs from proxy advisory firms' potential efforts to help fiduciaries meet this proposal's requirements. If they do not already meet the standards detailed in the proposed regulation, plans that currently exercise shareholder rights, including proxy voting activities, would now incur the costs associated with deciding whether to exercise shareholder rights pursuant to this proposal.

It is possible that proxy advisory firms would take steps to avoid or mitigate conflicts of interest, strengthen factual and analytic rigor, better match their research and recommendations with ERISA plans' interests, or increase transparency. The Department notes, however, that proxy advisory firms are likely to take at least some of these steps in response to recent SEC policy initiatives and spread their related costs across all of their clients, not just ERISA plans.[100] At the same time, the proposed rule may reduce plans' demand for proxy advice. However, this reduction in demand is beneficial to plans as they previously were purchasing more advice than they would have chosen to, due to their misinterpretation that they were required to vote all proxies. This reduced demand will lower the market price and the amount of advice purchased. Consequently, any compliance costs passed on from proxy advisory firms to ERISA plans are likely to be at least partially offset by plans' cost savings from purchasing a smaller amount of advice. It should be noted that proxy advisory firms will see a reduction in revenues as a result of the decreased demand for their services. In addition, proxy advisory firms' efforts to satisfy any SEC requirements might ease responsible fiduciaries' efforts to comply with this proposal. For example, it may be easier to monitor proxy advisory firms if those firms provide additional disclosure about their conflicts of interest and their policies and procedures to address such conflicts.

[98] 29 CFR 2509.08–2 (2010).

[99] 29 CFR 2509.08–1 (2010).

[100] The SEC's rule amendments require proxy advisory firms engaged in a solicitation to provide conflicts of interest disclosure, to adopt and publicly disclose policies and procedures designed to ensure that the company subject of the proxy voting advice has such advice made available to it at or prior to the time the advice is disseminated, and to provide a mechanism by which its clients can become aware of any written statements by the company in response to the proxy advice. The SEC also modified its proxy solicitation antifraud rule to specifically include material information about the proxy advisor's methodology, sources of information, or conflicts of interest, as examples of when the failure to disclose could, depending upon the particular facts and circumstances, be considered misleading. See 2020 SEC Proxy Voting Advice Amendments, at 242–246.

1.5. Transfers

Proxy advisory firms that respond best to this proposal will likely gain a relative competitive advantage. Firms that limit or eliminate conflicts of interest and modify their services to better align with the guidance of these proposed regulations could gain market share relative to firms that do not. Firms that are willing to tailor their voting guidelines, strategies, and costs according to each plan's investment guidelines could gain market share relative to firms that do not.

Moreover, as noted previously, if some portion of rule-induced increases in returns would be associated with transactions in which the opposite party experiences decreased returns of equal magnitude, then this portion of the proposed rule's impact would, from a society-wide perspective, be appropriately categorized as a transfer.

1.6. Regulatory Alternatives

The Department considered a purely principles-based approach that would not have included the permitted practices in paragraph (e)(3)(iii). However, for the reasons described above, the Department believes that clearly articulating examples of permitted proxy voting policies would be helpful to plan fiduciaries and ultimately beneficial to plan participants and beneficiaries. A purely principles-based approach could result in a responsible fiduciary, for each individual proxy proposal, having to determine whether to vote. This determination process could consume significant plan resources, even where the potential economic benefit to the plan is small or difficult to determine. A responsible fiduciary might arrive at his or her own policies for simply not voting, or voting in a specific manner on certain types of proposals, based on the plan's limited exposure to a stock or the economic immateriality of the matter being voted upon. However, under a principles-based approach fiduciaries would likely be cautious about adopting such policies, and might believe it prudent to be able to demonstrate in each case why a decision was made not to vote, and therefore err on the side of devoting excessive resources to voting decisions. The Department invites comment on the inclusion of permitted practices and their usefulness in aiding a fiduciary's determination of whether to vote.

The Department also considered including a specific numeric cap for the materiality permitted practice in paragraph (e)(3)(iii)(C), but opted not to do so until it has the opportunity to review the comments solicited earlier in this preamble on this question. The Department similarly invites comments here on those issues for purposes of this regulatory impact analysis.

The Department also invites comments generally on its choice of permitted practices, including whether any should not be retained and whether any other practices should be added.

1.7. Uncertainty

The Department's economic assessment of this proposal's effects is subject to uncertainty. The Department invites comments that can more fully inform its assessment.

*Cost Savings*—As noted earlier, the Department currently lacks complete data on plans' exercise of their shareholder rights appurtenant to their stock holdings, including proxy voting activities, and on the attendant costs and benefits. The Department invites comments that illuminate these activities, including their costs and benefits, as well as comments regarding how this proposal would change these activities.

In light of the uncertainty regarding the proxy voting activities of ERISA plans, and the attendant costs and benefits of this proposal, the Department presents an illustration below of an analytical approach to evaluating the possible impacts of this notice of proposed rulemaking (NPRM). Details on the estimated impacts of this proposed rule are presented in a supplemental illustrative analysis in Appendix A. This illustration is a part of the Department's solicitation of comments on an appropriate methodology and assumptions for evaluating the costs and savings that could result from the rule. The analytical model assumes that proxies are primarily voted by asset managers or other service providers. The Department also assumes that the proposed rule may require some plans or service providers to expend more effort researching whether a proxy vote will have a relevant economic impact on the plan and how the plan should vote in cases in which the proposal has such an economic impact. Service providers, plans, or both, may also need to provide more documentation of their decisions than they already produce. Additionally, plans may take advantage of the permitted practices described in the proposal that allow them to conserve plan assets, because they may not need to conduct as extensive an amount of research or expend as much time on documenting decisions. In this illustration, the Department estimates that each service provider will vote 9.3 times, on average, per stock.[101] If there are 1,988 service providers impacted by the rule's requirements,[102] and 8,020 stocks voted annually per service provider, then the Department estimates that those entities take a cumulative total of 148,276,968 annual stock votes.[103] As discussed previously, some stocks may fall within the permitted practice provisions of the rule and would be less burdensome to research and document. The Department assumes that 5.6 percent of all proxy votes could fall outside the permitted practices and would still need to be researched, voted, and documented under the proposal.[104] For votes falling within the permitted practices, on average the Department estimates that responsible plan fiduciaries would take 30 minutes to conduct research and 10 minutes to document each vote at a total cost of $435,042,756.[105] For votes falling outside the permitted practices, the Department estimates two hours of research and 20 minutes to document each vote at a total cost of $100,175,208. Under this illustrative analysis, the total costs of a hypothetical alternative to the proposed rule, for increases in research and documentation costs, excluding cost savings that could occur if the permitted practices are used, could reach $535,217,964. The cost savings from the permitted practices are discussed later. However, the Department fully expects that most of these potential costs will not be realized, because plans will use the permitted practices to avoid incurring them. The Department requests comments on the assumptions and underlying data used to reach this illustrative estimate.

As discussed elsewhere in this preamble, while the Department believes that the common practices of most plans related to proxy voting are generally consistent with the standards in the proposal, we lack data for the

[101] Investment Company Institute. ''Proxy Voting by Registered Investment Companies, 2017.'' Vol 25, No. 5. July 2019. See endnote 15. *https://www.ici.org/pdf/per25-05.pdf.*

[102] Estimate based on the number of clients for the three largest proxy advisory firms.

[103] Based on 4,684 domestic stocks and 3,336 foreign stocks, 1,988 service providers, and an estimate of 9.3 votes per stock for each service provider.

[104] Investment Company Institute. ''Proxy Voting by Registered Investment Companies, 2017.'' Vol 25, No. 5. July 2019. See Figures 2 and 3. *https://www.ici.org/pdf/per25-05.pdf.* We developed this assumption by looking at the ICI data from 2011 to 2017 on the percentage of total proxy proposals that related to mergers, acquisitions n, dissolution, conversions, consolidation, corporate repurchase of shares, issuance of additional securities, and contested elections for directors.

[105] Research labor rate of $116.96/hr and documentation rate of $110.39/hr.

share of plans that do not currently meet such standards. To illustrate the potential burden for firms whose practices are inconsistent with the proposed standards, DOL assumes that research costs will increase by 5% and that documentation costs will increase by 1%. The Department requests data that could be used to estimate the share of plans that do not currently meet such standards.

To illustrate potential cost savings from responsible plan fiduciaries using the permitted practices, the Department notes that responsible plan fiduciaries do not have to vote proxies that fall within the permitted practices, which could save at least some of the costs associated with research and documentation. The Department intends that the permitted practices will impact a large share of all proxy votes and the burden associated with these votes when using the permitted practices will likely be very low. By way of illustration, if under permitted practices 10 percent of proxy votes are no longer voted and responsible plan fiduciaries therefore did not incur research and documentation costs, the total cost savings could exceed $1 billion.[106]

*Demand for New Services*—The Department also invites comments regarding whether this proposal, if finalized, would create a demand for new services, and if so, what alternate services or relationships with service providers might result and how overall plan expenses could be impacted.

*Other Securities*—This proposal generally would govern plans' exercise of shareholder rights appurtenant to their stock holdings of individual companies, but not to their holdings of other securities. The Department cannot determine whether some plans nonetheless would modify their practices with respect to other securities because of this proposal. As noted earlier, ERISA pensions held just 5.5 percent of total corporate equity in 2019, down from a high of 22 percent in 1985. Mutual funds, in contrast, held 22 percent of all corporate equity in 2019, up from 6 percent in 1985.[107] As ERISA-covered pensions have shifted from defined benefit to defined contribution plans, both the proportion of pension assets invested in mutual funds and the proportion of all mutual fund shares owned by pensions have increased dramatically. In 2019, ERISA-covered pensions held 25 percent of all mutual fund shares, up from 8 percent in 1985. ERISA would apply to any proxy votes for mutual fund shares and shares of other funds registered with the SEC for which the plan fiduciary is responsible. ERISA does not govern the management of the portfolio internal to a fund registered with the SEC, including such fund's exercise of its shareholder rights appurtenant to the portfolio of stocks it holds, though ERISA would apply to similar funds organized as collective investment trusts. The Department invites comments as to whether or how this proposal might influence plans' exercise of shareholder rights for SEC-registered funds, or their selection of such funds as plan investments, as well as comments on the costs and benefits associated with any such influence, such as impacts on the ability to achieve a quorum at shareholder meetings of such funds.

*Operation of Permitted Practices*—The permitted practices provisions in paragraph (e)(3)(iii) would deliver benefits by relieving plans from much of the cost of deciding whether and how to vote proxies. Responsible fiduciaries might be inclined to use the permitted practices as expansively as possible, to conserve plan assets or even in some cases in an effort to reduce possible exposure to fiduciary liability when exercising shareholder rights. However, a responsible fiduciary may use them less expansively if for practical reasons it is operationally more efficient to do so, or if the fiduciary identifies an opportunity to advance the plan's economic interest by voting on a proposal that falls within the permitted practices. Accordingly, the Department invites comments on the optimal operation of the permitted practices provisions.

Fiduciaries would still be required to vote shares in situations not encompassed by proxy voting policies adopted pursuant to the permitted practices provisions of paragraph (e)(3)(iii) if they prudently determine that the matter being voted upon would have an economic impact on the plan. For instance, the Department believes that voting the shares of plan holdings that comprise a small portion of total plan assets rarely advances plans' economic interests, but invites comments on whether or under what circumstances such voting might do so. For example, might this sometimes be the case for large plans and asset managers for whom even a small threshold of total plan assets would represent a large financial stake in dollar terms that might justify the cost of deciding whether and how to vote? As an illustration, a five-percent threshold for a pension plan with more than $1 billion in assets would be more than $50 million. In 2017, there were 1,391 plans with more than $1 billion in assets each. These plans together represented just 0.2 percent of all pension plans, but held $5.3 trillion in assets, representing more than one-half of ERISA-covered pension assets.

More generally, the Department solicits comments on whether the permitted practices included in this proposal might produce unintended costs by discouraging responsible fiduciaries from voting shares when voting may be economically beneficial.

*Non-ERISA Investors*—Many asset managers serve both ERISA plans and other investors. The Department invites comments as to whether any such asset managers currently follow uniform proxy policies for both, and vote shares uniformly for both. The Department believes such uniform voting for ERISA and non-ERISA clients may sometimes jeopardize responsible fiduciaries' satisfaction of their duties under ERISA. However, as noted earlier in the preamble, this concern may be mitigated in the case of investment managers subject to the SEC's jurisdiction by the fact that federal securities law requires investment advisers to make the determination in their client's best interest and not to place the investment adviser's own interests ahead of their client's.[108] Where an SEC registered

[106] $800m in cost savings due to a reduction in research costs (10 percent permitted practice cost savings × 0.5 hours × 139,973,458 votes × $116.96 per hour = $818,582,278) and $250m in cost savings due to a reduction in documentation costs (10 percent permitted practice cost savings × 0.167 hours × 139,973,458 votes × $110.39 per hour = $257,516,169). Instead of thinking about this as a reduction in actual votes, it can also be viewed as a 10 percent reduction in costs if votes are still cast pursuant to the permitted practices that allow voting but reduce burden, such as paragraph (e)(3)(iii)(A) of the proposal, which would allow fiduciaries to adopt a policy to vote proxies in accordance with the voting recommendations of corporate management.

[107] Department calculations based on U.S. Federal Reserve statistics.

[108] See Commission Interpretation Regarding Standard of Conduct for Investment Advisers, 84 FR 33669, 33673 (July 12, 2019) (discussing an adviser's obligation to make a reasonable inquiry into its client's financial situation, level of financial sophistication, investment experience and financial goals and have a reasonable belief that the advice it provides is in the best interest of the client based on the client's objectives); Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers, Release No. IA–5325 (Aug. 21, 2019) (82 FR 47420 (Sep. 10, 2019) (clarifying investment advisers' duties when voting shareholder proxies). See also Rule 206(4)–6 under the Investment Advisers Act of 1940, 17 CFR 275.206(4)–6 (Under rule 206(4)–6, it is a fraudulent, deceptive, or manipulative act, practice or course of business within the meaning of section 206(4) of the Investment Advisers Act for an investment adviser to exercise voting authority with respect to client securities, unless the adviser (i) has adopted and implemented written policies and

investment adviser has assumed the authority to vote on behalf of its client, the SEC would require the investment adviser, among other things, must have a reasonable understanding of the client's objectives and must make voting determinations that are in their best interest.

Under this proposed rule, responsible fiduciaries might increase their demands for asset managers to implement separate policies customized for particular ERISA plans or for ERISA plans generally, such as policies that align with the proposed permitted practices in paragraph (e)(3)(iii). The Department invites comments on the degree to which such customized policies by asset managers could benefit ERISA plans or increase plan costs.

*Asset Allocation*—This proposal could exert influence on a plan's asset allocation. For example, the quantitative threshold provision in paragraph (e)(3)(iii)(C) would permit responsible fiduciaries, after prudently considering the relevant factors, to adopt proxy voting policies allowing them to refrain from voting shares when the plan's holding in a single issuer is sufficiently small relative to the plan's total investment that the outcome of the vote is unlikely to have a material impact on the investment performance of the plan's portfolio. This provision might produce additional economic benefits by promoting fuller and more optimal diversification where it may otherwise have been lacking. That is, the quantitative threshold could prompt a fiduciary to diversify what otherwise would have been a concentration of more than the specified threshold amount of a plan's portfolio in a single stock. The Department invites comments on this possibility.

*Vote Categories* — Proxy votes can be tallied in four ways: For, against/withhold, abstain, and not voted. The vast majority of outstanding shares are held in ''street name'' by intermediaries, such as broker-dealers. Broker-dealers may have discretionary authority to vote proxies without receiving voting instructions from the owner of the shares for routine and noncontroversial matters, such as the ratification of a company's independent auditors. For matters in which a broker-dealer does not have discretionary authority to vote, a broker non-vote is required. For matters that require approval of a majority of shares present and voting, abstentions (which are cast neither for nor against a proposal) and broker non-votes are not counted in the final tally. For matters that require approval of a majority of the shares issued and outstanding, abstentions or broker-non votes are treated as votes against the proposal. If an investor is unsure about a matter or unsure whether her interests and management's interests are aligned, the investor arguably should abstain. The Department requests comments on how often this alignment of interests might occur, and on whether additional direction on voting, such as on the distinction between not voting and abstaining, would be beneficial to fiduciaries.

1.8. Conclusion

The proposed rule would benefit ERISA-covered plans, as it provides guidance regarding how ERISA's fiduciary duties apply to proxy voting and in particular when fiduciaries should refrain from voting. Plan fiduciaries will be able to conserve plan assets as they refrain from researching and voting on proposals that are unlikely to economically impact the plan, and thereby increase the return on plan assets. The Department believes that the benefits of the proposal would justify its costs, but also invites comments on this question.

2. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to allow the general public and federal agencies to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA).[109] This helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Currently, the Department is soliciting comments concerning the proposed information collection request (ICR) included in the Fiduciary Duties Regarding Proxy Voting and Shareholder Rights ICR. To obtain a copy of the ICR, contact the PRA addressee shown below or go to *www.RegInfo.gov.*

The Department has submitted a copy of the proposed rule to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503 and marked ''Attention: Desk Officer for the Employee Benefits Security Administration.'' Comments can also be submitted by fax at (202) 395–5806 (this is not a toll-free number), or by email: *OIRA_submission@omb.eop.gov.* OMB requests that comments are received within 30 days of publication of the proposed rule to ensure their consideration.

PRA Addresses: Address requests for copies of the ICR to G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N–5718, Washington, DC 20210. The PRA Addressee may be reached by telephone at (202) 693–8410 or by fax at (202) 219–5333. These are not toll-free numbers. ICRs also are available at *www.RegInfo.gov* (*www.RegInfo.gov/public/do/PRAMain*).

It has long been the view of the Department that the duty to monitor necessitates proper documentation of the activities that are subject to monitoring.[110] Accordingly, the

procedures that are reasonably designed to ensure that the adviser votes proxies in the best interest of its clients, which procedures must include how the investment adviser addresses material conflicts that may arise between the adviser's interests and interests of their clients; (ii) discloses to clients how they may obtain information from the investment adviser about how the adviser voted with respect to their securities; and (iii) describes to clients the investment adviser's proxy voting policies and procedures and, upon request, furnishes a copy of the policies and procedures to the requesting client.

[109] 44 U.S.C. 3506(c)(2)(A) (1995).

[110] 29 CFR 2509.08–2 (2010).

Department's proposal requires that plan fiduciaries maintain records on proxy voting activities and other exercises of shareholder rights, including records that demonstrate the basis for particular proxy votes and exercises of shareholder rights. This requirement applies to all pension plans with investments, including those that have shareholder rights and proxy votes that may need to be exercised. Fiduciaries' proxy voting decisions may only involve consideration of those factors economically relevant to the plan.

Plan fiduciaries that have followed prior guidance, or good business practices, are already performing much if not all of the recordkeeping actions the proposal would require. While the incremental burden of the proposal is generally small, perhaps even *de minimis,* the full burden of the requirements will be included below to allow for full evaluation of the requirements in the information collection.

According to the most recent Form 5500 data there are 709,527 pension plans (90,604 large plans and 618,923 small plans) and 8,475 health or welfare plans (5,626 large plans filing a schedule H, and 2,849 small plans filing a schedule I).[111] While the Schedule H collects information on a plan's stock holdings, Schedule I lacks the specificity to determine if small plans hold stocks. As shown in Table 1, 34,906 pension plans hold stocks and would have shareholder rights they may need to exercise. Additionally, 597 health and other welfare plans file the schedule H and report holding either common stocks or employer stocks. The Department lacks information on the number of small plans that hold stock. Small plans are significantly less likely to hold stock than larger plans. For purposes of estimating the burden, five percent of small plans are presumed to hold stock resulting in 30,946 small plans needing to comply with the information collection. Therefore, a total of 66,649 plans will need to comply with this information collection.

2.1. Maintain Documentation

The proposed rule requires that the named plan fiduciary must maintain records on proxy voting activities and other exercises of shareholder rights, including records that demonstrate the basis for particular proxy votes and exercises of shareholder rights. Where the authority to vote proxies or exercise shareholder rights has been delegated to an investment manager pursuant to ERISA section 403(a)(2), or a proxy voting firm or another person performs advisory services as to the voting of proxies, plan fiduciaries must require such investment manager, proxy voting firm or other person to document the rationale for proxy voting decisions or recommendations. This is required of all plans with investments and includes plans that may exercise shareholder rights.

Much of the information needed to fulfill this requirement is generated in the normal course of business. Plans may need additional time to maintain the proper documentation, but this burden is likely to be reduced by the adoption of policies by plan fiduciaries that incorporate one or more of the proposed rule's permitted practices. The Department estimates that plan fiduciaries or investment managers will require a half hour annually and a half hour of help from clerical staff to maintain or document the required information. This is likely an overestimate, because many, if not most, plans use investment managers. These investment managers provide similar services for many plans. This results in an annual cost burden estimate of $6,291,078.[112]

As a note, included in the uncertainty section of the regulatory impact analysis above is a model that seeks to quantify the costs and cost savings of the rule. It provides an alternative estimate of the documentation costs. Depending on comments received on the model, the Department could revise the burden associated with this ICR to reflect the estimates derived by using the model.

These paperwork burden estimates are summarized as follows:

*Type of Review:* New collection.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Fiduciary Duties Regarding Proxy Voting and Shareholder Rights.

*OMB Control Number:* 1210–NEW.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 66,499.

*Estimated Number of Annual Responses:* 66,499.

*Frequency of Response:* Occasionally.

*Estimated Total Annual Burden Hours:* N/A.

*Estimated Total Annual Burden Cost:* $6,291,078.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[113] imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act[114] and are likely to have a significant economic impact on a substantial number of small entities. The Department has determined that this proposal is likely to have a significant economic impact on a substantial number of small entities, and therefore presents this initial regulatory flexibility analysis of the proposed rule pursuant to section 603 of the RFA.

For purposes of analysis under the RFA, the Employee Benefits Security Administration (EBSA) considers employee benefit plans with fewer than 100 participants to be small entities.[115] The basis of this definition is found in section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for plans that cover fewer than 100 participants. Under section 104(a)(3) of ERISA, the Secretary may also provide for exemptions or simplified annual reporting and disclosure for welfare benefit plans. Pursuant to the authority of section 104(a)(3), the Department has previously issued (see 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46, and 2520.104b–10) simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans, that cover fewer than 100 participants and satisfy certain requirements. While some large employers have small plans, small plans are generally maintained by small employers. Thus, the Department believes that assessing the impact of this proposed rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration[116] pursuant to the Small Business Act.[117] Therefore, EBSA requests comments on the appropriateness of the size standard

[111] EBSA estimates using 2017 Form 5500 filing data.

[112] The burden is estimated as follows: 66,449 plans * 0.5 hours = 33,224.6 hours for both a plan fiduciary and clerical staff. A labor rate of $134.21 is used for a plan fiduciary and a labor rate of $55.14 for clerical staff (33,224.6 * $134.21 = $4,459,074 and 33,224.6 * $55.14 = $1,832,004).

[113] 5 U.S.C. 601 *et seq.* (1980).

[114] 5 U.S.C. 551 *et seq.* (1946).

[115] The Department consulted with the Small Business Administration Office of Advocacy in making this determination, as required by 5 U.S.C. 603(c) and 13 CFR 121.903(c) in a memo dated June 4, 2020.

[116] 13 CFR 121.201 (2011).

[117] 15 U.S.C. 631 *et seq.* (2011).

used in evaluating the impact of this proposed rule on small entities.

3.1. Need for and Objectives of the Rule

As detailed above, the Department is concerned that responsible plan fiduciaries, in their efforts to decide whether or how to vote plan shares—and where applicable, to vote them—and exercise other shareholder rights, may sometimes impose on plans costs that exceed the consequent economic benefits to the plans. Moreover, the Department has reason to believe that responsible fiduciaries may sometimes rely on third-party advice without taking sufficient steps to ensure that the advice is impartial and rigorous, potentially violating ERISA's standards of fiduciary care and loyalty in their exercise of plans' shareholder rights. Both of these concerns point to the risk that a plan's proxy voting activity will sometimes impair rather than advance participants' economic interest in their benefits. This proposed rule aims to ensure that the costs plans incur to vote proxies and exercise other shareholder rights are economically justified, and that responsible fiduciaries' use of third-party advice supports rather than jeopardizes their adherence to ERISA's fiduciary requirements.

Small plans may be especially likely to rely on third-party service providers, such as asset managers, to act as responsible fiduciaries or otherwise assist with the exercise of plans' shareholder rights. Many small plan sponsors are likely to lack the expertise to perform this function themselves. Small plans additionally stand to benefit most from the economies of scale that specialized service providers, such as asset managers and proxy advisory firms, can provide. Consequently, small plans may be especially vulnerable to any deficiencies in the services such entities provide, and to costs incurred to select and monitor service providers so as to minimize such deficiencies.

3.2. Affected Small Entities

The proposal would affect ERISA-covered pension, health, and welfare plans that hold stock either through common stock or employer securities. This includes plans that indirectly hold stocks through Direct Filing Entities (DFE) such as common trusts, master trusts, pooled separate accounts, and 103–12 investment entities. Plans that only hold their assets in registered investment companies, such as mutual funds, will be unaffected by the proposed rule.

There is minimal data available about small plans' stock holdings. The primary source of information on assets held by pension plans is the Form 5500. Schedule H, which reports data on stock holdings, is filed almost exclusively by large plans. While the majority of participants and assets are in large plans, most plans are small plans (plans with fewer than 100 participants). It is likely that many small defined benefit plans hold stock. Many small defined contribution plans hold stock only through mutual funds, and consequently would not be affected by this proposal. In 2017, there were 39,000 small defined benefit plans and 580,000 small defined contribution plans. The Department lacks information on the number of small plans that hold stock; however, believes small plans are significantly less likely to hold stock than larger plans. For purposes of estimating the burden, five percent of small plans are presumed to hold stock resulting in approximately 30,950 small plans needing to comply with the proposed regulation.

Small service providers like asset managers could also be impacted by this rule. To the extent that service providers, and not plans, are the ones that primarily vote proxies, as discussed in section 3.3, below, they would incur costs, which they would likely pass on to their plan clients. An approach discussed in the alternative section suggests that 1,988 service providers could be providing services to plans. According to data from the 2012 Economic Census, 97 percent of firms reporting an NAICS code for portfolio management meet the SBA's definition of a small business. Accordingly, the Department estimates that approximately 1,930 small service providers would be affected by the proposed regulation. Thus, together with the approximately 30,950 small plans described above that we estimate would need to comply with the proposed regulation, overall, the Department estimates that approximately 32,880 small entities would be affected. The Department requests comments on the number of small entities the rule will affect.

3.3. Impact of the Rule

This proposed rule would benefit small plans, by providing guidance regarding how ERISA's fiduciary duties apply to proxy voting and the monitoring of proxy advisory firms, and in particular when fiduciaries should refrain from voting. Plan fiduciaries would be able to better conserve plan assets by having clear direction to refrain from researching and voting on proposals that they prudently determine have no economic impact on the plan. The proposal also would benefit plans by improving the frequency with which voting resources are expended on matters that have an economic impact on the plan. Cost savings and other benefits to small plans would flow to plan participants and beneficiaries in the form of more secure retirement income.

As discussed under the Cost section above, while the Department assumes that small affected entities would spend some time familiarizing themselves with the rule, it expects that these familiarization costs would be minimal, because the activities that would be required by the proposed rule are reflected in common practice. The Department estimates it would take an hour for an in-house attorney to review the rule, at an hourly labor cost of $138.41. The Department requests comments or data to inform the Department's estimate of the costs associated with familiarization.

Fiduciaries of plans must ensure that all investments are prudently monitored. The proposed rule provides that fiduciaries responsible for the exercise of shareholder rights must maintain records in order to demonstrate compliance with ERISA's fiduciary provisions. The Department assumes that, because the documentation of fiduciary decision-making is a common practice, responsible fiduciaries are likely already recording and maintaining documentation related to their own and investment managers' actions, including their exercise of shareholder rights.

For plans that are not currently in full compliance, the rule will have a small impact to maintain records or document decisions related to voting proxies or exercising other shareholder rights. Much of the information required to comply with this requirement is generated by affected entities in the normal course of business; however, additional time may be required to maintain the proper documentation. The Department estimates that compliance with this proposed regulation would require 30 minutes of a plan fiduciary's time and 30 minutes of a clerical worker's time. The Department assumes an hourly rate of $134.21 for a plan fiduciary and an hourly rate of $55.14 for a clerical worker, resulting in an estimated per-entity annual cost of $94.68.[118] Under these assumptions, the Department believes that these requirements will not significantly increase costs for small plans. For service providers, the

[118] 0.5 hours * $134.21 + 0.5 hours * $55.14 = $94.68.

Department developed a model that illustrates the impact of the proposed rule by assuming that service providers, like asset managers, provide the required research and documentation that would be required to vote by proxy. The model is included for illustrative purposes as some of the assumption used are speculative. The following analysis should be viewed with the understanding of the high degree of uncertainty and the assumptions used. The model's costs estimates suggest an average cost per service provider of approximately $50,400 (for more information on the assumptions, see the Uncertainty section in the regulatory impact analysis). The Department does not have data on how the number of proxy votes a service provider would need to prepare differs by service provider size. Based on data supplied by SBA from the 2012 Census, the Department estimates that the estimated average cost of $50,400 would account for 0.8 percent of average annual revenue for all service providers.[119] Considering fixed costs and economies of scale, the costs of complying with the proposed regulation would likely account for a higher proportion of revenue for small service providers. If it were assumed that the costs of complying with the proposed regulation would be the same, regardless of firm size, the Department assumes it would account for 4.1 percent of revenues on average for small entities.[120] The estimated proportions of costs are broken down by firm size for small firms in the Revenue Test column in the table below.

These estimates likely overestimate the costs for small service providers. The cost estimate assumes that these service providers are researching and documenting proxy votes for over 8,000 stocks. While the Department does not have data on how the number of proxy votes prepared by service providers would vary by firm size, the Department believes that small entities are less likely to oversee investments over the investment universe considered here. Accordingly, the Department assumes smaller entities would need to research and document fewer proxy votes, resulting in reduced demand on time resources and overall lower cost.

Additionally, the data presented in the table below considers all firms for the respective industries. A majority of firms in these industries will not be providing services that are affected by these proposed rules. The table illustrates the impact on affected firms and the dispersion of firms by revenue. For example, the Department believes that the smallest firms are not likely to be providing proxy-voting services to ERISA plans. Therefore, the Department believes that what appears to be the most serious cost impact for firms with less than $100,000 in receipts would not occur.

The Department believes it is reasonable to assume that costs for small entities account for between 0.8 percent and 4.1 percent of revenues. A weighted average of these two approaches by firm size, results in an estimate that costs account for an average of 2.4 percent of revenues for small entities. The estimated proportions of costs are broken down by firm size for small firms in the Adjusted Revenue Test column in the table below. The Department requests comments on the model and its assumptions, particularly with regard to business size.

PORTFOLIO MANAGEMENT (NAICS 523920), INVESTMENT ADVICE (NAICS 523930), AND TRUST, FIDUCIARY, AND CUSTODY ACTIVITIES (NAICS 523991)—$41.5 MILLION SIZE STANDARD

| Firm size (by receipts) | Average annual revenue | Annualized cost per firm | Percent of small firms | Revenue test (%) | Adjusted revenue test ** (%) |
|---|---|---|---|---|---|
| All firms | $ 6,345,828 | $ 50,390 | N/A | <1% | <1% |
| Small Firms | 1,220,890 | 50,390 | 100 | 4 | 2 |
| <100,000 | 46,505 | 50,390 | 22 | 108 | 55 |
| 100,000–499,999 | 251,618 | 50,390 | 41 | 20 | 10 |
| 500,000–999,999 | 696,025 | 50,390 | 14 | 7 | 4 |
| 1M–2,49M | 1,531,804 | 50,390 | 12 | 3 | 2 |
| 2.5M–4.99M | 3,390,789 | 50,390 | 5 | 1 | 1 |
| 5M–7.49M | 5,779,106 | 50,390 | 2 | <1 | <1 |
| 7.5M–9.99M | 7,854,990 | 50,390 | 1 | <1 | <1 |
| 10M–14.99M | 10,752,200 | 50,390 | 1 | <1 | <1 |
| 15M–19.99M | 14,201,734 | 50,390 | <1 | <1 | <1 |
| 20M–24.99M | 18,062,969 | 50,390 | <1 | <1 | <1 |
| 25M–29.99M | 17,501,113 | 50,390 | <1 | <1 | <1 |
| 30M–34.99M | 22,451,441 | 50,390 | <1 | <1 | <1 |
| 35M–39.99M | 28,100,088 | 50,390 | <1 | <1 | <1 |
| 40M–41.5M | 30,715,982 | 50,390 | <1 | <1 | <1 |

* Annualized compliance costs as a percentage of revenue.
** The Adjusted Revenue Test considers a weighted averages of the low estimate—assuming the proportion of costs for all firms is equal to the proportion of costs for the average of 0.8—and the high estimate of assuming all firms incur a cost of $50,390 by firm size.

It is likely that service providers will pass most, if not all, of these costs onto their clients, which is estimated to be about $1,500 per plan holding stock. This initial regulatory flexibility analysis (IRFA) only considers the incremental cost the proposed regulation would impose on small entities. It, however, does not take into account the cost savings small entities would realize from the proposed regulation's permitted practices. As discussed in Appendix A, below, the Department intends that the permitted practices will impact a large share of all

[119] Based on data supplied by SBA from the 2012 Census, the Department calculated the average revenue of entities for relevant NAICS codes as $6.4 million. In its calculation, the Department included the following industries; portfolio management (NAICS 523920); investment advice (523930); and trust, fiduciary, and custody activities (NAICS 523991).

[120] Based on data supplied by SBA from the 2012 Census, the Department calculated the average revenue of small entities for relevant NAICS codes as $1.2 million. In its calculation, the Department included the following industries; portfolio management (NAICS 523920); investment advice (523930); and trust, fiduciary, and custody activities (NAICS 523991). In accordance with SBA guidelines, entities with receipts less than $41.5 million were considered small.

proxy votes, and the burden associated with these votes when using the permitted practices will likely be very low. Therefore, taking the permitted practices into account, the net burden on small entities would be smaller than the Department illustrates in the table above, and in some cases, small entities could even realize cost savings.

3.4. Alternatives

As discussed above, the Department's longstanding position is that the fiduciary duties of prudence and loyalty under ERISA sections 404(a)(1)(A) and 404(a)(1)(B) apply to the exercise of shareholder rights, including proxy voting, proxy voting policies and guidelines, and the selection and monitoring of proxy advisory firms. These duties apply to all affected entities—large and small.

The Department carefully considered the proposed rule's impact on small entities in deliberating alternatives for the proposal. For example, the Department considered a purely principles-based approach that would not have included the permitted practices in paragraph (e)(3)(iii) of the proposal. However, the Department was concerned that small entities would not sufficiently benefit for this approach. The Department believes that clearly articulating examples of permitted proxy voting policies would be helpful to small plan fiduciaries and ultimately beneficial to small plan participants and beneficiaries because it will reduce the frequency with which voting resources are expended on matters that do not have an economic impact on small plans compared to a purely principles-based approach paired with the permitted practices. The Department thus concluded that a purely principles-based approach would not have preserved plan assets or enhanced the retirement income security of participants and beneficiaries of small plans as much as the Department's chosen alternative.

Moreover, a purely principles-based approach could result in a responsible fiduciary, having to determine whether to vote each individual proxy proposal. This determination process could consume significant plan resources, even where the potential economic benefit to the plan is small or difficult to determine. A responsible fiduciary might arrive at his or her own policies for simply not voting, or voting in a specific manner on certain types of proposals, based on the plan's limited exposure to a stock or the economic immateriality of the matter being voted upon. However, under a principles-based approach fiduciaries would likely be cautious about adopting such policies, and might believe it prudent to be able to demonstrate in each case why a decision was made not to vote, and therefore err on the side of devoting excessive resources to voting decisions. By creating such uncertainty and caution in adopting such policies, this result would provide limited benefits on small entities and lead to unnecessary expenditure of plan assets. The Department invites comments on the impact of the inclusion of permitted practices on small entities and their usefulness in aiding a small plan fiduciary's determination of whether to vote.

The Department also considered including a specific numeric cap for the materiality permitted practice in paragraph (e)(3)(iii)(C), but opted not to do so until it has the opportunity to review the comments solicited earlier in this preamble on this question. The Department similarly invites comments regarding the impact on those issues on small entities for purposes of this IRFA. The Department also invites comments generally on its choice of permitted practices, including whether any should not be retained and whether any other practices should be added or additional alternatives considered to address specific circumstances affecting small entities.

3.5. Duplicate, Overlapping, or Relevant Federal Rules

The proposed rule would not conflict with any relevant federal rules. As discussed above, the proposal would merely clarify the application of ERISA's fiduciary duties to conform to significant changes in shareholder voting practices. The Department is monitoring other federal agencies whose statutory and regulatory requirements overlap with ERISA. In particular, the Department is monitoring SEC rules and guidance to avoid creating duplicate or overlapping requirements with respect to proxy voting.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 [121] requires each Federal agency to prepare a written statement assessing the effects of any federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. For purposes of the Unfunded Mandates Reform Act, as well as Executive Order 12875, this proposal would not include any federal mandate that the Department expects would result in such expenditures by state, local, or tribal governments, or the private sector. This proposed rule would not result in an expenditure of $100 million or more in any one year, because the Department is simply restating and modernizing fiduciary practices related to voting rights and aligning its regulations to the extent possible with guidance issued by the SEC.

5. Federalism Statement

Executive Order 13132 outlines fundamental principles of federalism and requires Federal agencies to adhere to specific criteria when formulating and implementing policies that have ''substantial direct effects'' on the states, the relationship between the National Government and states, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have federalism implications must consult with state and local officials and describe the extent of their consultation and the nature of the concerns of state and local officials in the preamble to the rule.

In the Department's view, these proposed regulations do not have federalism implications because they do not have direct effects on the states, the relationship between the National Government and the states, or the distribution of power and responsibilities among various levels of government. The proposed regulations describe requirements and permitted practices related to the exercise of shareholder rights under ERISA. While ERISA generally preempts state laws that relate to ERISA plans, and preemption typically requires an examination of the individual law involved, it appears highly unlikely that the provisions in this proposed regulation would have preemptive effect on general state corporate laws. The Department welcomes input from affected states regarding this assessment.

6. Appendix A

In light of the uncertainty regarding the proxy voting activities of ERISA plans, and the attendant costs and benefits of this proposal, the Department is presenting an illustration below of an analytical approach to evaluating the possible impacts of this NPRM. This is part of the Department's solicitation of comments on an appropriate methodology and assumptions for evaluating the costs and

[121] 2 U.S.C. 1501 *et seq.* (1995).

savings that could result from the rule. The analytical model assumes that proxies are primarily voted by asset managers or other service providers. The Department also assumes that the proposed rule may require some plans or service providers to expend more effort researching whether a proxy vote will have a relevant economic impact on the plan and how the plan should vote in cases in which the proposal has such an economic impact. Service providers, plans, or both, may also need to provide more documentation of their decisions than they already produce. Additionally, plans may take advantage of the permitted practices described in the proposal that allow them to conserve plan assets, because they may not need to conduct as extensive an amount of research or expend as much time on documenting decisions. The analysis used in the illustration is based on a number of assumptions and estimates. Some of those assumptions and estimates are based on available data, but the Department does not have supporting data for some key assumptions and estimates. Specifically, the model portrays the following as described below and shown in tables 2–4 which are also found below.

An estimated 1,988 service providers may be impacted by the rule's requirements, shown in column A. This estimate is obtained by looking at the number of clients of three of the largest proxy advisory firms.[122] While service providers that are affected by this rule may not use the services of these proxy advisory firms, it is also likely that not all of these firms provide services to ERISA-covered plans.

To obtain the number of proxy votes that need to be evaluated, the estimate of the number of domestic stock (4,684) was obtained by looking at the number of shareholder meetings held, and [123] the estimate for the number of foreign stock (3,336) was obtained by the number of stock in a foreign stock index.[124] These estimates were used to arrive at an estimate of 8,020 total stocks voted annually. Each stock can have multiple related proxy votes. Therefore, the Department estimates that there are 9.3 votes per stock.[125] These assumptions lead to an estimate of 148,276,968 proxy votes that could be impacted by this rule as shown in column C of Table 2.[126]

As discussed previously, some stocks may fall within the permitted practice provisions of the rule. The illustration assumes that proposals that are within the permitted practices would be less burdensome to research and document even if the permitted practices provisions did not exist. The Department estimates that 5.6 percent of all proxy votes will fall outside the permitted practices; therefore, they still would be required to be researched, voted, and documented under the proposal.[127] The following assumptions were made to estimate the burden of such researching, voting, and fulfilling documentation requirements. For votes falling within the permitted practices, on average the Department estimates that 30 minutes would be needed for responsible plan fiduciaries to conduct research and 10 minutes would be required to document each vote. For votes falling outside the permitted practices, the Department estimates that on average two hours would be needed for responsible plan fiduciaries to conduct research and 20 minutes would be required to document each vote. Using these assumptions, and other assumptions about the proposal's impact discussed below, the Department estimated the total hours required for responsible plan fiduciaries to research and document proxy votes.

The costs of the research and documentation requirements were calculated by multiplying the total research hours by a labor rate of $116.96 and the total documentation hours by a labor rate of $110.39.[128] Column H shows the total costs of the rule for increases in research and documenting costs, but excludes cost savings that could occur if the permitted practices are used. The cost savings from the permitted practices are discussed later. It should be noted that although the Department calculated costs in column H, most of these costs will not be realized, because plans will use the permitted practices to avoid incurring them.

As discussed elsewhere in this preamble, while the Department believes that the common practices of most plans related to proxy voting are generally consistent with the standards in the proposal, we do not know with any level of precision the percent of plans that are not currently meeting such standards. For purposes of illustrating possible impacts of this rule, the Department assumes that five percent of total research costs will be new as some responsible plan fiduciaries will improve their research conducted to determine whether they should or should not vote proxies and then how to vote. The Department modeled one percent of the total research costs as new, because some responsible plan fiduciaries will need to increase the quality of their documentation for some affected votes. The hours shown in columns D and E reflect that only some of the votes will necessitate new burden. To illustrate, the 3,499,336 hours in the first row of column D is obtained by the following: 1,988 service providers * 8,020 stocks * 9.3 proxy votes per stock * (1–0.056 for share of votes effected by permitted practices) * 0.5 hours of new research * 5 percent increase in research costs.[129]

An illustration of potential cost savings that could be derived from responsible plan fiduciaries using the permitted practices was arrived at using the same model. As depicted in table 3, responsible plan fiduciaries do not have to vote proxies that fall within the permitted practices, which could save at least some of the costs associated with research and documentation. Columns A, B, and C of table 3 are obtained in

[122] SEC Proxy Proposed Rule: Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice Table 1 Page 84. The estimate includes those categories of clients viewed most-likely to be impacted by the rule: Banking or thrift institutions, investment companies, pooled investment vehicles, pension and profit sharing plans, other investment advisers, and insurance companies.

[123] One service provider said that in 2019 they processed 4,216 shareholder meetings. Also, in 2019 this service provider held about 90 percent of the market for processing proxy votes. These statistics would lead to about 4,684 shareholder meetings (4,216/0.9). *https://www.broadridge.com/_assets/pdf/broadridge-proxy-season-stats-final.pdf* and (*https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-of-the-investor-as-owner-subcommittee-on-the-us-proxy-system-090519.pdf*).

[124] FTSE All-World ex US Index Fact Sheet, July 31, 2020. *https://www.ftserussell.com/analytics/factsheets/home/search.*

[125] Investment Company Institute. ''Proxy Voting by Registered Investment Companies, 2017.'' Vol 25, No. 5. July 2019. See endnote 15. *https://www.ici.org/pdf/per25-05.pdf.*

[126] 1,988 * (4,684 + 3,336) * 9.3

[127] Investment Company Institute. ''Proxy Voting by Registered Investment Companies, 2017.'' Vol 25, No. 5. July 2019. See Figures 2 and 3. *https://www.ici.org/pdf/per25-05.pdf.* We developed this assumption by looking at the ICI data from 2011 to 2017 on the percentage of total proxy proposals that related to mergers, acquisitions, dissolutions, conversions consolidations, corporate repurchase of shares, issuance of additional securities, and contested elections for directors.

[128] These labor rates are a composite labor rate. For, research, it is for a financial manager and a financial professional with a quarter of the time provided by a financial manager and three-quarters of the time provided by a financial professional. For the documentation labor rate, it is for a financial manager and a clerical professional with each providing half the time. The wage rate for a financial manager (11–3031), financial professional (13–2011), and a clerical professional (43–6014) is respectively $165.63, $100.74, and $55.14. *https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf.*

[129] In the second row of Table 2, a one percent increase is reflected, rather than a five percent increase.

the same manner as columns A, B, and C of table 2. Columns D and E are obtained in the same manner as in table 2 except replacing the assumption that five percent of the costs are new with an assumption about the number of proxy votes that will not be voted due to the permitted practices. For this illustration, the Department assumed that 10 percent of the proxy votes will not be voted and responsible plan fiduciaries will not incur research and documentation costs. Instead of thinking about this as a reduction in actual votes, it can also be viewed as a 10 percent reduction in costs if votes are still cast pursuant to the permitted practices that allow voting but reduce burden, such as paragraph (e)(3)(iii)(A) of the proposal, which would allow fiduciaries to adopt vote proxies in accordance with the voting recommendations of corporate management. The Department intends that the permitted practices will impact a large share of all proxy votes and the burden associated with these votes when using the permitted practices will likely be very low. Column H of table 3 is an illustration of the potential cost reduction from the use of the permitted practices.

TABLE 2—ILLUSTRATION OF POSSIBLE NEW COSTS DUE TO RULE OF VOTING PROXIES

| | Number of firms providing proxy voting for ERISA plans (A) | Number of stock to vote (B) | Number of proxy votes (C) | New due to rule: hours to research (D) | New due to rule: hours to document (E) | Cost equivalent new due to rule: research (F) | Cost equivalent new due to rule: documentation (G) | Total new cost of policy alternative without permitted practices (H) | Total new cost to plans incurring cost if using permitted practices (I) |
|---|---|---|---|---|---|---|---|---|---|
| Providers: PP | 1,988 | 8,020 | 139,973,458 | 3,499,336 | 233,289 | $409,291,139 | $25,751,617 | $435,042,756 | ..... |
| Providers: Non-PP | 1,988 | 8,020 | 8,303,510 | 830,351 | 27,678 | 97,119,931 | 3,055,277 | 100,175,208 | 100,175,208 |
| Total | 1,988 | ..... | 148,276,968 | 4,329,687 | 260,967 | 506,411,070 | 28,806,893 | 535,217,964 | 100,175,208 |

TABLE 3—ILLUSTRATION OF POSSIBLE COST SAVINGS FROM PERMITTED PRACTICES OF VOTING PROXIES

| | Number of firms providing proxy voting for ERISA plans (A) | Number of stock to vote (B) | Number of proxy votes (C) | New due to rule: hours to research saved (D) | New due to rule: hours to document saved (E) | Cost savings due to rule: research (F) | Cost savings due to rule: document (G) | Total cost savings due to permitted practices (H) |
|---|---|---|---|---|---|---|---|---|
| Provider: PP | 1,988 | 8,020 | 139,973,458 | 6,998,673 | 2,332,891 | $818,582,278 | $257,516,169 | $1,076,098,447 |
| Total | 1,988 | ..... | 139,973,458 | 6,998,673 | 2,332,891 | 818,582,278 | 257,516,169 | 1,076,098,447 |

TABLE 4—COST SAVINGS FROM RULE

| Total costs of policy alternative without permitted practices (A) | Cost savings due to permitted practices (B) | Net cost savings (B – A) |
|---|---|---|
| $535,217,964 | $1,076,098,447 | $540,880,483 |

## Statutory Authority

This regulation is proposed pursuant to the authority in section 505 of ERISA (Pub. L. 93–406, 88 Stat. 894; 29 U.S.C. 1135) and section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), 3 CFR 1978 Comp. 332, and under Secretary of Labor's Order No. 1–2011, 77 FR 1088 (Jan. 9, 2012).

## List of Subjects in 29 CFR Parts 2509 and 2550

Employee benefit plans, Employee Retirement Income Security Act, Exemptions, Fiduciaries, investments, Pensions, Prohibited transactions, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Department is proposing to amend parts 2509 and 2550 of subchapters A and F of chapter XXV of title 29 of the Code of Federal Regulations as follows:

### SUBCHAPTER A—GENERAL

## PART 2509—INTERPRETIVE BULLETINS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

■ 1. The authority citation for part 2509 continues to read as follows:

**Authority:** 29 U.S.C. 1135. Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003). Sections 2509.75–10 and 2509.75–2 issued under 29 U.S.C. 1052, 1053, 1054. Sec. 2509.75–5 also issued under 29 U.S.C. 1002. Sec. 2509. 95–1 also issued under sec. 625, Pub. L. 109–280, 120 Stat. 780.

### § 2509.2016–01 [Removed]

■ 2. Remove § 2509.2016–01.

### SUBCHAPTER F—FIDUCIARY RESPONSIBILITY UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

## PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 3. The authority citation for part 2550 continues to read as follows:

**Authority:** 29 U.S.C. 1135 and Secretary of Labor's Order No. 1–2011, 77 FR 1088 (January 9, 2012). Sec. 102, Reorganization Plan No. 4 of 1978, 5 U.S.C. App. at 727 (2012). Sec. 2550.401c–1 also issued under 29 U.S.C. 1101. Sec. 2550.404a–1 also issued under sec. 657, Pub. L. 107–16, 115 Stat 38. Sec. 2550.404a–2 also issued under sec. 657 of Pub. L. 107–16, 115 Stat. 38. Sections 2550.404c–1 and 2550.404c–5 also issued under 29 U.S.C. 1104. Sec. 2550.408b–1 also issued under 29 U.S.C. 1108(b)(1). Sec. 2550.408b–19 also issued under sec. 611, Pub. L. 109–280, 120 Stat. 780, 972. Sec. 2550.412–1 also issued under 29 U.S.C. 1112.

■ 4. Section 2550.404a–1, as proposed to be revised at 85 FR 39113 (June 30, 2020), is further amended by adding paragraph (e), revising paragraph (g), and republishing paragraph (h) to read as follows:

**§ 2550.404a–1 Investment duties.**

* * * * *

(e) *Proxy voting and exercise of shareholder rights.* (1) The fiduciary duty to manage plan assets that are shares of stock includes the management of shareholder rights appurtenant to those shares, such as the right to vote proxies.

(2)(i) When deciding whether to exercise shareholder rights and when exercising such rights, including the voting of proxies, fiduciaries must carry out their duties prudently and solely in the interests of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying the reasonable expenses of administering the plan pursuant to ERISA sections 403 and 404.

(ii) In order to fulfill the fiduciary obligations under paragraph (e)(2)(i) of this section, when deciding whether to exercise shareholder rights and when exercising shareholder rights, a plan fiduciary must:

(A) Act solely in accordance with the economic interest of the plan and its participants and beneficiaries considering only factors that they prudently determine will affect the economic value of the plan's investment based on a determination of risk and return over an appropriate investment horizon consistent with the plan's investment objectives and the funding policy of the plan;

(B) Consider the likely impact on the investment performance of the plan based on such factors as the size of the plan's holdings in the issuer relative to the total investment assets of the plan, the plan's percentage ownership of the issuer, and the costs involved;

(C) Not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to any non-pecuniary objective, or sacrifice investment return or take on additional investment risk to promote goals unrelated to those financial interests of the plan's participants and beneficiaries or the purposes of the plan;

(D) Investigate material facts that form the basis for any particular proxy vote or other exercise of shareholder rights. The fiduciary may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider without appropriate supervision and a determination that the service provider's proxy voting guidelines are consistent with the economic interests of the plan and its participants and beneficiaries as defined in paragraph (e)(2)(ii)(A) of this section;

(E) Maintain records on proxy voting activities and other exercises of shareholder rights, including records that demonstrate the basis for particular proxy votes and exercises of shareholder rights; and

(F) Exercise prudence and diligence in the selection and monitoring of persons, if any, selected to advise or otherwise assist with exercises of shareholder rights, such as providing research and analysis, recommendations regarding proxy votes, administrative services with voting proxies, and recordkeeping and reporting services.

(iii) Where the authority to vote proxies or exercise shareholder rights has been delegated to an investment manager pursuant to ERISA section 403(a)(2), or a proxy voting firm or other person performs advisory services as to the voting of proxies, a responsible plan fiduciary shall require such investment manager or proxy advisory firm to document the rationale for proxy voting decisions or recommendations sufficient to demonstrate that the decision or recommendation was based on the expected economic benefit to the plan, and that the decision or recommendation was based solely on the interests of participants and beneficiaries in obtaining financial benefits under the plan.

(3)(i) A plan fiduciary must vote any proxy where the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after considering those factors described in paragraph (e)(2)(ii) of this section and taking into account the costs involved (including the cost of research, if necessary, to determine how to vote).

(ii) A plan fiduciary must not vote any proxy unless the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after considering those factors described in paragraph (e)(2)(ii) of this section and taking into account the costs involved (including the cost of research, if necessary, to determine how to vote).

(iii) In deciding whether to vote a proxy pursuant to paragraphs (e)(3)(i) and (ii) of this section, plans may adopt proxy voting policies that voting authority shall be exercised pursuant to specific parameters reasonably designed to serve the plan's economic interest. Such policies may include, for example:

(A) A policy of voting proxies in accordance with the voting recommendations of management of the issuer on proposals or particular types of proposals that the fiduciary has prudently determined are unlikely to have a significant impact on the value of the plan's investment, subject to any conditions determined by the fiduciary as requiring additional analysis because the matter being voted upon may present heightened management conflicts of interest or is likely to have a significant economic impact on the value of the plan's investment;

(B) A policy that voting resources will focus only on particular types of proposals that the fiduciary has prudently determined are substantially related to the corporation's business activities or likely to have a significant impact on the value of the plan's investment, such as proposals relating to corporate events (mergers and acquisitions transactions, dissolutions, conversions, or consolidations), corporate repurchases of shares (buy-backs), issuances of additional securities with dilutive effects on shareholders, or contested elections for directors; and

(C) A policy of refraining from voting on proposals or particular types of proposals when the plan's holding in a single issuer relative to the plan's total investment assets is below a quantitative threshold that the fiduciary prudently determines, considering its percentage ownership of the issuer and other relevant factors, is sufficiently small that the outcome of the vote is unlikely to have a material impact on the investment performance of the plan's portfolio (or investment performance of assets under management in the case of an investment manager).

(iv) Plan fiduciaries shall review proxy voting policies adopted pursuant to paragraph (e)(3)(iii) of this section at least once every two years.

(v) No policies adopted under paragraph (e)(3)(iii) of this section shall preclude, or impose liability for, submitting a proxy vote when the fiduciary prudently determines that the matter being voted upon would have an economic impact on the plan after taking into account the costs involved, or for refraining from voting when the fiduciary prudently determines that the matter being voted upon would not have an economic impact on the plan after taking into account the costs involved.

(4)(i)(A) The responsibility for exercising shareholder rights lies exclusively with the plan trustee except to the extent that either:

(*1*) The trustee is subject to the directions of a named fiduciary pursuant to ERISA section 403(a)(1); or

(*2*) Or the power to manage, acquire, or dispose of the relevant assets has been delegated by a named fiduciary to one or more investment managers pursuant to ERISA section 403(a)(2).

(B) Where the authority to manage plan assets has been delegated to an investment manager pursuant to section 403(a)(2), the investment manager has exclusive authority to vote proxies or exercise other shareholder rights appurtenant to such plan assets in accordance with this section, except to the extent the plan, trust document, or investment management agreement expressly provides that the responsible named fiduciary has reserved to itself (or to another named fiduciary so authorized by the plan document) the right to direct a plan trustee regarding the exercise or management of some or all of such shareholder rights.

(ii) An investment manager of a pooled investment vehicle that holds assets of more than one employee benefit plan may be subject to an investment policy statement that conflicts with the policy of another plan. Compliance with ERISA section 404(a)(1)(D) requires the investment manager to reconcile, insofar as possible, the conflicting policies (assuming compliance with each policy would be consistent with ERISA section 404(a)(1)(D)). In the case of proxy voting, to the extent permitted by applicable law, the investment manager must vote (or abstain from voting) the relevant proxies to reflect such policies in proportion to each plan's economic interest in the pooled investment vehicle. Such an investment manager may, however, develop an investment policy statement consistent with Title I of ERISA and this section, and require participating plans to accept the investment manager's investment policy, including any proxy voting policy, before they are allowed to invest. In such cases, a fiduciary must assess whether the investment manager's investment policy statement and proxy voting policy are consistent with Title I of ERISA and this section before deciding to retain the investment manager.

* * * * *

(g) *Effective date.* This section shall be effective on [30 days after date of publication of final rule].

(h) *Severability.* Should a court of competent jurisdiction hold any provision(s) of this subpart to be invalid, such action will not affect any other provision of this subpart.

Signed at Washington, DC.

**Jeanne Klinefelter Wilson,**

*Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2020–19472 Filed 9–3–20; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 679 and 680

**[Docket No.: 200811–0214]**

**RIN 0648–BJ73**

## Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Amendment 111

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to implement Amendment 111 to the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (GOA FMP) and a regulatory amendment to reauthorize the Central Gulf of Alaska (CGOA) Rockfish Program. This proposed rule would retain the conservation, management, safety, and economic gains realized under the existing Rockfish Program and make minor revisions to improve administration of the Rockfish Program. This proposed rule is necessary to continue the conservation benefits, improve efficiency, and provide economic benefits of the Rockfish Program that will expire on December 31, 2021 without this proposed rule. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the GOA FMP, and other applicable laws.

**DATES:** Submit comments on or before October 5, 2020.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2020–0086, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0086,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the ''Analysis''), the Social Impact Analysis, and the Finding of No Significant Impact prepared for this proposed rule may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted via mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Glenn Merrill; in person at NMFS Alaska Region, 709 West 9th Street, Room 401, Juneau, AK; via internet on *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Warpinski, 907–586–7228 or *Stephanie.warpinski@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Authority for Action

NMFS manages U.S. groundfish fisheries of the Gulf of Alaska (GOA) under the GOA FMP. NMFS manages vessels and License Limitation Program (LLP) licenses subject to sideboard limits under the Crab Rationalization Program under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce (Secretary) approved, these FMPs under the authority of the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the GOA FMP are located at 50 CFR part 679. Regulations implementing the Crab FMP are located at 50 CFR part 680. General regulations governing U.S. fisheries also appear at 50 CFR part 600. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery managed under the FMP. NMFS conducts rulemaking to implement FMP amendments and regulatory amendments.

The Council recommended Amendment 111 to the GOA FMP to reauthorize the existing Rockfish Program that is scheduled to expire on December 31, 2021. The proposed reauthorized Rockfish Program would retain the net national conservation, management, safety, and economic benefits realized under the existing Rockfish Program as well as modify regulations to improve the management of the Rockfish Program.

The Rockfish Program is a type of limited access privilege program (LAPP) developed to enhance resource conservation and improve economic efficiency in the CGOA rockfish fisheries. LAPPs, also called catch share programs, are limited access systems in which Federal permits are issued to harvest a quantity of fish representing a portion of the total allowable catch (TAC). Under the Rockfish Program, participants exercise their exclusive harvest privileges when they join a rockfish cooperative. The Rockfish Program benefits CGOA fishermen, shoreside processors, catcher/processors, and communities by (1) providing greater security to harvesters in rockfish cooperatives, (2) allowing a slower-paced fishery to provide harvesters the ability to choose when to fish, (3) providing greater stability for processors by spreading production over a longer period of time, (4) allowing for a more stable workforce, (5) increasing product quality and diversity, and (6) allowing catcher/processors greater spatial and temporal flexibility to reduce bycatch and develop more stable markets. The proposed reauthorized Rockfish Program would continue LAPP management, and would seek to provide the same benefits established under the existing Rockfish Program.

A notice of availability (NOA) for Amendment 111 was published in the **Federal Register** on July 28, 2020 (85 FR 45367), with comments invited through September 28, 2020. All relevant written comments received by September 28, 2020, whether specifically directed to the NOA or this proposed rule will be considered by NMFS in the approval/disapproval decision for Amendment 111 and addressed in the response to comments in the final rule. Commenters do not need to submit the same comments on both the NOA and this proposed rule. Comments submitted on this proposed rule by the end of the comment period for this proposed rule (See **DATES**) will be considered by NMFS in our decision to implement measures proposed by the Council and addressed in the response to comments in the final rule.

## Background

The following background sections describe the Rockfish Program and the need for this proposed rule.

### *The Rockfish Program*

This section provides a brief overview of the existing Rockfish Program. A detailed description of the Rockfish Program and its development is provided in the preamble to the proposed rule and the final rule implementing the Rockfish Program from 2012 through 2021 (76 FR 52147, August 19, 2011 and 76 FR 81248, December 27, 2011) and in Section 1.2 of the Analysis.

In 2003, Section 802 of the Consolidated Appropriations Act of 2004 (Section 802, Pub. L. 108–199) provided the Secretary of Commerce, in consultation with the Council, direction to establish a rockfish ''Pilot Program'' to recognize historic participation of fishing vessels and processors, a set-aside for participants not eligible to participate in the Rockfish Pilot Program, and catch limits of species incidentally harvested with northern rockfish, pelagic shelf rockfish (since redefined), and Pacific ocean perch. The Secretary of Commerce, in consultation with the Council, developed the Rockfish Pilot Program to meet the requirements of Section 802. The Council recommended the Rockfish Pilot Program to the Secretary on June 6, 2005 and NMFS published regulations implementing the Rockfish Pilot Program on November 20, 2006 (71 FR 67210).

Section 802 authorized the Rockfish Pilot Program for 2 years, from January 1, 2007, until December 31, 2008. Section 802 states that the program shall (1) include the Central GOA rockfish species of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish; (2) recognize historical participation of fishing vessels in the Central GOA rockfish fisheries from 1996 to 2002; (3) recognize historical participation of processors in the Central GOA rockfish fisheries from 1996 to 2000; (4) establish catch limits for non-rockfish species and non-target rockfish species harvested with the Central GOA rockfish species and base such allocations on historical harvesting of these incidentally caught species; (5) set aside up to 5 percent of the TAC of the Central GOA rockfish fisheries for catcher vessels that are not eligible to participate in the program; and (6) have a 2-year duration. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, which became public law on January 12, 2007 (Pub. L. 109–479), extended the Rockfish Pilot Program for an additional 3 years, until December 31, 2011. NMFS implemented that regulatory extension on November 17, 2008 (73 FR 67809).

On June 14, 2010, the Council adopted the existing Rockfish Program to replace the Rockfish Pilot Program that was scheduled to expire on December 31, 2011. NMFS published regulations implementing the existing Rockfish Program on December 27, 2011 (76 FR 81248). The Council designed the Rockfish Program to meet the requirements for limited access privileges in section 303A of the Magnuson-Stevens Act.

The Rockfish Program provides exclusive harvesting privileges for vessels using trawl gear to harvest a specific set of ''primary'' rockfish species and associated ''secondary'' species incidentally harvested to the primary rockfish in the CGOA, an area from 147° W long. to 159° W long. The granting of exclusive harvesting is commonly called rationalization. The rockfish primary species rationalized under the Rockfish Program are northern rockfish, Pacific ocean perch, and dusky rockfish. The secondary species rationalized under the Rockfish Program include Pacific cod, rougheye rockfish, shortraker rockfish, and sablefish. In addition to these primary and secondary species, the Rockfish Program allocates a portion of the halibut bycatch mortality limit annually specified for the GOA trawl fisheries to Rockfish Program participants.

The Rockfish Program (1) assigns quota share (QS) and cooperative quota (CQ) to participants for primary and secondary species, (2) allows a participant holding an LLP license with rockfish QS to form a rockfish cooperative with other persons, (3) allows holders of catcher/processor LLP licenses to opt-out of rockfish cooperatives for a given year, (4) establishes a limited access fishery for participants who do not participate in a fishery cooperative for a given year, (5) includes an entry level longline fishery for persons who do not hold rockfish

QS, (6) establishes constraints, commonly known as sideboard limits, for other non-Rockfish Program fisheries that apply to vessels and LLP licenses eligible to participate in the Rockfish Program, and (7) includes monitoring and enforcement provisions.

As summarized in Sections 2 and 3.5 of the Analysis, the Rockfish Program provided greater security to harvesters through the formation of rockfish cooperatives. Fishing under cooperative management resulted in a slower-paced fishery that allows a harvester to choose when to fish. The Rockfish Program also provided greater stability for processors by spreading out production over a longer period. Overall, the Rockfish Program provides greater benefits to shoreside processors, catcher/processors, CGOA fishermen, and communities than were realized under the previous LLP management scheme.

For example, during the Rockfish Program, fishermen made more rockfish and non-rockfish shoreside deliveries over a more extended period of time than under only LLP management. This allowed for a more stable workforce and slower processing pace than the previous short periods of high volume rockfish processing. With a slower processing pace, product quality and diversity increased. CGOA fishermen and processors noted fewer conflicts with other fisheries, especially the salmon fishery which traditionally overlapped with rockfish efforts. Catcher/processors noted greater flexibility in preparation and execution of the fishery which resulted in lower bycatch numbers, more stable markets, and a more efficient distribution of fishery effort. This proposed rule would retain the management structure implemented under the Rockfish Program and revise specific provisions of the Rockfish Program, as described below, to improve operational efficiency. The Pilot Program created a structure for fishery participants to form cooperatives to efficiently manage harvesting activities, and the existing Rockfish Program continues to rely on cooperative formation.

*Need for Amendment 111 and This Proposed Rule*

Without this proposed rule, the existing Rockfish Program is scheduled to expire on December 31, 2021. This proposed rule would continue the conservation benefits, improve efficiency, and provide economic benefits of the Rockfish Program that would otherwise expire. This proposed rule would reauthorize the Rockfish Program and make minor revisions to existing regulations to improve administrative provisions of the Rockfish Program. This proposed rule would retain the conservation, management, safety, and economic benefits realized under the existing Rockfish Program.

Unless otherwise noted, the proposed reauthorized Rockfish Program would retain regulatory provisions established in the existing Rockfish Program. These include the current allocation of QS among the fishery participants, the process and requirements to fish in a cooperative, sideboard limitations, and monitoring and reporting requirements. The Council and NMFS considered a range of alternatives and potential changes to the existing Rockfish Program, including allowing the Rockfish Program to expire. Section 1.7 of the Analysis describes the alternatives considered and Section 1.10.2 provides the rationale for the reauthorized Rockfish Program proposed in this rule. The reader is referred to those sections for additional details.

Amendment 111 to the FMP and this proposed rule would reauthorize the Rockfish Program and address a variety of administrative and management issues associated with the existing Rockfish Program. The specific regulatory changes to the existing Rockfish Program under this proposed rule are discussed in Section 1.6.2 of the Analysis (see **ADDRESSES**) and include:

- Removing the Rockfish Program sunset date of December 31, 2021, with the effect of allowing the Rockfish Program to continue indefinitely;
- Specifying that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report;
- Modifying cooperative check-in notice timing from 48 to 24 hours;
- Removing requirements that an annual Rockfish Program cooperative report be submitted to NMFS. The Council requested that the Rockfish Program cooperatives continue to voluntarily provide annual reports to the Council;
- Removing requirements for a fishing plan to be submitted with a cooperative application for CQ;
- Requiring annual NMFS cost recovery reports;
- Allowing NMFS to reallocate unharvested Pacific cod allocated to Rockfish Program cooperatives to other non-Rockfish Program sectors after the Rockfish Program fisheries close on November 15, consistent with existing regulatory requirements;
- Allowing NMFS to reallocate unused rockfish incidental catch allowances (ICA) to Rockfish Program cooperatives;
- Clarifying regulations regarding accounting for inseason use caps to specify that any transfer of unused rockfish ICAs or catcher/processor CQ to catcher vessel cooperatives does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps;
- Exempting vessels from Crab Rationalization Program sideboard limits when fishing in the Rockfish Program;
- Removing catcher/processor rockfish program sideboard limits in the Western GOA rockfish fisheries;
- Removing the requirement for a trawl catcher vessel that has checked into and is participating in the Rockfish Program fishery to stand down for three days when transiting from the Bering Sea and Aleutian Islands Management Area (BSAI) to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI;
- Removing requirements for shoreside processors under the Rockfish Program to provide an observer work station and observer communication standards; and
- Making minor technical corrections to clarify the season date for directed fishing for Pacific cod under the Rockfish Program, and updating references to dusky rockfish (*Sebastes variabilis*) throughout regulations in 50 CFR part 679.

The following section describes the proposed regulatory changes in greater detail.

**Proposed Rule**

This section describes the proposed changes to existing regulations and the anticipated effects of these changes.

This proposed rule would modify regulations at § 679.80(a)(2) to remove the expiration date for the authorization of the Rockfish Program. The existing Rockfish Program had a 10-year authorization to require the Council to review the Rockfish Program and make any necessary changes to management based on that review, or allow the Rockfish Program to expire. Removing the expiration date would allow the program to continue indefinitely. As noted in Section 3.7.1 of the Analysis, removing the expiration date for the Rockfish Program does not preclude the Council or NMFS from revising, revoking, or otherwise modifying the Rockfish Program at any point in the future. In addition, regular reviews of the Rockfish Program are required under the provision of section 303A(i) of the Magnuson-Stevens Act. Removing the expiration date for the Rockfish Program

would not preclude the regular review of the Rockfish Program. Eliminating the finite duration of the Rockfish Program is expected to provide a level of stability and predictability that would not be achieved by extending the sunset date. Specifically, harvesters and processors may not make the same level of investments to fishing operations if they anticipate the fishery may not be extended (see Section 3.7.1 of the Analysis for additional detail).

This proposed rule would modify Rockfish Program recordkeeping and reporting requirements to: (1) Clarify regulations at § 679.5(r)(10)(i) to clearly state that only shoreside processors taking deliveries of species harvested using Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report; (2) modify cooperative check-in times from 48 to 24 hours at § 679.5(r)(8)(i)(A)(*1*); (3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS at §§ 679.5(r)(6) and 679.81(i)(3)(xxv) and (xxvi); (4) remove the requirement for rockfish cooperatives to submit a fishing plan with its annual application for CQ at § 679.81(f)(4)(i)(D)(*3*); and (5) add a regulation at § 679.85(g) that states NMFS will annually publish a Rockfish Program cost recovery report.

These recordkeeping and reporting changes would provide several benefits. The requirement for the Rockfish Ex-vessel Volume and Value Report would clarify existing provisions to ensure that they are applied only to the persons required to meet management requirements; the change to cooperative check-in times would provide additional flexibility to harvesters while ensuring catch is properly accounted for; and removing the annual Rockfish Program cooperative report and the fishing plan with the annual application for CQ would remove reporting requirements that are not necessary. In addition, the proposed rule would add a requirement that NMFS publish a cost recovery report in regulations. NMFS already produces an annual cost recovery report, so codifying this requirement in regulation does not change the existing process. However, industry has requested that it be codified so that it is consistently produced annually. Additional detail describing the impact of these changes is included in Section 3.7 of the Analysis prepared for this proposed rule (See **ADDRESSES**).

This proposed rule would add regulations at § 679.81(j) to authorize NMFS to reallocate unharvested Pacific cod after directed fishing under the Rockfish Program closes on November 15, consistent with existing reallocation procedures for Pacific cod in the Gulf of Alaska. Regulations at § 679.20(a)(12)(ii) allow NMFS to consider reallocation of unused Rockfish Program Pacific cod, first to catcher vessels, then to the combined catcher vessel and catcher/processor pot sector, and then to all other catcher/processor sectors, taking into account the capability of a sector to harvest the reallocation. Section 3.7.2 of the Analysis notes that on average from 2011 to 2018 (the last year of complete data), 55 percent of the Pacific cod allocated to the Rockfish Program has remained unharvested. Allowing this reallocation could provide additional directed harvest opportunities (*e.g.,* for hook-and-line catcher vessels), or could be used to account for the incidental catch of Pacific cod in trawl fisheries that occur later in the year.

This proposed rule would, at § 679.81(j)(2), authorize NMFS to reallocate unharvested rockfish species ICAs to rockfish cooperatives. Annually, NMFS establishes ICAs for the three primary rockfish species to account for the catch of those species in other, non-Rockfish Program fisheries. NMFS establishes these ICAs conservatively so that the ICA amounts can accommodate anticipated incidental catch and the TACs will not be exceeded. Section 3.1.10 of the Analysis indicates that in some years a substantial portion of that ICA may remain unharvested by Rockfish Program participants. This proposed rule would provide NMFS with the authority to reallocate unused ICA amounts to Rockfish Program cooperatives to allow a more complete harvest of the TACs in those years when the ICAs are not fully used. Section 3.7.10 of the Analysis notes that, since 2012, the reallocation of ICAs could have resulted in substantial additional revenue (*e.g.,* $852,000 in ex-vessel value in 2016) to harvesters and processors. NMFS would make its decision whether to reallocate ICAs after evaluating the anticipated ICA use in non-Rockfish Program fisheries and the ability for Rockfish Cooperatives to harvest the allocation. If NMFS determines there is not sufficient ICA to reallocate, then no reallocation would occur.

This proposed rule would specify that, if an amount of ICA is reallocated, catcher vessel rockfish cooperatives would have priority for receiving the reallocation. In most years, participants in the catcher vessel cooperatives fish later in the year than participants in the catcher/processor cooperatives, and the Council indicated a preference to provide additional opportunities to the catcher vessel sector first. This proposed rule would specify that, if an ICA is rolled over to Rockfish Program cooperatives, each cooperative would receive a reallocation that is proportional to the amount of CQ initially issued to that cooperative for that sector. For example, if NMFS reallocated 100 metric tons (mt) of Pacific ocean perch to the catcher vessel sector, and one cooperative was initially issued 20 percent of the Pacific ocean perch catcher vessel CQ and another cooperative was issued 80 percent of the Pacific ocean perch catcher vessel CQ, then the first cooperative would receive 20 mt and the second cooperative would receive 80 mt. This reallocation process would ensure an equitable redistribution among all of the cooperatives.

This proposed rule would add regulations at § 679.82(a)(1)(vi) to clarify that any transfer of reallocated Rockfish Program ICAs or catcher/processor CQ to a catcher vessel cooperative does not apply when calculating catcher vessel use caps, including CV ownership, cooperative CQ, harvester QS, or shoreside processor caps. Use caps are established to limit consolidation. Currently, regulations at § 679.82(a) state that use caps are based on the amount of the CQ ''initially issued'' to the Rockfish Program catcher vessel sector. The proposed regulatory change would clarify the methods that should be used to calculate use caps that apply to catcher vessel cooperatives and, because these are the methods currently in use, would not modify existing annual processes. This proposed regulatory change would clarify the regulations consistent with the Council's intended application of the use cap provisions under the Rockfish Program. (See Section 3.7.11 of the Analysis for additional detail on use cap provisions.)

This proposed rule would make several changes to regulations governing the sideboards established to protect other Gulf of Alaska fisheries. Sideboards are limitations on the ability of harvesters to harvest in fisheries other than the CGOA rockfish fisheries. The proposed changes include: (1) Exempting Rockfish Program vessels from sideboard limits implemented under the Crab Rationalization Program at § 680.22(a)(1); (2) removing both Western GOA directed fishing prohibitions specified at § 679.82(e)(2) and rockfish sideboard ratios at § 679.82(e)(4) for Rockfish Program catcher/processors; and (3) removing the requirement at § 679.23(h)(1) for a trawl catcher vessel checked into and participating in the Rockfish Program fishery to stand down for three days

when transiting from the BSAI to the GOA while Pacific cod or pollock is open to directed fishing in the BSAI. Because of the proposed revisions to § 679.82(e)(4) to remove Western GOA directed fishing prohibitions, NMFS also proposes a further clarifying technical revision to the remaining information in § 679.82(e)(4) to remove the table and reorganize the West Yakutat District rockfish sideboard ratios.

These proposed changes improve the operational efficiency of the Rockfish Program by removing operational limitations on vessels operating in the Rockfish Program that would be limited by the existing sideboards. These proposed changes would not reduce the fishery protections in the Rockfish Program but would slightly improve the efficiency and harvest flexibility for vessels participating in these fisheries. These changes to GOA fishery protections would not be expected to result in increased catch in non-Rockfish Program fisheries because fishery participants have successfully coordinated harvests within existing cooperatives across sideboarded vessels, and removing them would provide slight operational efficiency as explained in Section 3.7 of the Analysis.

Section 3.7.3 of the Analysis describes the existing management of sideboards established under the Crab Rationalization Program. Rockfish Program participants who also hold LLP licenses or own vessels that are subject to Crab Rationalization Program sideboard restrictions could be limited from harvesting Rockfish Program CQ. The proposed change to exempt Rockfish Program vessels from Crab Rationalization Program sideboards would apply only when vessels are participating in the Rockfish Program. This proposed change would effectively provide additional harvest opportunities for vessels and LLP license holders in the Rockfish Program but would not remove the sideboard limits when participating in non-Rockfish Program fisheries.

Section 3.7.13 of the Analysis describes the sideboard limits on the amount of dusky rockfish, northern rockfish, and Pacific ocean perch that may be harvested in the Western GOA by catcher/processors that are eligible to participate in the Rockfish Program. Currently, catcher/processors harvest more than 98 percent of all of these three rockfish species (Section 3.7.13 of the Analysis). All of the catcher/processors that participate in the Western GOA rockfish fisheries are also participants in the Amendment 80 Program and are subject to sideboard measures established under the Amendment 80 Program (see Table 37 to part 679). Some of the catcher/processors are also subject to Rockfish Program sideboard limits in the Western GOA, and this limitation can impose operational challenges on vessels that must manage harvests within two separate sideboard limits. The Council recommended, and NMFS is proposing, relieving the Rockfish Program sideboard limits because all of the participants in the Amendment 80 sector have successfully coordinated fishing operations in the Western GOA rockfish fisheries and the Rockfish Program sideboard limits are unnecessary and duplicate other restrictions. Given the very limited harvests by catcher vessels, this proposed change would not be expected to impact other fishery participants.

Section 3.7.14 of the Analysis describes the existing ''stand down'' provisions that apply to catcher vessels that move from the BSAI to GOA. Stand down regulations are implemented to slow the flow of effort moving from the BSAI into the GOA to help protect participants that primarily operated in the GOA by reducing competition on the fishing grounds and extending the season length. Removing the 3-day stand down would allow vessels to enter the CGOA rockfish fishery immediately, since additional protections are not needed in a LAPP program. Regulations at § 679.23(h)(1) state that the owner or operator of a trawl catcher vessel fishing for groundfish in the BSAI while pollock or Pacific cod are open to directed fishing in the BSAI are prohibited from deploying trawl gear in the Central and Western GOA until the third day after the landing or transfer of all groundfish on board the vessel harvested in the BSAI. This regulation can constrain vessels that are moving from the BSAI to participate in the Rockfish Program. The Council recommended and NMFS proposes modifying § 679.23(h)(1) to remove the 3-day stand down requirement when a vessel moves from the BSAI and is checked-in and participating in a Rockfish Program cooperative. This proposed revision would remove a regulatory limitation on vessels moving into the Rockfish Program but would not increase potential harvests in other non-Rockfish Program fisheries. Vessels that participate in the Rockfish Program cooperative would be limited by the amount of CQ allocated to the cooperative and would not be expected to result in increased competition among Rockfish Program participants. Vessels that are not participating in the Rockfish Program would still be subject to the 3-day stand down.

This proposed rule would modify regulations at § 679.84(f)(1) to remove unnecessary requirements for shoreside processors to maintain an observer workstation and communications equipment. These requirements were originally implemented under the Rockfish Pilot Program, which required that fisheries observers be stationed at shoreside processors participating in the Rockfish Pilot Program. Observer requirements for shoreside processors were removed with the implementation of the Rockfish Program in 2012, making these equipment requirements no longer necessary.

This proposed rule includes two additional technical corrections to regulations to clarify the season date for directed fishing for Pacific cod under the Rockfish Program and to update references to dusky rockfish throughout the regulations. This proposed rule would clarify the season dates for directed fishing for Pacific cod with trawl gear at § 679.23(d)(3)(ii) by cross-referencing the Rockfish Program season dates in § 679.84(g).

Currently, existing regulations include conflicting season dates for when directed fishing for Pacific cod is authorized in the Western and Central Gulf of Alaska regulatory areas. Regulations at 50 CFR 679.24(d)(3) specify that directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized in the Pacific cod B season only until 1200 A.l.t., November 1 each year. Regulations at 50 CFR 679.80(a)(3)(ii) specify that fishing by vessels participating in a rockfish cooperative is authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15. Because Pacific cod is an allocated species under the Rockfish Program, this creates conflicting season dates for authorized directed fishing for Pacific cod. To clarify this, NMFS proposes to modify regulations at 50 CFR 679.24 to reference the specific season dates authorized under the Rockfish Program.

This proposed rule changes references to ''pelagic shelf'' rockfish to ''dusky'' rockfish throughout regulations in 50 CFR part 679 to update regulations consistent with changes that have occurred to species categories since 2012 and the implementation of the Rockfish Program. In 2012, the pelagic shelf rockfish assemblage consisted of three species: dusky, widow (*S. entomelas),* and yellowtail rockfish (*S. flavidus*). Following recommendations by rockfish stock assessment scientists, the Council's GOA Groundfish Plan

Team, and the Council's Scientific and Statistical Committee, dusky rockfish were assessed separately starting in 2012. The other two species that were included in the ''pelagic shelf'' rockfish group (widow and yellowtail rockfish) have been included in the ''other rockfish'' species category and stock assessment. Revising the references from pelagic shelf rockfish to dusky rockfish within the regulations and FMP is consistent with existing protocols for the annual stock assessment and harvest specifications of dusky rockfish.

**Classification**

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

This proposed rule is expected to be an Executive Order 13771 deregulatory action.

A Regulatory Impact Review was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS proposes Amendment 111 and these regulations based on those measures that maximize net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis section.

*Initial Regulatory Flexibility Analysis*

This Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by Section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact this proposed rule, if adopted, would have on small entities. The IRFA describes the action; the reasons why this proposed rule is proposed; the objectives and legal basis for this proposed rule; the number and description of directly regulated small entities to which this proposed rule would apply; the recordkeeping, reporting, and other compliance requirements of this proposed rule; and the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. The IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the proposed action, its purpose, and the legal basis are explained in the preamble and are not repeated here.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. A shoreside processor primarily involved in seafood processing (NAICS code 311710) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment, counting all individuals employed on a full-time, part-time, or other basis, not in excess of 750 employees for all its affiliated operations worldwide.

*Number and Description of Small Entities Regulated by This Proposed Rule*

This proposed rule would directly regulate the owners and operators of catcher vessels, catcher/processor vessels, and shoreside processors eligible to participate in the CGOA Rockfish Program. In 2019 (the most recent year of complete data), 54 vessel owners participated in the Rockfish Program, 19 of which are considered small entities based on the $11 million threshold. No catcher/processor vessels are classified as small entities because their combined gross income through affiliation with the Amendment 80 cooperative exceeds the $11 million first wholesale value threshold. In 2018 and 2019, six shore-based cooperatives were associated with a unique shoreside processor under the Rockfish Program. Reliable information is not available on ownership affiliations between individual processing operations or employment for the fish processors directly regulated by this proposed rule. Therefore, NMFS assumes that all of the processors directly regulated by this proposed rule could be small. Additional detail is included in Sections 3.5.5 and 3.9 in the Analysis prepared for this proposed rule (see **ADDRESSES**).

In addition to the main program, this proposed rule also maintains the ''entry level'' fishery for the longline sector. Since participation in that fishery is voluntary, the number of small entities participating in future years cannot be reliably predicted. From 2012 to 2019, an average of 4 vessels targeted CGOA rockfish in the entry level longline sector. Participation in this fishery has typically included vessels using jig gear and are considered small entities. Therefore, it is likely that a substantial portion of the entry level longline fishery participants would be small entities.

*Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities*

The proposed rule builds upon the Rockfish Pilot Program and previously implemented Rockfish Program. The Rockfish Pilot Program was originally enacted through congressional direction to address economic inefficiencies in the fishery which primarily affected small entities. In recommending this proposed rule, the Council considered two alternatives, with multiple elements as it evaluated the potential for the continued rationalization of the CGOA rockfish fisheries, including the ''no action'' alternative (Alternative 1) to allow the Rockfish Program to expire on December 31, 2021; and an action alternative (Alternative 2) to reauthorize the Rockfish Program with numerous alternative elements to address a suite of potential management revisions. The Council considered alternatives that would modify the duration of the Rockfish Program: (1) Remove the sunset date, or (2) implement a new sunset date of 10 to 20 years; and select from numerous alternative elements to revise administrative provisions of the Rockfish Program. The Council selected Alternative 2 with the suite of elements included in this proposed rule to remove the sunset date and modify specific provisions of the Rockfish Program proposed in this proposed rule.

Based upon the best available scientific data, and in consideration of the Council's objectives of this action, it appears that there are no significant alternatives to the proposed rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities. After public process, the Council concluded that the proposed Rockfish Program would best accomplish the stated objectives articulated in the preamble for this proposed rule, and in applicable statutes, and would minimize to the extent practicable adverse economic

impacts on the universe of directly regulated small entities.

*Duplicate, Overlapping, or Conflicting Federal Rules*

NMFS has not identified any duplication, overlap, or conflict between this proposed rule and existing Federal rules.

*Recordkeeping, Reporting, and Other Compliance Requirements*

This proposed rule would modify recordkeeping and reporting requirements under the Rockfish Program to: (1) Clarify that only shoreside processors receiving Rockfish Program CQ must submit the Rockfish Ex-vessel Volume and Value Report; (2) modify cooperative check-in times from 48 to 24 hours; (3) remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS; (4) remove the requirement for rockfish cooperatives to submit a fishing plan with its annual application for cooperative quota; and (5) require NMFS to annually publish a Rockfish Program cost recovery report. These recordkeeping and reporting changes would clarify existing provisions of the program and remove unnecessary reporting requirements, slightly reducing the reporting burden for all directly regulated entities including small entities. The impact of these changes are described in more detail in Section 3.7 of the Analysis prepared for this proposed rule (See **ADDRESSES**).

*Collection-of-Information Requirements*

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval under Control Numbers 0648–0678 (Alaska Council Cooperative Annual Reports) and 0648–0545 (Alaska Rockfish Program: Permits and Reports).

OMB Control Number 0648–0678

Due to this rule, this collection is revised to remove the requirement for an annual Rockfish Program cooperative report to be submitted to NMFS. A second revision, which is not covered by this proposed rule, removes the American Fisheries Act (AFA) Catcher Vessel Intercooperative Agreement as a separate component of this collection because this is already included as an appendix to the AFA Annual Catcher Vessel Intercooperative Report, which is approved under OMB Control Number 0648–0678.

OMB Control Number 0648–0545

This rule proposes to revise and extend by three years OMB Control Number 0648–0545. This collection contains three applications and reports used by Rockfish Program cooperatives to apply for cooperative fishing permits, transfer cooperative quota, and manage cooperative fishing activity. This collection is necessary for NMFS to effectively administer and monitor compliance with the management provisions of the Rockfish Program.

Due to this proposed rule, this collection is revised to remove the requirement for a rockfish cooperative to submit a fishing plan with its Application for Rockfish Cooperative Fishing Quota. Subject to public comment, no change is made to the estimated reporting burden for this application as the estimate allows for differences in the time needed to complete and submit the application. This collection is also revised to reduce the time for a Rockfish Program catcher vessel to submit a cooperative check-in report from 48 hours to 24 hours before the start of a fishing trip. This does not change the estimated reporting burden for this report. These changes are necessary to remove unnecessary reporting requirements.

The respondents are the eight Rockfish Program cooperatives; the estimated total annual burden hours are 40 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs are $40.

Public reporting burden per individual response is estimated to average 2 hours for the Application for Rockfish Cooperative Fishing Quota; 10 minutes for the Application for Inter-Cooperative Transfer of Rockfish Cooperative Quota; and 10 minutes for the Rockfish Program Vessel Check-In/Check-Out and Termination of Fishing Report.

Public Comment

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS Alaska Region (see **ADDRESSES**), or to the Office of Information and Regulatory Affairs (OIRA) by visiting *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *https://www.reginfo.gov/public/do/PRASearch.*

**List of Subjects**

*50 CFR Part 679*

Alaska, Fisheries, Reporting and recordkeeping requirements.

*50 CFR Part 680*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 13, 2020.

**Samuel D. Rauch, III,**

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

For the reasons set out in the preamble, 50 CFR parts 679 and 680 are proposed to be amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

### § 679.2 [Amended]

■ 2. In § 679.2, in paragraph (1) of the definitions for ''Rockfish Program species'' and ''Rockfish sideboard limit'', remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish''.

■ 3. In § 679.5, remove and reserve paragraph (r)(6) and revise paragraphs (r)(8)(i)(A)(*1*) and (r)(10)(i) to read as follows:

### § 679.5 Recordkeeping and reporting (R&R).

* * * * *

(r) * * *

(8) * * *

(i) * * *

(A) * * *

(*1*) At least 24 hours prior to the time the catcher vessel begins a fishing trip to fish under a CQ permit; or

* * * * *

(10) * * *

(i) *Applicability.* A rockfish processor (as defined at § 679.2) that receives and purchases landings of rockfish CQ groundfish must submit annually to NMFS a complete Rockfish Ex-vessel Volume and Value Report, as described in this paragraph (r)(10), for each reporting period for which the rockfish processor receives rockfish CQ groundfish.

* * * * *

**§ 679.20 [Amended]**

■ 4. In § 679.20(d)(1)(vi)(C)(*1*), remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish.''

■ 5. In § 679.23, revise paragraphs (d)(3)(ii) introductory text and (h)(1) to read as follows:

**§ 679.23 Seasons.**

* * * * *

(d) * * *

(3) * * *

(ii) *Trawl gear.* Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons except as authorized in subpart G of this part under the Rockfish Program:

* * * * *

(h) * * *

| If you own or operate a catcher vessel and fish for groundfish with trawl gear in the * * * | You are prohibited from subsequently deploying trawl gear in the * * * | Until * * * |
|---|---|---|
| (1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI. | Western and Central GOA regulatory areas. | 1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component or if checked-in and participating in a CGOA Rockfish Program cooperative. |
| * | * | * |

* * * * *

■ 6. In § 679.80, revise paragraph (a) heading and remove and reserve paragraph (a)(2) to read as follows:

**§ 679.80 Allocation and transfer of rockfish QS.**

* * * * *

(a) *Applicable areas and seasons* * * *

* * * * *

■ 7. In § 679.81:

■ a. Add the word ''and'' at the end of paragraph (f)(4)(i)(D)(*2*);

■ b. Remove and reserve paragraph (f)(4)(i)(D)(*3*);

■ c. Remove paragraphs (i)(3)(xxv) and (xxvi); and

■ d. Add paragraph (j).

The addition reads as follows:

**§ 679.81 Rockfish Program annual harvester privileges.**

* * * * *

(j) *Reallocations.* Annual reallocation of Central Gulf of Alaska rockfish species—

(1) *Pacific cod.* After the Rockfish Program fisheries close on November 15, the Regional Administrator may reallocate any unused amount of Pacific cod from the Rockfish Program to other sectors through notification in the **Federal Register** consistent with regulations at § 679.20(a)(12)(ii).

(2) *Rockfish incidental catch allowances (ICAs)*—(i) *General.* The Regional Administrator may reallocate a portion of a Central GOA rockfish ICAs to rockfish cooperatives if the amounts assigned to the Central GOA rockfish ICAs are projected not to be harvested or used. The timing of a reallocation will be at the discretion of the Regional Administrator.

(ii) *Reallocation of Central Gulf of Alaska rockfish ICA species.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the ICAs of Central Gulf of Alaska rockfish species to rockfish cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of Central Gulf of Alaska rockfish species to rockfish cooperatives according to the following:

(A) Catcher vessel rockfish cooperatives will be given priority for reallocation; and

(B) The amount of additional CQ issued to each rockfish cooperative = Amount of Central Gulf of Alaska rockfish species available for reallocation to rockfish cooperatives × (Amount of CQ for that Central Gulf of Alaska rockfish species initially assigned to that rockfish cooperative/Σ CQ for that Central Gulf of Alaska rockfish species initially assigned to all rockfish cooperatives in the respective sector).

■ 8. In § 679.82:

■ a. Add paragraph (a)(1)(vi);

■ b. In paragraph (d)(3), remove the words ''pelagic shelf rockfish'' and add in their place the words ''dusky rockfish;'' and

■ c. Revise paragraphs (e)(2) and (4).

The addition and revisions read as follows:

**§ 679.82 Rockfish Program use caps and sideboard limits.**

(a) * * *

(1) * * *

(vi) Any transfer of reallocated rockfish ICA (as authorized under § 679.81(j)(2)) or catcher/processor CQ to a catcher vessel cooperative does not apply to catcher vessel ownership, cooperative, harvester CQ, or shoreside processor CQ use caps.

* * * * *

(e) * * *

(2) *Prohibition for directed rockfish fishing in the West Yakutat District by non-Amendment 80 vessels assigned to the catcher/processor sector.* Any vessel that meets the criteria established in paragraph (e)(1) of this section and that is not an Amendment 80 vessel is prohibited from directed fishing for northern rockfish, Pacific ocean perch, and dusky rockfish in the West Yakutat District (or in waters adjacent to the West Yakutat District when northern rockfish, Pacific ocean perch, and dusky rockfish by that vessel is deducted from the Federal TAC as specified under § 679.20) from July 1 through July 31.

* * * * *

(4) *West Yakutat District rockfish sideboard ratios.* The rockfish sideboard ratio for each rockfish fishery in the West Yakutat District is an established percentage of the TAC for catcher/processors in the directed fishery for

dusky rockfish and Pacific ocean perch. These percentages are confidential.

* * * * *

■ 9. In § 679.84, revise paragraph (f)(1) to read as follows:

**§ 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.**

* * * * *

(f) * * *

(1) *Catch monitoring and control plan (CMCP).* The owner or operator of a shoreside processor receiving deliveries from a catcher vessel described in § 679.51(a)(2) must ensure the shoreside processor complies with the CMCP requirements described in § 679.28(g) except the requirements for an observer workstation and communication with observer as specified in § 679.28(g)(7)(vii) and (viii).

* * * * *

■ 10. In § 679.85, add paragraph (g) to read as follows:

**§ 679.85 Cost recovery.**

* * * * *

(g) *Annual report.* Each year, NMFS will publish a report describing the rockfish program cost recovery fee program.

## PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 11. The authority citation for 50 CFR part 680 continues to read as follows:

**Authority:** 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 12. In § 680.22, revise paragraph (a)(1) introductory text to read as follows:

**§ 680.22 Sideboard protections for GOA groundfish fisheries.**

* * * * *

(a) * * *

(1) *Vessels subject to GOA groundfish sideboard directed fishing closures.* Any vessel that NMFS has determined meets one or both of the following criteria is subject to GOA groundfish sideboard directed fishing closures issued under paragraph (e) of this section except when participating in the Rockfish Program authorized under subpart G of part 679 of this chapter.

* * * * *

[FR Doc. 2020–18055 Filed 9–3–20; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register

Vol. 85, No. 173

Friday, September 4, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

**[Docket ID FSA–2020–0008]**

### Information Collection Requests; Generic Clearance for the Collection of Qualitative Customer Feedback on the Farm Service Agency Service Delivery (0560–0286), and Certified State Mediation Program (0560–0165)

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice; request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act (PRA) of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations associated with the extension of two information collection requests. The two collection requests are Generic Clearance for the Collection of Qualitative Customer Feedback on the Farm Service Agency Service Delivery (0560–0286), and Certified State Mediation Program (0560–0165). For Generic Clearance for the Collection of Qualitative Customer Feedback on FSA Service Delivery, this option is a fast track for approval to streamline the timing to implement certain types of surveys and related collection of information. FSA uses the approval to cover the instruments of collection (such as a survey, a window pop-up survey, a focus group, or a comment card), which are designed to get customer feedback on FSA service delivery for various programs. This request for approval broadly addresses FSA's need for information about what our customers think of our services so that we can improve service delivery; specific information collection activities will be incorporated into the approval as the need for the information is identified. For example, when we implement a new program and provide information about the services for the program on our website, we may provide a voluntary customer service questionnaire about how well the program is working for our customers, specifically within the area of customer service. FSA is requesting to increase the number of respondents in the fast track approval due to an anticipated increase in the number of customer respondents responding to customer service surveys that will be sent to a broader scope and greater number of FSA customers. For Certified State Mediation Program collection is necessary to ensure that the grant program is administered properly. The collection of information is used to determine whether participants meet the eligibility requirements to be a recipient of grant funds. Lack of adequate information to make the determination could result in the improper administration of Federal grant funds.

**DATES:** We will consider comments that we receive by November 3, 2020.

**ADDRESSES:** We invite you to submit comments on this notice. In your comments, please include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by the following method: Federal eRulemaking Portal; Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–00xx.

You may also send comments to the Desk Officer for Agriculture, Office of the Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments will be available for public inspection online at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to the collection activities or to obtain a copy of the information collection request: For the Generic Clearance for the Collection of Qualitative Customer Feedback on the Farm Service Agency Service Delivery (0560–0286), please contact Mary Ann Ball, 202–205–5851, *maryann.ball@usda.gov,* and for the Certified State Mediation Program (0560–0165), please contact Tracy Jones, 202–720–6771, *tracy.jones@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Generic Clearance for the Collection of Qualitative Customer Feedback on Farm Service Agency Service Delivery.

*OMB Control Number:* 0560–0286.

*Expiration Date of Approval:* November 30, 2020.

*Type of Request:* Extension.

*Abstract:* FSA program staff have created several feedback instruments (customer surveys) and submitted them to the FSA information collection coordinator for approval under the current approved information collection of 0560–0286, Generic Clearance for the Collection of Qualitative Customer Feedback on Farm Service Agency Service Delivery. FSA program staff continue to use the fast track approval to submit a new customer instruments to the FSA information collection coordinator for approval, which takes less time rather than going through a regular Paperwork Reduction Act process. As a result, program staff are able to quickly implement certain types of surveys and related collection of information using OMB control number of 0560–0286. For example, when we implement a new program and provide information about the programs on our website, FSA may provide a voluntary customer service questionnaire about how well the program is working for our customers, specifically within the area of customer service. The information collection provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner that is consistent with FSA's commitment to improving service delivery. By qualitative feedback, we mean information, generally from customers, that provides useful insights on perceptions and opinions based on experiences with FSA service delivery. Such information does not include statistical surveys that yield quantitative results that can be generalized to the population. The qualitative feedback will: Provide insights into customer or stakeholder perceptions, experiences, and expectations, Provide an early warning of issues with service, and Focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. The collection will allow for ongoing, collaborative, and actionable communication between FSA and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses

will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on FSA's services will be unavailable. FSA will only submit a collection for approval under this generic clearance if it meets the following conditions: The collections are voluntary; The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government; The collections are non-controversial and do not raise issues of concern to other Federal agencies; The collections are targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future; Personally identifiable information (PII) is collected only to the extent necessary and is not retained; Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of FSA; Information gathered will not be used for the purpose of substantially informing influential policy decisions; and Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study. As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as religious beliefs, sexual behavior and attitudes, and other matters that are commonly considered private.

There are no changes to the annual burden hours in this collection. For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual number of responses.

*Estimate of Average Time to Respond:* Public reporting burden for collecting information under this notice is estimated to average 11 minutes (0.17734 hours) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Specifically, it will be 10 minutes per customer feedback surveys, 15 minutes per comment cards, and 3 hours per focus groups.

*Respondents:* Individuals and Households; Businesses; Organizations; and State, Local, or Tribal government.

*Estimated Number of Respondents:* 210,500.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Responses:* 210,500.

*Estimated Average Time per Response:* 11 minutes (0.17734 hours).

*Estimated Total Annual Burden Hours on Respondents:* 37,333 hours.

*Title:* Certified State Mediation Program (7 CFR 785).

*OMB Control Number:* 0560–0165.

*Expiration Date of Approval:* December 31, 2020.

*Type of Request:* Revision and extension.

*Abstract:* FSA administers the Certified State Mediation Program (Program) according to Subtitles A and B of the Title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5106). To effectively administer the Program, FSA requires an application for recertification, which includes submission of a letter from the State, a letter from the grantee, SF–424, SF–424A, SF–424B, and SF–425. Approved grantees provide a mid-year report as well as an annual report that includes information on mediation services provided during the preceding Federal fiscal year, assessment of the performance and effectiveness of the State's Program, and any other matters related to the Program as the State elects to include. In addition, approved grantees complete SF–270 to request either advance funding or reimbursement of expenses already paid. The information requested is necessary for FSA to determine the grantee's eligibility and administer the Program effectively.

In this request, the burden hours increased by 2,392, and the number of responses increased by 318. The number of States changed from 40 to 42 increasing participation in the Certified State Mediation Program. Also, the 2018 Farm Bill (Pub. L. 115–334) expanded the areas of covered issues that States could mediate and that increased the average time per respondents in this request.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual responses.

*Estimate of Average Time to Respond:* Public reporting burden for collecting information under this notice is estimated to average 7.33 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

*Type of Respondents:* State.

*Estimated Number of Respondents:* 42.

*Estimated Average Number of Responses per Respondent:* 8.99.

*Estimated Total Annual Responses:* 378.

*Estimated Average Time per Response:* 7.33 hours.

*Estimated Total Annual Burden on Respondents:* 2,771 hours.

**Requesting Comments**

FSA is requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

**Steven Peterson,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 2020–19540 Filed 9–3–20; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Certification of Concrete Construction

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and

organizations on the new information collection, *Certification of Concrete Construction*.

**DATES:** Comments must be received in writing on or before November 3, 2020 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to Intermountain Region, Regional Office-Engineering, 324 25th Street, Ogden, Utah 84401. Comments also may be submitted via facsimile to 801–625–5201 or by email to: *curt.panter@usda.gov*. Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at 324 25th Street, Ogden, Utah 84401, Room #3427 during normal business hours. Visitors are encouraged to call ahead to 801–726–2213 or 801–625–5235 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *curt.panter@usda.gov*.

**FOR FURTHER INFORMATION CONTACT:** Curt Panter, Intermountain Region, Regional Office-Engineering, 801–726–2213. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** *Title:* Certification of Concrete Construction.

*OMB Number:* 0596–NEW.

*Type of Request:* New.

*Abstract:* The standard Forest Service special use permit requires the permit holder to be responsible for the design, construction, operation and maintenance of permitted facilities and public safety. Forest Service ski area permit administration through monitoring obtain assurance of the permit holder's compliance with terms and conditions of the special use permit. It is also appropriate, and suitable, to rely on professional certifications provided by the permit holder from licensed architects and engineers employed by or under contract to the permit holder to assist in obtaining this assurance. This is the practice used for authorized facilities on National Forest Service land. Generally, the Forest Service is most concerned about potential impacts to NFS land and resources from the permitted facilities and directs its attention to design features and monitoring facilities to protect those resources and ensure public safety. Forest Service Special Use Permit FS–2700–5b (hereafter-SUP) and Forest Service Manual (FSM) 7320 and 7330 outline what plans and specifications submittals are required for permitted facilities prior to construction, acceptance testing, and prior to Authorized Officer granting authorization to permit holder for the public operation of these facilities. A Certification of Concrete Construction outlines what level of review and quality assurance by a qualified engineer is required and necessary for authorized privately owned facility construction permitted on Forest Service lands.

FSM 2340, 7320 and 7330 requires that the permit holder submit a Certification of Construction from a Qualified Engineer for privately owned facilities such as passenger ropeways, aerial adventure courses, and other natural resource-based recreation facilities (hereafter-recreation facility). This Certification of Concrete Construction requirement is also a product of the Forest Service adopting the American National Standard Institute (ANSI) B77 Standard for Passenger Ropeways as our Governing Standard for passenger ropeways and American Society for Testing and Materials (ASTM) F24 Standard for authorized aerial adventure courses and recreation facilities. ANSI B77, section 1.5 outlines and requires a Quality Assurance (QA) program be developed and utilized to ensure the integrity of the design, manufacturer, construction, operation, and maintenance of passenger ropeways. ANSI B77, section 1.5.3 ''states that for new or modified ropeways, a Qualified Engineer shall certify to the owner that the construction and installation has been completed in accordance with the final design criteria for such work.''

Therefore, this Certification of Concrete Construction collection is appropriate and suitable documentation to validate permit holder compliance outlined in SUP and FSM 2340, 7320, 7330, and ANSI and ASTM adopted standards.

1. *Briefly explain the circumstances that make the collection of information necessary. If applicable, what law requires or authorizes this information to be collected?* Forest Service SUP requires that Authorized Officers receive assurances from licensed architects and engineers that certify that the construction has been completed in accordance with the final design criteria for such work. SUP Clause IIB requires that ''all plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans, must be prepared by a licensed engineer, architect, landscape architect, or other qualified professional acceptable to the Authorized Officer.''

2. *How will the information be collected?* The Certification of Concrete Construction will be a submittal requirement prior to Forest Service approval to permit holder to conduct acceptance testing of a passenger ropeway, aerial adventure course, or recreation facility which is an ANSI B77 and ASTM F24 requirement before public operation.

3. *Who will collect the information?* Plans and specifications including Certification of Concrete Construction must be submitted to the Authorized Officer before public operation. Forest Service engineering personnel will also receive a copy and review Certification of Concrete Construction according to required Forest Service ropeway engineering plans and specifications review process.

4. *What information will be collected?* If the foundation excavations were inspected and documented by qualified personnel before concrete placement. If the soil bearing pressure/rock conditions meet or exceed the specifications of the design engineer. If concrete cylinder tests were completed by qualified personnel per design engineer specifications. If samples of the concrete placed in each terminal and each tower foundation were taken and the concrete meets the strength requirements specified by the design engineer. (A summary of the test results is to be attached). If the size of concrete foundations as built and the location, number and size of reinforcing steel, anchor bolts, and rock anchoring (if applicable) were inspected and documented by qualified personnel and are as specified by the design engineer. If the quality of backfill and compaction tests were completed and documented

by qualified personnel and comply with design engineer specifications for each terminal and each tower foundation. A certification statement from a Qualified Engineer.

5. *From whom will the information be collected?* Ski area permit holder.

6. *How will the information be used?* To determine passenger ropeway, aerial adventure course and recreation facility installer's compliance with ANSI B77 and ASTM construction and quality assurance standards.

7. *Who will evaluate or analyze the information?* Forest Service Engineering personnel.

8. *Describe the consequence to Federal programs or policy if the collection is not conducted or conducted less frequently.* Facilities may not meet requirements of adopted safety standards necessary for public safety.

*Affected Public:* Recreating public which use permitted passenger ropeways, aerial adventure courses and other recreation facilities operated at ski areas authorized to operate on Forest Service lands.

*Estimate of Burden per Response:* One hour for Qualified Engineer to analyze final construction data and information to inform the certification and complete and sign form.

*Estimated Annual Number of Respondents:* 8–9.

*Estimated Annual Number of Responses per Respondent:* 8.

*Estimated Total Annual Burden on Respondents:* 72 hours.

**Comment Is Invited**

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: August 31, 2020.

**Rosana Barkawi,**

*Assistant Director, Engineering.*

[FR Doc. 2020–19622 Filed 9–3–20; 8:45 am]

BILLING CODE 3411–15–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Michigan Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting via web conference on Monday, September 21, 2020, at 12:00 p.m. Eastern Time, for the purpose of hearing preliminary testimony regarding Voting Rights and COVID 19 in the state.

**DATES:** The meeting will be held on Monday, September 21, 2020, at 12:00 p.m. Eastern Time.

*Public Participation Information:*

- *Dial:* 800–367–2403; Confirmation Code: 1533765. (audio only)
- *Web link: https://cc.readytalk.com/r/xkia706f9ag&eom* (visual only)

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 202–618–4158.

**SUPPLEMENTARY INFORMATION:** Members of the public may participate in the discussion. This meeting is available to the public through the above listed toll-free number and web registration link. Please plan to use BOTH the audio dial in AND the web link in order to fully participate. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and confirmation code.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at 202–618–4158.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjPAAQ* under the Commission on Civil Rights, Michigan Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

**Agenda**

Welcome and Roll Call
Panel Presentations: Voting Rights and COVID 19 in Michigan
Committee Discussion
Public Comment
Adjournment

Dated: August 31, 2020.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2020–19592 Filed 9–3–20; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–580–884]**

### Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Partial Rescission of Countervailing Duty Administrative Review; 2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is partially rescinding the administrative review of the countervailing duty order on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea for the period of review (POR) January 01, 2018 through December 31, 2018.

**DATES:** Applicable September 4, 2020.

**FOR FURTHER INFORMATION CONTACT:** Annathea Cook, AD/CVD Operations,

Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0250.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the countervailing duty order on hot-rolled steel from the Republic of Korea.[1] Pursuant to requests from interested parties, Commerce initiated an administrative review with respect to 15 companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[2] Subsequent to the initiation of the administrative review, the petitioners [3] timely withdrew their request for an administrative review of 14 companies, as discussed below. No other party requested an administrative review of these companies.

## Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. The request for an administrative review of the following companies was withdrawn within 90 days of the date of publication of the *Initiation Notice:* DCE Inc; Dong Chuel America Inc; Dong Chuel Industrial Co., Ltd; Dongbu Incheon Steel Co., Ltd; Dongbu Steel Co., Ltd; Dongkuk Industries Co., Ltd; Dongkuk Steel Mill Co., Ltd; Hyewon Sni Corporation (H.S.I.); JFE Shoji Trade Korea Ltd; POSCO; POSCO Coated & Color Steel Co., Ltd; POSCO Daewoo Corporation; Soon Hong Trading Co., Ltd; and Sung-A Steel Co., Ltd.[4] As a result, Commerce is rescinding this review with respect to these 14 companies, in accordance with 19 CFR 351.213(d)(1). The review will continue with respect to Hyundai Steel Company.[5]

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 52068 (October 1, 2019).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 67712 (December 11, 2019) (Initiation Notice).

[3] Collectively, the petitioners are AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation.

[4] *See* Petitioners' Letter, ''*Certain Hot-Rolled Steel Flat Products from the Republic of Korea:* Partial Withdrawal of Request for Administrative Review,'' dated March 10, 2020.

[5] *See Initiation Notice,* 84 FR 67714.

## Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For the companies for which this review is rescinded, countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse for consumption, in accordance with 19 CFR 351.212(c)(l)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

## Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of countervailing duties occurred and the subsequent assessment of doubled countervailing duties.

## Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

## Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(l) of the Act, and 19 CFR 351.213(d)(4).

Dated: August 31, 2020.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2020–19650 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–DS–P**

# DEPARTMENT OF COMMERCE

## National Institute of Standards and Technology

## Manufacturing Extension Partnership Advisory Board

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of Open Meeting.

**SUMMARY:** The National Institute of Standards and Technology (NIST) announces that the Manufacturing Extension Partnership (MEP) Advisory Board will hold an open meeting on Tuesday, September 22, 2020.

**DATES:** The meeting will be held Tuesday, September 22, 2020 from 1 p.m. to 5 p.m. Eastern Daylight Time.

**ADDRESSES:** The meeting will be a virtual meeting via webinar.

**FOR FURTHER INFORMATION CONTACT:** Cheryl L. Gendron, Manufacturing Extension Partnership, National Institute of Standards and Technology, telephone number 301–975–2785; email: *cheryl.gendron@nist.gov*.

**SUPPLEMENTARY INFORMATION:**

The MEP Advisory Board is authorized under Section 3003(d) of the America COMPETES Act (Pub. L. 110–69), as amended by the American Innovation and Competitiveness Act, Public Law 114–329 sec. 501 (2017), and codified at 15 U.S.C. 278k(m), in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Hollings Manufacturing Extension Partnership Program (Program) is a unique program consisting of Centers in all 50 states and Puerto Rico with partnerships at the federal, state and local levels. By statute, the MEP Advisory Board provides the NIST Director with: (1) Advice on the activities, plans and policies of the Program; (2) assessments of the soundness of the plans and strategies of the Program; and (3) assessments of current performance against the plans of the Program.

Background information on the MEP Advisory Board is available at *http://www.nist.gov/mep/about/advisory-board.cfm*.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the MEP Advisory Board will hold an open meeting on Tuesday, September 22, 2020, from 1 p.m. to 5 p.m. Eastern Daylight Time. The meeting agenda will include an update on the MEP programmatic operations, as well as provide guidance and advice on current activities related to the MEP National Network™ 2017–2022 Strategic Plan.

The final agenda will be posted on the MEP Advisory Board website at *http://www.nist.gov/mep/about/advisory-board.cfm*.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the MEP Advisory Board's business are invited to request a place on the agenda. Approximately 15 minutes will be reserved for public comments at the end of the meeting. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be no more than three to five minutes each. Requests must be submitted by email to *cheryl.gendron@nist.gov* and must be received by September 15, 2020 to be considered. The exact time for public comments will be included in the final agenda that will be posted on the MEP Advisory Board website at *http://www.nist.gov/mep/about/advisory-board.cfm*. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who wished to speak but could not be accommodated on the agenda or those who are/were unable to attend the meeting are invited to submit written statements electronically by email to *cheryl.gendron@nist.gov*.

*Admittance Instructions:* All participants will be attending via webinar. Please contact Ms. Gendron at 301–975–2785 or *cheryl.gendron@nist.gov* for detailed instructions on how to join the webinar. All requests must be received by 5 p.m. Eastern Daylight Time, Friday, September 18, 2020.

**Kevin A. Kimball,**

*Chief of Staff.*

[FR Doc. 2020–19547 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA410]**

### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Training and Testing Activities in the Point Mugu Sea Range Study Area

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

**ACTION:** Notice; receipt of application for a Letter of Authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to training and testing activities conducted in the Point Mugu Sea Range (PMSR) Study Area for a period of seven years, from October, 2021 through October, 2028. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

**DATES:** Comments and information must be received no later than October 5, 2020.

**ADDRESSES:** Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Egger@noaa.gov.*

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the internet at *www.nmfs.noaa.gov/pr/permits/incidental/military.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of the Navy's application may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

The National Defense Authorization Act (NDAA) for Fiscal Year 2004 (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered

(Level B Harassment). On August 13, 2018, the 2019 NDAA (Pub. L. 115–232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to seven years.

**Summary of Request**

On March 9, 2020, NMFS received an adequate and complete application from the Navy requesting authorization for the take of marine mammals, by Level A and B harassment, incidental to training, testing, and routine military operations (all categorized as military readiness activities) from the use of at-surface or in-air detonations in the PMSR Study Area as well as missile launch events from San Nicolas Island (SNI). The requested regulations will be valid for seven years, from 2021 through 2028.

NMFS has promulgated incidental take regulations pursuant to the MMPA relating to missile launches from SNI, from June 3, 2014 through June 3, 2019 (79 FR 32678; June 6, 2014). The Navy has also been operating under IHAs in 2019 (84 FR 28462; June 19, 2019) and 2020 (85 FR 38863; June 29, 2020) for similar activities.

**Description of the Specified Activity**

The PMSR Study Area consists of 93,240 square km (36,000 square miles) and is located adjacent to Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties along the Pacific Coast of Southern California (see Figure 1.1–1 of the application). The two primary components of the PMSR are the Special Use Airspace and the ocean Operating Areas. The PMSR-controlled sea space parallels the California coast for approximately 225 nautical miles (nmi) and extends approximately 180 nmi seaward (see Figure 1–1 of the application).

The following types of training and testing, which are classified as military readiness activities pursuant to section 315(f) of Public Law 101–314 (16 U.S.C 703), are included in the specified activity described in the Navy's application: Air warfare (air-to-air, surface-to-air), electronic warfare (directed energy—lasers and high-powered microwave systems), and surface warfare (surface-to-surface, air-to-surface, and subsurface-to subsurface).

The Navy's application includes proposed mitigation measures for marine mammals that would be implemented during training and testing activities in the PMSR Study Area. Proposed procedural mitigation measures generally include: (1) The use of Lookouts to observe for biological resources and communicate the need for mitigation implementation; (2) delay of starts to avoid exposure of marine mammals to explosive blasts more likely to result in injury or more serious behavioral disruption; and (3) limiting the use of missile launches during biologically sensitive times (*i.e.,* during pupping season) to reduce the probability or severity of impacts when they are more likely to contribute to fitness impacts.

The Navy also proposes to undertake monitoring and reporting efforts to track compliance with incidental take authorizations and to help investigate the effectiveness of implemented mitigation measures in the PMSR Study Area. This can include Adaptive Management, the Integrated Comprehensive Monitoring Program, the Strategic Planning Process, and annual reports. As an example, under the Integrated Comprehensive Monitoring Program, the monitoring relating to the effects of Navy training and testing activities on protected marine species are designed to increase the understanding of the likely occurrence of marine mammals in the vicinity of the action (*i.e.,* presence, abundance, distribution, and density of species) and to increase the understanding of the nature, scope, or context of the likely exposure of marine mammals to any of the potential stressors associated with the action.

**Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Navy, if appropriate. NMFS is also soliciting comments on valuable pinniped research needs that could occur on SNI as part of the Navy's monitoring and reporting requirements.

Dated: September 1, 2020.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2020–19660 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA454]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's Executive Committee will hold a public webinar meeting to develop recommendations regarding the Executive Order on Promoting American Seafood Competitiveness and Economic Growth.

**DATES:** The meeting will be held on Monday, September 21, 2020, beginning at 1:00 p.m. and concluding by 4:00 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held via webinar. Webinar connection details will be available at *https://www.mafmc.org/council-events/2020/executive-committee-sept21*.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org*.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** On May 7, 2020, the President of the United States signed an Executive Order on Promoting American Seafood Competitiveness and Economic Growth. The purpose of this Executive Order is ''to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent Federal actions; and remove unnecessary regulatory burdens.'' Section 4 of the Executive Order requires each Regional Fishery Management Council to submit a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries, including a proposal for initiating each recommended action by May 7, 2021. During this meeting, the Executive Committee will (1) review public input and staff recommendations, (2) identify

issues and actions that should be included on the Council's list of recommendations, and (3) provide direction on specific pathways for initiating action on each recommendation. The Council will review the Committee's recommendations at the October 2020 Council Meeting.

Meeting materials will be posted to *https://www.mafmc.org/council-events/2020/executive-committee-sept21*.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 1, 2020.

**Tracey L. Thompson,**

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

[FR Doc. 2020–19633 Filed 9–3–20; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA451]**

### Council Coordination Committee Meeting

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

**ACTION:** Notice of a public meeting; information regarding the agenda.

**SUMMARY:** The National Marine Fisheries Service, Office of Sustainable Fisheries will host a virtual meeting of the Council Coordination Committee (CCC), consisting of the Regional Fishery Management Council chairs, vice chairs, and executive directors on September 23 to September 24, 2020. The intent of this meeting is to discuss issues of relevance to the Councils and NMFS, including issues related to the implementation of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. All sessions are open to the public and time will be set aside for public comments at the end of each session.

**DATES:** The meeting will begin at 1:30 p.m. Eastern on Wednesday, September 23, 2020, recess at 5:30 p.m. Eastern, reconvene at 1:30 p.m. Eastern on Thursday, September 24, 2020, and adjourn by 5:30 p.m. Eastern.

**ADDRESSES:** The meeting will be held online via WebEx. Attendees can find information on how to join at *https://www.fisheries.noaa.gov/national/partners/council-coordination-committee* and *http://www.fisherycouncils.org/ccc-meetings.*

**FOR FURTHER INFORMATION CONTACT:** Nicholas Pieper by email at *Nicholas.Pieper@noaa.gov* or at (301) 427–8500.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act established the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils or other Council members or staff. Updates to this meeting and additional information will be posted on *https://www.fisheries.noaa.gov/national/partners/council-coordination-committee* and *http://www.fisherycouncils.org/* when available.

**Proposed Agenda**

*Wednesday, September 23, 2020—1:30 p.m.–5:30 p.m. Eastern*

1. Welcome/Introduction
   a. NOAA Fisheries Update and FY20/21 Priorities
2. Recent Issues with Council Operations and Agency Operational, Science, and Regulatory Issues
3. Rule on Council Membership; Financial Disclosure and Recusal
4. CEQ Final NEPA Regulation
5. Legislative Outlook
6. Public Comment

Adjourn Day 1

*Thursday, September 24, 2020—1:30 p.m.–5:30 p.m. Eastern*

7. Aquaculture and the Executive Order on Promoting American Seafood Competitiveness and Economic Growth
8. CCC Committees
   a. Electronic Monitoring
   b. Communications
9. Public Comment
10. Wrap-up and Other Business

Adjourn Day 2

The order in which the agenda items are addressed may change. The CCC will meet as late as necessary to complete scheduled business.

**Special Accommodations**

If you have particular access needs please contact Nicholas Pieper at *Nicholas.pieper@noaa.gov* at least 7 business days prior to the meeting for accommodation.

Dated: August 31, 2020.

**Kelly Denit,**

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

[FR Doc. 2020–19574 Filed 9–3–20; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA429]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning (EOP) and the Summer Flounder, Scup, and Black Sea Bass Advisory Panels will hold a public webinar meeting.

**DATES:** The meeting will be held on Tuesday, September 22, 2020, from 9 a.m. to 12 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

**ADDRESSES:** The meeting will take place over webinar with a telephone-only connection option. Details on how to connect to the webinar by computer and by telephone will be available at: *http://www.mafmc.org/ssc.*

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The Council's EOP and Summer Flounder, Scup, and Black Sea Bass Advisory Panels will be meeting with the Atlantic States Marine Fisheries Commission (ASMFC) Summer Flounder, Scup, and Black Sea Bass Advisory Panel. The purpose of the meeting is to introduce advisory panel members to goals, process, and expectations associated with conducting a management strategy evaluation (MSE). Later this year, the Council will begin conducting an MSE as part of its Ecosystem Approach to Fisheries Management (EAFM) structured decision framework that will evaluate the biological and economic

benefits of management alternatives to minimize discards in the recreational summer flounder fishery. Advisory panel members will listen to a series of background presentations on the EAFM process and an introduction to MSE and will then participate in a mock MSE stakeholder workshop using an example recreational issue to solicit feedback and input on management objectives.

A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 1, 2020.

**Tracey L. Thompson,**

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

[FR Doc. 2020–19632 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[RTID XA465]**

## New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Tuesday, September 22, 2020 at 12:30 p.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/648856305660920335.*

**ADDRESSES:** The meeting will be held via webinar.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

### Agenda

The Advisory Panel will meet to review Framework 8 to the Atlantic Herring Fishery Management Plan and recommend final preferred alternatives. Framework 8 is considering fishery specifications for fishing years 2021–23 and adjusting measures in the herring plan that potentially inhibit the mackerel fishery from achieving optimum yield. There will also be an initial discussion of potential work priorities for 2021 for the herring plan. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 1, 2020.

**Tracey L. Thompson,**

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

[FR Doc. 2020–19635 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[RTID XA464]**

## North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The North Pacific Fishery Management Council (Council) Social Science Planning Team will be held via webconference on September 21, 2020.

**DATES:** The meeting will be held on Monday, September 21, 2020, from 9 a.m. to 1 p.m., Alaska Time.

**ADDRESSES:** The meeting will be a webconference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/1663.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

**FOR FURTHER INFORMATION CONTACT:** Sarah Marrinan, Council staff; email: *Sarah.Marrinan@noaa.gov.* For technical support please contact our administrative staff; email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Agenda

*Monday, September 21, 2020*

The Social Science Planning Team will discuss next steps for changes to the Economic Data Reporting Programs, and any other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/1663* prior to the meeting, along with meeting materials.

### Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/1663.*

### Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/1663.*

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

Dated: September 1, 2020.

**Tracey L. Thompson,**

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

[FR Doc. 2020–19634 Filed 9–3–20; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to the Procurement List.

**SUMMARY:** The Committee is proposing to add services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** Comments must be received on or before: October 04, 2020.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

*Services*

*Service Type:* Laundry Service
*Mandatory for:* Pennsylvania Air National Guard, 171st Air Refueling Wing, Aircrew Alert Facility, Coraopolis, PA
*Mandatory Source of Supply:* Hancock County Sheltered Workshop, Inc., Weirton, WV
*Contracting Activity:* Dept of the Army, W7NX USPFO Activity PA ARNG

*Service Type:* Janitorial Service
*Mandatory for:* FAA, Portland Air Traffic Control Tower and SSC Office Space, Portland, ME
*Mandatory Source of Supply:* Northern New England Employment Services, Portland, ME
*Contracting Activity:* Federal Aviation Administration, 697DCK Regional Acquisitions SVCS

**Michael R. Jurkowski,**
*Deputy Director, Business & PL Operations.*

[FR Doc. 2020–19670 Filed 9–3–20; 8:45 am]

BILLING CODE 6353–01–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Date added to and deleted from the Procurement List:* October 04, 2020.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

### Additions

On 5/1/2020 and 5/22/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

### End of Certification

Accordingly, the following products are added to the Procurement List:

*Products*

NSN(s)—Product Name(s)

MR 13052—Bento Box, 1 Compartment
MR 13053—Bento Box, 2 Compartments
MR 13054—Bento Box, 3 Compartments
MR 13055—Bento Box, Round, 2 Compartments
*Mandatory Source of Supply:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
*Contracting Activity:* Military Resale-Defense Commissary Agency

NSN(s)—Product Name(s)

8415–01–687–8956—Face Covering/Mask Universally Sized, OCP, Type II

Note: In the initial **Federal Register** Notice of May 22, 2020, this NSN was listed as 8415–01–F05–3095.

8415–01–F05–3093—Face Covering/Mask Universally Sized, OCP, Type I
*Mandatory Source of Supply:* Industries of the Blind, Inc., Greensboro, NC; ReadyOne Industries, Inc., El Paso, TX
*Contracting Activity:* Dept of the Army, W6QK ACC–APG NATICK

**Michael R. Jurkowski,**
*Deputy Director, Business & PL Operations.*

[FR Doc. 2020–19667 Filed 9–3–20; 8:45 am]

BILLING CODE 6353–01–P

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m. EDT, Tuesday, September 15, 2020.

**PLACE:** This meeting will be convened on a telephone conference call.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202–418–5964.

**Authority:** 5 U.S.C. 552b.

Dated: September 2, 2020

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2020–19797 Filed 9–2–20; 4:15 pm]

**BILLING CODE 6351–01–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

**[Docket No. CFPB–2020–0027]**

### CARD Act Rules Review Pursuant to the Regulatory Flexibility Act; Request for Information Regarding Consumer Credit Card Market

*Correction*

Notice document 2020–18855, appearing on pages 52958 through 52965, in the issue of August 27, 2020, was inadvertently published in error and is hereby withdrawn.

[FR Doc. C1–2020–18855 Filed 9–3–20; 8:45 am]

**BILLING CODE 1301–00–D**

## CONSUMER PRODUCT SAFETY COMMISSION

**[Docket No. CPSC–2010–0075]**

### Notice of Availability of Regulatory Flexibility Act Section 610 Review of the Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of availability.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is announcing the availability of a completed rule review under section 610 of the Regulatory Flexibility Act (RFA) for the safety standards for full-size baby cribs and non-full-size baby cribs (crib standards). This regulatory review concludes that the crib standards should be maintained without change.

**ADDRESSES:** The completed review is available on the CPSC website at: *https://www.cpsc.gov/Research—Statistics/Toys-and-Childrens-Products*. The completed review will also be made available through the Federal eRulemaking Portal at *https://www.regulations.gov,* under Docket No. CPSC–2010–0075, Supporting and Related Materials. Copies may also be obtained from the Consumer Product Safety Commission, Division of the Secretariat, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7479; email *cpsc-os@cpsc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Susan Proper, Directorate for Economic Analysis, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7628; email: *sproper@cspc.gov*.

**SUPPLEMENTARY INFORMATION:** On December 28, 2010, the CPSC issued the Safety Standards for Full-Size Baby Cribs (16 CFR part 1219) and Non-Full-Size Baby Cribs (16 CFR part 1220) under section 104(c) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), (Pub. L. 110–314) (75 FR 81766). Section 104(c) of the CPSIA stated that the crib standards would apply to certain persons (such as those owning or operating child care facilities and places of public accommodation), in addition to persons usually subject to consumer product safety rules.[1] In the initial rule, the Commission determined that both crib standards would have a significant impact on a substantial number of small entities, including manufacturers, importers, small retailers, and child care centers (75 FR 81782–86).

On August 12, 2011, in Public Law 112–28, Congress amended section 104 and specifically addressed potential revisions of the crib standards, stating that any revision after their initial promulgation ''shall apply only to a person that manufactures or imports cribs,'' unless the Commission determines that application to any others covered by the initial crib standards is ''necessary to protect against an unreasonable risk to health or safety.'' If the Commission applies a revised crib standard to additional persons, the statute requires the Commission to provide at least 12 months for those persons to come into compliance. The Commission has not expanded the applicability of the crib standards to any additional persons in subsequent revisions to the standards.[2]

On January 31, 2020, the Commission published notice in the **Federal Register** (85 FR 5587) to announce that the CPSC would review the cribs standards in accordance with the regulatory review provisions of section 610 of the RFA (5 U.S.C. 610) and sought public comment on the rule review. This document announces the availability of completed regulatory review of the crib standards.

The purpose of a rule review under section 610 of the RFA is to determine whether, consistent with the CPSC's statutory obligations, these standards should be maintained without change, rescinded, or modified to minimize any significant impact of the rule on a substantial number of small entities. Section 610 requires agencies to consider five factors in reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities including:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(b).

The CPSC received four written comments representing the views of the Government of the People's Republic of China, the Juvenile Products Manufacturers Association (JPMA), and two members of the public.[3] CPSC also entered into a contract with Industrial Economics, Inc. (IEc), to obtain information from nine current and former crib manufacturers, of which eight self-identified as small businesses, on the impact of the regulations, and in particular, the burden on small businesses. Staff's briefing package reviews all of the comments and the IEc report and provides staff's analysis applying the factors listed in section 610 of the RFA to the crib standards. As explained in the staff's briefing package, CPSC staff concludes that the crib standards should be retained without any changes. However, staff's review indicated that some of the crib manufacturers and suppliers experienced difficulties with increased testing costs and testing burdens, as well increased frequency of testing under the testing and certification requirements under 16 CFR part 1107, and component testing requirements under 16 CFR part 1109. On August 24, 2020, the Commission published a

[1] Under section 104(c) of the CPSIA, the initial crib standards applied to: ''any person that—(A) manufactures, distributes in commerce, or contracts to sell cribs; (B) based on the person's occupation, holds itself out as having knowledge of skill peculiar to cribs, including child care facilities and family child care homes; (C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or (D) owns or operates a place of accommodation affecting commerce (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) applied without regard to the phrase 'not owned by the Federal Government').''

[2] The full-size crib standard was revised on July 31, 2012 (77 FR 45242), December 9, 2013 (78 FR 73692), and July 23, 2019 (84 FR 35293); the non-full-size crib standard was revised on June 6, 2018 (83 FR 26206) and October 23, 2019 (84 FR 56684).

[3] The World Trade Organization (WTO), on behalf of China, submitted several duplicates of the same comment.

notice in the **Federal Register** to announce and seek comment on a rule review for 16 CFR parts 1107 and 1109, that is being conducted in fiscal year 2021 (85 FR 52078) . Accordingly, the issues raised by crib manufacturers on testing and certification under 16 CFR parts 1107 and 1109, will be considered further in that proceeding.

The staff's briefing package containing the review is available on the CPSC website at: *https://www.cpsc.gov/Research—Statistics/Toys-and-Childrens-Products, www.regulations.gov,* and from the Commission's Division of the Secretariat at the location listed in the **ADDRESSES** section of this notice.

**Alberta E. Mills,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2020–19572 Filed 9–3–20; 8:45 am]

**BILLING CODE 6355–01–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Civic Engagement and Volunteering: Current Population Survey Supplement

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled The Civic Engagement and Volunteering Supplement for review and approval in accordance with the Paperwork Reduction Act.

**DATES:** Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by October 5, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Mary Hyde, at 202–606–6834 or email to *mhyde@cns.gov.*

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Comments**

A 60-day Notice requesting public comment was published in the **Federal Register** on July 1, 2020 at Vol. 85 No. 127 FR 39537 39538. This comment period ended August 31, 2020. No public comments were received from this Notice.

*Description:* This information collection will be used to generate civic health reports at the National, State, and Metropolitan Statistical Area (MSA) levels and to disseminate these data to various stakeholders including state and local government offices, researchers, students and civic groups for strategic planning, grant writing purposes and research.

*Title of Collection:* Civic Engagement and Volunteering Supplement.

*OMB Control Number:* 3045–0139.

*Type of Review:* Renewal.

*Respondents/Affected Public:* U.S. Residents 16 years of age and older.

*Total Estimated Number of Annual Responses:* Approximately U.S. 60,000 residents.

*Total Estimated Number of Annual Burden Hours:* 6,670.

*Abstract:* CNCS has partnered with the U.S. Census to collect data and produced annual volunteering reports since 2002. CNCS is also mandated by the Serve America Act (2009) to produce an annual Civic health assessment in partnership with the National Conference on Citizenship. The proposed survey will be the only source of nationally representative data on the number of Americans who are active in their communities, through volunteering, social interactions, political activities and civic behaviors. The purpose of collecting data on civic engagement and volunteering is to provide scholars, government officials and policymakers with official government measurement on civic behaviors in the United States.

Dated: August 28, 2020.

**Mary Hyde,**

*Director, Office of Research and Evaluation.*

[FR Doc. 2020–19589 Filed 9–3–20; 8:45 am]

**BILLING CODE 6050–28–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Environmental Impact Statement for Army Training Land Retention at Pōhakuloa Training Area in Hawai'i

**AGENCY:** Department of the Army; Defense (DOD).

**ACTION:** Notice of Intent.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA) and the Hawai'i Environmental Policy Act (HEPA), the Department of the Army (Army) announces its intent to prepare an Environmental Impact Statement (EIS) to address the Army's proposed retention of up to approximately 23,000 acres of land currently leased to the Army by the state of Hawai'i (''State-owned land'') at Pōhakuloa Training Area (PTA) on the island of Hawai'i. As the proposed retention involves State-owned land, the EIS will be a joint NEPA–HEPA document; therefore, the public scoping processes will run concurrently and will jointly meet NEPA and HEPA requirements.

**DATES:** The Army invites public comments on the scope of the EIS during a 40-day public scoping period, beginning on the publication date of this Notice of Intent in the **Federal Register**.

**ADDRESSES:** Written comments should be submitted via the EIS website at: *https://home.army.mil/hawaii/index.php/PTAEIS.* Alternatively, comments can be emailed to *usarmy.hawaii.nepa@mail.mil,* or mailed to: ATLR PTA EIS Comments, P.O. Box 3444, Honolulu, HI 96801–3444.

**FOR FURTHER INFORMATION CONTACT:** Please contact Mr. Michael Donnelly, PTA Public Affairs Officer, at (808) 969–2411 or by email to *michael.o.donnelly.civ@mail.mil.*

**SUPPLEMENTARY INFORMATION:** PTA has been used for training as early as 1938, but was not used routinely until 1943. PTA was formally established in 1956

through a maneuver agreement granted by the Territory of Hawai'i. In 1964, the State granted a 65-year lease of approximately 23,000 acres of land to the Army for military purposes. The lease expires on August 16, 2029. The 23,000 acres of State-owned land contain utilities, critical infrastructure, maneuver land, and key training facilities, some of which are not available elsewhere in Hawai'i. The land also provides access to approximately 110,000 acres of adjacent U.S. Government-owned land at PTA.

PTA encompasses approximately 132,000 acres of land used for training military personnel for combat. It is the only U.S. training area in the Pacific region where training units can complete all mission essential tasks, and the only U.S. training facility in the Pacific region that can accommodate larger than company-sized units for live-fire and maneuver exercises. The U.S. Army Hawaii (USARHAW) and other U.S. military units that train at PTA include the 25th Infantry Division, U.S. Marine Corps, U.S. Navy, U.S. Air Force, Hawaii National Guard, and U.S. Army Reserve.

The Army's retention of State-owned land within PTA is needed to enable USARHAW to continue to conduct military training to meet its current and future training requirements.

Retention of State-owned land is needed to allow access between major parcels of U.S. Government-owned land at PTA, retain substantial Army infrastructure investments, allow for future facility and infrastructure modernization, preserve limited maneuver area, provide austere environment training, and maximize use of the impact area in support of USARHAW-coordinated training. To understand the environmental consequences of the decision to be made, the EIS will evaluate the potential direct, indirect, and cumulative impacts of a range of reasonable alternatives that meet the purpose of, and need for, the Proposed Action. Alternatives to be considered, including the no action alternative, are (1) Full Retention, (2) Modified Retention, and (3) Minimum Retention and Access. Other reasonable alternatives raised during the scoping process and capable of meeting the project purpose and need will be considered for evaluation in the EIS.

Native Hawaiian organizations; Federal, state, and local agencies; and the public are invited to be involved in the scoping process for the preparation of this EIS by participating in a scoping meeting and/or submitting written comments. The scoping process will help identify potential environmental impacts and key issues of concern to be analyzed in the EIS. Written comments must be sent within 40 days of publication of the Notice of Intent in the **Federal Register**. In response to the coronavirus (COVID–19) pandemic in the United States and the Center for Disease Control's recommendations for social distancing and avoiding large public gatherings, the Army will not hold public scoping meetings for this action. In lieu of the public scoping meetings, the Army will use other alternative means to enable public participation such as virtual meetings using online meeting/collaboration tools, teleconference, social media, or email, as appropriate. An EIS Scoping Virtual Open House and two in-person scoping comment stations will be held on Wednesday, September 23, 2020 from 4–9 p.m. During the EIS Scoping Virtual Open House, video presentations can be viewed online at *https://home.army.mil/hawaii/index.php/PTAEIS* and oral and written comments will be accepted. Oral comments will be accepted via phone by calling (808) 300–0220. The two in-person scoping comment stations will also be open to the public to accept oral comments via phone and written comments: One in-person scoping comment station will be in Hilo, and the other will be in Waimea, both on the island of Hawai'i; individuals making comments will maintain recommended social distance. Notification of the EIS Scoping Virtual Open House and in-person scoping comment stations date and time will also be published and announced in local news media outlets and on the EIS website. For those who do not have ready access to a computer or the internet, the scoping materials posted to the EIS website will be made available upon request by mail. Inquiries and requests for scoping materials may be made to Michael Donnelly, PTA Public Affairs Officer at (808) 969–2411 or by email at *michael.o.donnelly.civ@mail.mil.*

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2020–19620 Filed 9–3–20; 8:45 am]

BILLING CODE 5061–AP–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee Meeting

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DoD is publishing this notice to announce the following Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel will take place.

**DATES:** Open to the public Wednesday, September 23, 2020, from 12:00 p.m. to 6:00 p.m. (Eastern Daylight Time).

**ADDRESSES:** The open meeting will be held online. The phone number for remote access is CONUS: 888–469–2037; OCONUS: 1–517–308–9287; PARTICIPANT CODE: 8227323. These numbers and the dial-in instructions will also be posted on the Uniform Formulary Beneficiary Advisory Panel website at: *https://www.health.mil/About-MHS/OASDHA/Defense-Health-Agency/Operations/Pharmacy-Division/Beneficiary-Advisory-Panel.*

**FOR FURTHER INFORMATION CONTACT:** Colonel Paul J. Hoerner, USAF, 703–681–2890 (Voice), *dha.ncr.j-6.mbx.baprequests@mail.mil* (Email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101. Website: *https://www.health.mil/About-MHS/OASDHA/Defense-Health-Agency/Operations/Pharmacy-Division/Beneficiary-Advisory-Panel.* The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

The Panel will review and comment on recommendations made to the Director, Defense Health Agency, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

*Purpose of the Meeting:* The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel will take place.

### Agenda

1. Sign-In
2. Welcome and Opening Remarks
3. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item)
   a. Psoriasis Agents—NA
   b. Sleep Disorders—Wakefulness Promoting Agents
   c. White Blood Cell Stimulants—Filgrastims
   d. White Blood Cell Stimulants—Pegfilgrastims

4. Newly-Approved Drugs Review
5. Pertinent Utilization Management Issues
6. Panel Discussions and Vote

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165, and the subject to availability of phone lines, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people dialing in. There will be 220 lines total: 200 domestic and 20 international, including leader lines.

*Written Statements:* Pursuant to 41 CFR 102–3.10, and section 10(a)(3) of FACA, interested persons or organizations may submit written statements to the Uniform Formulary Beneficiary Advisory Panel about its mission and/or the agenda to be addressed in this public meeting. Written statements should be submitted to the Uniform Formulary Beneficiary Advisory Panel's Designated Federal Officer (DFO). The DFO's contact information can be found in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Written comments or statements must be received by the Uniform Formulary Beneficiary Advisory Panel's DFO at least five (5) business days prior to the meeting so they may be made available to the Uniform Formulary Beneficiary Advisory Panel for its consideration prior to the meeting. The DFO will review all submitted written statements and provide copies to all Uniform Formulary Beneficiary Advisory Panel members.

Dated: September 1, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2020–19678 Filed 9–3–20; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the U.S. Naval Academy Board of Visitors

**AGENCY:** Department of the Navy, U.S. Department of Defense (DoD).

**ACTION:** Notice of Partially Closed Meeting.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Naval Academy Board of Visitors, hereafter ''Board,'' will take place.

**DATES:** Open to the public, September 14, 2020, from 10 a.m. to 12 p.m. Closed to the public, September 14, 2020, from 12 p.m. to 1 p.m.

**ADDRESSES:** This a virtual meeting that will be broadcasted live from the United States Naval Academy in Annapolis, MD. Escort is not required.

**FOR FURTHER INFORMATION CONTACT:** Major Raphael Thalakottur, USMC, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503, *thalakot@usna.edu,* or visit *https://www.usna.edu/PAO/Superintendent/bov.php.*

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the General Services Administration's (GSA) Federal Advisory Committee Management Final Rule (41 CFR part 102–3).

*Purpose of Meeting:* The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board deems necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

**Agenda**

Proposed meeting agenda for September 14, 2020.

0930–1000 Assemble/Members log on (Broadcasted to Public)
1000 Call to Order (Broadcasted to Public)
1000–1155 Business Session (Broadcasted to Public)
1155–1200 Break (Broadcasted to Public)
1200–1300 Executive Session (Closed to Public)

Current details on the board of visitors may be found at *https://www.usna.edu/PAO/Superintendent/bov.php.*

The executive session of the meeting from 12:00 p.m. to 1:00 p.m. on September 14, 2020, will consist of discussions of new and pending administrative or minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy, in consultation with the Department of the Navy General Counsel, has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 12 p.m. to 1 p.m. will be concerned with matters protected under sections 552b(c)(5), (6), and (7) of title 5, United States Code.

*Authority:* 5 U.S.C. 552b.

*Meeting Accessibility:* Pursuant to FACA and 41 CFR 102–3.140, this meeting is virtually open to the public. This meeting will be broadcasted live from the United States Naval Academy to include audio and video. The broadcast will be close captioned for the duration of the public portion of the meeting. The link to view the meeting will be posted at *https://www.usna.edu/PAO/Superintendent/bov.php* forty-eight hours prior to the meeting. Due to expected health directives in light of COVID–19, the public cannot be accommodated to attend the meeting in person.

*Written Statements:* Per Section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration at any time, but should be received by the Designated Federal Officer at least 10 business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written statements should be submitted via mail to 121 Blake Rd., Annapolis MD 21402. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the board website. Due to circumstances beyond the control of the DoD and the Designated Federal Officer, the Board of Visitors, United States Naval Academy was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its meeting of September 14, 2020. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b) waives the 15-calendar day notification requirement.

Dated: August 31, 2020.

**D.J. Antenucci,**

*Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2020–19534 Filed 9–3–20; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2020–SCC–0074]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Governor's Emergency Education Relief Fund Application

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before October 5, 2020.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Andrew Brake, 202–453–6136.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Governor's Emergency Education Relief Fund Application.

*OMB Control Number:* 1810–0741.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 52.

*Total Estimated Number of Annual Burden Hours:* 130.

*Abstract:* The Governor's Emergency Education Fund awards grants to Governors (states) for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education related entities with emergency assistance as a result of the coronavirus pandemic. The Department will award these grants—to States (governor's offices) based on a formula stipulated in the legislation. (1) 60% on the basis of the State's relative population of individuals aged 5 through 24. (2) 40% on the basis of the State's relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (ESEA).

Dated: August 31, 2020.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2020–19543 Filed 9–3–20; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Notice Reopening the Application Period; Applications for Funding under Higher Education Emergency Relief Fund (HEERF), Sections 18004(a)(1), 18004(a)(2), and 18004(a)(3); Coronavirus Aid, Relief, and Economic Security (CARES) Act

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is reopening the application period for institutions of higher education (IHEs) intending to apply for HEERF, CARES Act funds. The Secretary takes this action to allow eligible applicants additional time to submit their Certifications and Agreements (applications), and associated data submissions for approved information collections under OMB control numbers 1801–0005, 1840–0842, and 1840–0843.

**DATES:** The application period for the notice published at 85 FR 37923 on June 24, 2020, is reopened. Deadline for Transmittal of Applications: September 30, 2020.

**FOR FURTHER INFORMATION CONTACT:** Beatriz Ceja, U.S. Department of Education, 400 Maryland Avenue SW, Room 260–04, Washington, DC 20202. Telephone: The Department of Education HEERF Call Center at (202) 377–3711 or by email at *HEERF@ed.gov.* Please also visit our HEERF website here: *https://www2.ed.gov/about/offices/list/ope/caresact.html.*

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

**SUPPLEMENTARY INFORMATION:** On June 24, 2020, we published in the **Federal Register** a notice establishing an August 1, 2020 deadline date for IHEs that did not initially apply to receive allocations to transmit their Certification and Agreements (applications) for funds from the HEERF under sections 18004(a)(1), 18004(a)(2), and 18004(a)(3) of the CARES Act (85 FR 37923) (June 24, 2020 notice).

The June 24, 2020 notice applied to applications under the following Catalog of Federal Domestic Assistance (CFDA) numbers:

- 84.425E—Student Aid portion of section 18004(a)(1).
- 84.425F—Institutional portion of section 18004(a)(1).
- 84.425J—Historically Black College and Universities under section 18004(a)(2).
- 84.425K—Tribally Controlled Colleges and Universities under section 18004(a)(2).
- 84.425L—Minority Serving Institutions under section 18004(a)(2).
- 84.425M—Strengthening Institutions Program under section 18004(a)(2).
- 84.425N—Fund for the Improvement of Postsecondary Education (FIPSE) under section 18004(a)(3).

This notice reopens the period for transmittal of applications for all eligible applicants until September 30, 2020.

**Note:** This notice also reopens the period for transmittal of applications until September 30, 2020 for:

- 18004(a)(1) reserve applications for the IHEs that did not initially apply for the (a)(1) reserve funds (*https://www2.ed.gov/about/offices/list/ope/reserveappfinal7202020.pdf*);
- 18004(a)(2) applications for eligible branch campuses whose main campuses did not receive an award and who did not initially apply for the (a)(2) reserve funds; and
- 18004(a)(3) applications for grantees with identified risk factors that are required to submit Budget and Expenditure Reporting in order to demonstrate their proposed use of funds (*https://www2.ed.gov/about/offices/list/ope/budgetandexpenditurereportingsec18004a3.pdf*).

**Note:** This notice does not modify the deadline for the Department's recently-announced Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) competitive grant program under CFDA number 84.425P offered under section 18004(a)(3) of the CARES Act and FIPSE. More information about that program, and application submission timelines, can be found at the IREPO grant competition website: *https://www2.ed.gov/about/offices/list/ope/heerfirepo.html.*

**Note:** All information in the Certification and Agreements and in the June 24, 2020 notice establishing a deadline date for each of these funding opportunities remains the same, except for the deadline for the transmittal of applications.

*Electronic Submission of Applications:*

We are participating as a partner in the Government-wide *Grants.gov* site. Submit applications electronically using *Grants.gov* and do not email them unless explicitly allowed.

A *Grants.gov* applicant must apply online using Workspace, a shared environment where members of a grant team may simultaneously access and edit different web forms within an application. An applicant can create an individual Workspace for each application and establish for that application a collaborative application package that allows more than one person in the applicant's organization to work concurrently on an application. The *Grants.gov* system also enables the applicant to reuse forms from previous submissions, check them in and out to complete them, and submit the application package. For access to further instructions on how to apply using *Grants.gov*, refer to: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

You may access the electronic grant applications at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.184, not 84.184D).

Please note the following:

Applicants needing assistance with *Grants.gov* may contact the *Grants.gov* Support Center either by calling 1–800–518–4726 or by sending an email to *support@grants.gov.* The *Grants.gov* Support Center is available 24 hours a day, seven days a week, except for Federal holidays. Applicants needing assistance from Principal Office staff with their applications should contact the Department as directed under **FOR FURTHER INFORMATION CONTACT** section specified in this notice during normal business hours and no later than 5:00 p.m., Eastern Time, on the application deadline date.

The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we recommend that you leave yourself plenty of time to complete your submission.

Applications received by *Grants.gov* are date- and time-stamped upon submission. Your application must be fully uploaded and submitted and must be date- and time-stamped by the *Grants.gov* system no later than 11:59:59 p.m., Eastern Time, on September 30, 2020. Except as specified in the Department's Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *https://www.federalregister.gov/d/2019-02206,* we will not accept your application if it is received—that is, date- and time-stamped by the *Grants.gov* system—after 11:59:59 p.m., Eastern Time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was late. Receipt of a date- and time-stamp does not mean that your application meets program eligibility requirements described in the application package.

You can find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* website at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. *Grants.gov* also will notify you automatically by email if your application met all of the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative (AOR), issues with your Data Universal Numbering System (DUNS) number, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of your application.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

Email confirmations and receipts from *Grants.gov* do not indicate receipt by the Department, nor do they mean that your application is complete or has met all application requirements. While your application may have been successfully validated by *Grants.gov*, it also must be reviewed in accordance with the Department's application requirements as specified in the Certification and Agreement and in these application instructions. It is your responsibility to ensure that your submitted application has met all of the Department's requirements. Additionally, we may request that you provide us original signatures on forms at a later date.

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the Department as directed under **FOR FURTHER INFORMATION CONTACT**.

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.*

Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Robert L. King,**

*Assistant Secretary for the Office of Postsecondary Education.*

[FR Doc. 2020–19791 Filed 9–3–20; 8:45 am]

**BILLING CODE 4000–01–P**

## ELECTION ASSISTANCE COMMISSION

### Progress Report; Standardized Format To Be Used for Both Interim and Final Progress Reporting; Correction

**AGENCY:** Election Assistance Commission.

**ACTION:** Notice; correction.

**SUMMARY:** The U.S. Election Assistance Commission published a document in the **Federal Register** on August 26, 2020, concerning a Progress Report; Standardized Format To Be Used for Both Interim and Final Progress Reporting.

**FOR FURTHER INFORMATION CONTACT:** Kinza Ghaznavi, Telephone: (202) 400–1086, Email: *kghaznavi@eac.gov.*

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** on August 26, 2020, in FR Doc. 2020–18622, on page 52583 in the first column, correct the **DATES** caption to read:

**DATES:** Comments should be submitted by 5 p.m. on Friday, September 25th, 2020.

**Amanda Joiner,**

*Associate Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2020–19672 Filed 9–3–20; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF ENERGY

**[Case Number 2020–008; EERE–2020–BT–WAV–0024]**

### Energy Conservation Program: Notice of Petition For Waiver of CNA International, Inc. From the Department of Energy Dishwashers Test Procedure and Notice of Grant of Interim Waiver

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

**ACTION:** Notice of petition for waiver and grant of an interim waiver; request for comments.

**SUMMARY:** This notice announces receipt of and publishes a petition for waiver and interim waiver from CNA International, Inc. (''CNA''), which seeks a waiver for a specified dishwasher basic model from the U.S. Department of Energy (''DOE'') test procedure used for determining the energy and water consumption of dishwashers. DOE also gives notice of an Interim Waiver Order that requires CNA to test and rate the specified dishwasher basic model in accordance with the alternate test procedure set forth in the Interim Waiver Order. DOE solicits comments, data, and information concerning CNA's petition and its suggested alternate test procedure so as to inform DOE's final decision on CNA's waiver request.

**DATES:** The Interim Waiver Order is effective on September 4, 2020. Written comments and information are requested and will be accepted on or before October 5, 2020.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, interested persons may submit comments, identified by case number ''2020–008'', and Docket number ''EERE–2020–BT–WAV–0024,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CNA2020WAV0024@ee.doe.gov.* Include Case No. 2020–008 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. 2020–008, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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

The docket web page can be found at *http://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0024.* The docket web page contains instruction on how to access all documents, including public comments, in the docket. See the **SUPPLEMENTARY INFORMATION** section for information on how to submit comments through *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:**

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** DOE is publishing CNA's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv).[1] DOE invites all interested parties to submit in writing by October 5, 2020, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Sam Walsh, Harris, Wiltshire & Grannis LLP, 1919 M Street NW, Eighth Floor, Washington, DC 20036.

*Submitting comments via http://www.regulations.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to

[1] The petition did not identify any of the information contained therein as confidential business information.

technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery/courier, or postal mail.* Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. Faxes will not be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

## Signing Authority

This document of the Department of Energy was signed on August 31, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

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

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

## Case Number 2020–008

## Interim Waiver Order

## I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[2] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [3] of EPCA. Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain types of consumer products. These products include dishwashers, the subject of this Interim Waiver Order. (42 U.S.C. 6292(a)(6)).

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the covered product complies with relevant standards promulgated under EPCA (42 U.S.C. 6295(s)).

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test

[2] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[3] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for dishwashers is contained in the Code of Federal Regulations (''CFR'') at 10 CFR part 430, subpart B, appendix C1, ''Uniform Test Method for Measuring the Energy Consumption of Dishwashers'' (''Appendix C1'').

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model. 10 CFR 430.27(b)(1)(iii). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 430.27(l) As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1).

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

## II. CNA's Petition for Waiver and Interim Waiver

On June 30, 2020, CNA filed a petition for waiver and interim waiver from the test procedure for dishwashers set forth at Appendix C1.[4] CNA is seeking a waiver for a non-soil-sensing, compact (countertop) dishwasher because CNA asserts that the product contains a design characteristic that prevents testing according to the prescribed test procedure. In its petition for waiver, CNA stated that the subject dishwasher does not have a water hookup but that water is provided by manually pouring 5 liters of tap water into a built-in tank. CNA has requested DOE waive sections of the dishwasher test procedure requiring water inflow and water pressure criteria based on a water hookup that allows automatic water inflow into the machine during the test cycle. Instead, CNA has suggested an alternate test procedure in which the water tank is manually filled before the test is run and water consumption is stipulated.

CNA also requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. *See* 10 CFR 430.27(e)(2).

Based on the assertions in the petition, the manual water fill characteristic of the subject basic model prevents testing of the basic model according to the prescribed test procedure absent an interim waiver.

## III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of covered products. (42 U.S.C. 6293(c)) Consistency is important when making representations about the energy efficiency of covered products, including when demonstrating compliance with applicable DOE energy conservation standards. Pursuant to 10 CFR 430.27, and after consideration of public comments on the petition, DOE may establish in a subsequent Decision and Order an alternate test procedure for the basic models addressed by the Interim Waiver Order.

CNA seeks to use an alternate test procedure to test and rate specific dishwasher basic model. In its petition for waiver, CNA has suggested the following alternate test procedure:

- Update the existing water pressure requirements in section 2.4 of Appendix C1 to state that, ''For manually filled dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to section 2.6.2.1'';
- Include a new subsection 2.6.2.1 following section 2.6.2 of Appendix C1, which states, ''For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix'';
- Update the main wash detergent dosing requirements specified in section 2.10.2 of Appendix C1 as, ''For manually filled dishwashers that do not have a direct water line, the $V_{mw}$ is equal to 0.396 gallons (or 1.5 liters), which is the main wash fill volume'';
- Specify that the water meter requirements and water pressure gauge requirements in sections 3.3 and 3.4 of Appendix C1, respectively, are not applicable to this dishwasher basic model; and,
- Update the water consumption calculation for non-soil-sensing dishwashers in section 5.4.1 of Appendix C1 to state, ''For manually filled dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.''

## IV. Interim Waiver Order

DOE has reviewed CNA's application for an interim waiver and the alternate test procedure requested by CNA. Based on this review, the alternate test procedure appears to allow for the accurate measurement of the energy and water consumption of the specified basic model, while alleviating the testing problems associated with CNA's implementation of dishwasher testing for this basic model. Consequently, DOE has determined that CNA's petition for waiver likely will be granted. Furthermore, DOE has determined that it is desirable for public policy reasons

[4] The specific basic model for which the petition applies is factory basic model X1 and CNA model MCSCD3W under the Magic Chef brand name. This basic model name was provided by CNA in its June 30, 2020 petition.

to grant CNA immediate relief pending a determination of the petition for waiver.

For the reasons stated, it is *ordered* that:

(1) CNA must test and rate the following dishwasher basic model with the alternate test procedure set forth in paragraph (2).

| Brand | Basic model |
|---|---|
| Magic Chef ..... | MCSCD3W |

(2) The alternate test procedure for the CNA basic model identified in paragraph (1) of this Interim Waiver Order is the test procedure for dishwashers prescribed by DOE at 10 CFR part 430, subpart B, appendix C1, except that the requirements for automatic filling of water into the dishwasher tub are not applicable and instead, specific requirements for manually filling the water are specified, as detailed below. All other requirements of Appendix C1 and DOE's regulations remain applicable.

In section 2.4, *Water pressure,* add at the end of the section:

For compact dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to section 2.6.2.1.

Following section 2.6.2, *Non-soil-sensing dishwashers to be tested at a nominal inlet temperature of 50 °F or 120 °F,* add section 2.6.2.1 to read:

2.6.2.1 For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix.

In section 2.9, *Preconditioning requirements,* add at the end of the section:

For compact dishwashers that do not have a direct water line, measurement of the prewash fill water volume, $V_{pw}$, if any, and measurement of the main wash fill water volume, $V_{mw}$, are not taken.

In section 2.10.2, *Main Wash Detergent Dosing,* add at the end of the section:

For compact dishwashers that do not have a direct water line, the $V_{mw}$ is equal to 0.396 gallons (1.5 liters), which is the main wash fill volume.

In section 3.3, *Water meter,* add at the end of the section:

For compact dishwashers that do not have a direct water line, these water meter conditions do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.

In section 3.4, *Water pressure gauge,* add at the end of the section:

For compact dishwashers that do not have a direct water line, these water pressure gauge conditions do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.

In section 4.1.3, *Water consumption,* add at the end of the section:

For compact dishwashers that do not have a direct water line, these water consumption measurement requirements do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.

In section 5.4.1, *Water consumption for non-soil-sensing electric dishwashers using electrically heated, gas-heated, or oil-heated water,* add at the end of the section:

For compact dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.

(3) *Representations.* CNA may not make representations about the energy and water use of a basic model listed in paragraph (1) for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth in this alternate test procedure and such representations fairly disclose the results of such testing.

(4) This Interim Waiver Order shall remain in effect according to the provisions of 10 CFR 430.27.

(5) This Interim Waiver Order is issued on the condition that the statements, representations, and documents provided by CNA are valid. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for the Interim Waiver Order is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, CNA may request that DOE rescind or modify the Interim Waiver Order if CNA discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Issuance of this Interim Waiver Order does not release CNA from the applicable requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. CNA may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of dishwashers. Alternatively, if appropriate, CNA may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

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

Alexander N. Fitzsimmons,

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

**Before the United States Department of Energy, Washington, DC 20585**

In the Matter of: Energy Efficiency Program: Test Procedure for Residential Dishwashers

**Petition of CNA International, Inc. for Waiver and Interim Waiver of Test Procedure for Residential Dishwashers**

CNA International, Inc. (CNA) respectfully submits this Petition for Waiver and for Interim Waiver [1] of the Department of Energy (DOE or Department) test procedure for residential dishwashers. Specifically, CNA seeks a waiver for its very-small-capacity, highly compact, manually filled countertop residential dishwasher because the product contains design characteristics that prevent testing according to the prescribed test procedures. As a result, the current test procedure is not representative of consumers' use of the product or the product's energy and water consumption characteristics. As described below, CNA proposes an alternative test procedure for this dishwasher that will allow CNA to test the product and determine compliance in accordance with the Department's current energy conservation standards for residential dishwashers. CNA requests expedited treatment of the Petition for Waiver and Interim Waiver.

Based in Wood Dale, Illinois, CNA is a national appliance distribution company that supplies affordable, quality products to homes and small businesses across the United States. With well-known brands including Magic Chef, Magic Chef Commercial, and Norpole, CNA markets its products through major retail stores and their websites and through commercial distributors across America.

**I. Basic Model for Which a Waiver Is Requested**

The basic model for which a waiver is requested is factory basic model X1 and CNA model MCSCD3W. The

[1] *See* 10 CFR 430.27 (petitions for waiver and interim waiver).

product would be distributed in commerce under the Magic Chef brand name.

## II. Need for the Requested Waiver

CNA's non-soil-sensing countertop dishwashers are highly beneficial products, with particular characteristics specifically designed to meet consumer needs in today's marketplace. Specifically, the dishwasher does not require a water hookup, but rather is filled manually by pouring 5 liters of tap water into a built-in tank. This allows for portability, ease of storage, and space-constrained dishwashing for residential consumers.[2]

CNA understands that the Department views its countertop dishwasher as a covered product for the purposes of the Department's energy conservation standards.[3] The currently applicable standards for dishwashers are divided into two product classes on the basis of capacity, in terms of the number of place settings, into standard-size (8 or more place settings) and compact dishwashers (fewer than 8 place settings).[4] The current test procedure for compact dishwashers is set forth at Appendix C1.[5]

CNA requires a waiver because design characteristics of its countertop dishwasher prevent testing of the product according to the prescribed test procedure. Specifically, CNA's countertop dishwasher does not have a direct-line fill hose and cannot be automatically filled with water. Rather, the product is designed to be filled manually by pouring 5 liters of tap water into a reservoir that is built into a machine. As directed by the manufacturer, the water temperature should be slightly below room temperature: 50 °F–68 °F (10 °C–20 °C). The dishwasher provides internal water heating to above 120 °F during the normal cycle. A full dishwasher cycle uses approximately 4.7 to 4.8 liters of water—so the reservoir must be filled for each use. The full cycle includes a main wash stage that uses approximately 1.5 liters of water. The unit has a drain hose in the back so that the used water is drained into a sink. Because the unit is filled manually with water, it cannot be tested in accordance with sections of the test procedure requiring water inflow and water pressure criteria based on a water hookup that allows automatic water inflow into the machine during the test cycle. As described further below, CNA therefore requests a waiver of those aspects of the test procedure and proposes an alternative in which the water tank is manually filled before the test is run. CNA submits that procedure is representative of consumer use and, thus, representative of the product's true energy and water consumption characteristics.

## III. Proposed Alternate Test Procedure

CNA proposes the following alternate test procedure to evaluate the performance of the basic model that is the subject of the waiver request. The alternate test procedure is the same as the existing test procedure for residential dishwashers except that it takes into account the manual-fill design characteristics of the CNA model, which prevent testing according to that procedure. Specifically:

CNA shall be required to test the performance of the basic model subject to the waiver according to the test procedure for residential dishwashers in 10 CFR part 430, subpart B, Appendix C1, except as follows:

*Add the following at the end of Section 2.4 of Appendix C1:*

''For manually filled dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to Section 2.6.2.1.''

*Add new Section 2.6.2.1 of Appendix C1 as follows:*

''For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix.''

*Add the following at the end of Section 2.10.2 of Appendix C1:*

''For manually filled dishwashers that do not have a direct water line, the $V_{mw}$ is equal to 0.396 gallons (or 1.5 liters), which is the water capacity used in the main wash stage of the test cycle.''

*Add the following at the end of Section 3.3 of Appendix C1:*

''For manually filled dishwashers that do not have a direct water line, these water meter conditions do not apply. Water is added manually pursuant to section 2.6.2.1.''

*Add the following at the end of Section 3.4 of Appendix C1:*

''For manually filled dishwashers that do not have a direct water line, these water pressure gauge conditions do not apply. Water is added manually pursuant to section 2.6.2.1.''

*Add the following at the end of Section 5.4.1 of Appendix C1:*

''For manually filled dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.''

## IV. Petition for Interim Waiver

CNA also hereby applies for an Interim Waiver of the applicable test procedure requirements for its very-small-capacity, highly compact, manually filled countertop residential dishwasher. The basic model for which an Interim Waiver is requested is factory basic model X1 and CNA model MCSCD3W. The model would be distributed in commerce under the Magic Chef brand name. CNA meets the criteria for an Interim Waiver.

The Petition for Waiver is likely to be granted, as evidenced by its merits. CNA is likely to succeed in its Petition because the design characteristics described above prevent testing of the CNA model according to the prescribed test procedure contained in 10 CFR part 430, subpart B, Appendix C1. Without waiver relief, CNA would be subject to requirements that clearly should not—and cannot—apply to this product. Additionally, CNA is likely to suffer economic hardship and competitive disadvantage if it must wait to rate this basic model for DOE purposes and distribute it in commerce in the United States. In the absence of an Interim Waiver, CNA will lack certainty as to whether it can launch these small-capacity, highly compact countertop dishwashers into the market. CNA predicts strong consumer demand for these dishwashers, and the inability to bring them to market through denial of an Interim Waiver will cause economic hardship and competitive disadvantage for CNA.

DOE approval of CNA's Interim Waiver application is also supported by sound public policy reasons. The CNA product at issue meets consumers' needs in today's marketplace for portable, highly compact dishwashers. CNA's testing of this machine suggests that it is an affordable, energy-efficient alternative to installing a higher-capacity compact or standard machine. There is no basis on which to delay these innovative products from entering the marketplace.

[2] To the best of CNA's knowledge, CNA is unable to identify any other manufacturers distributing residential dishwasher basic models in commerce in the United States that incorporate all of the design characteristics that are the subject of this petition.

[3] *See* 42 U.S.C. 6292(a)(6); 10 CFR 430.2 (defining a dishwasher as a ''cabinet-like appliance which with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or electrical means and discharges to the plumbing drainage system'').

[4] 10 CFR 430.32(f)(1). Under the current standard, ''[c]ompact size dishwashers shall not exceed 222 kwh/year and 3.5 gallons per cycle.'' *Id.*

[5] 10 CFR Pt. 430, Subpt. B, App. C1 (''Appendix C1'').

## V. Conclusion

CNA respectfully requests that DOE grant its Petition for Waiver of the applicable test procedure for the specified basic model and grant its Petition for Interim Waiver.

CNA requests expedited treatment of these Petitions for Interim Waiver and Waiver. In that regard, DOE has stated in its notice concerning its certification, compliance, and enforcement rule: ''The Department renews its commitment to act swiftly on waiver requests.'' [6] CNA appreciates this commitment by DOE.

Respectfully submitted,

*/s/Bryan M. Choi,*

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*Sourcing Manager.*
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*/s/Sam Walsh*

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*Counsel to CNA International, Inc.*
June 30, 2020.

[FR Doc. 2020–19564 Filed 9–3–20; 8:45 am]

BILLING CODE 6450–01–P

[6] Energy Conservation Program: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment, 76 FR 12421, 12442 (March 7, 2011). DOE goes on to state, ''DOE, as a matter of policy, will refrain from enforcement actions related to a waiver request that is pending with the Department.'' *Id.* To the same effect, DOE has stated, ''DOE recognizes that product innovations will always outpace DOE's rulemaking efforts. Thus, to encourage waivers and prevent the Department's administrative waiver process from delaying or deterring the introduction of novel, innovative products into the marketplace, the Department, as a matter of policy, will refrain from an enforcement action related to a specific basic model while a waiver request is pending with the Department.'' Enforcement Policy Statement—Pending Test Procedure Waiver Applications (issued Dec. 23, 2010) (re-issued Apr. 5, 2017), *https://energy.gov/sites/prod/files/2017/04/f34/Enforcement%20Policy%20-%20waivers.pdf.*

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP20–512–000]**

### Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on August 24, 2020, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in Docket No. CP20–512–000 a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000, to abandon two injection/withdrawal wells and associated pipelines and appurtenances, located in its Laurel Storage Field in Hocking County, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Sorana Linder, Director, Modernization & Certificates, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas, 77002–2700, at (832) 320–5209 or *sorana_linder@tcenergy.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: August 31, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–19600 Filed 9–3–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP20–504–000]**

### Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Lake City 1st Branch Line Abandonment and Capacity Replacement Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Lake City 1st Branch Line Abandonment and Capacity Replacement Project (Project) involving construction and operation of facilities by Northern Natural Gas Company (Northern) in Webster and Calhoun Counties, Iowa. The Commission will use this EA in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the Project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00pm Eastern Time on September 30, 2020. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

You can make a difference by submitting your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all written comments during the preparation of the EA.

If you sent comments on this Project to the Commission before the opening of this docket on July 31, 2020, you will need to file those comments in Docket No. CP20–504–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Northern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

#### Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP20–504–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

#### Summary of the Proposed Project

The Project would consist of the following facilities and actions in Webster and Calhoun Counties, Iowa:

- Abandonment in place of 34.2 miles of the four-inch-diameter Lake City 1st branch line pipeline system from Dayton to Lake City, Iowa;
- construction of 9.2 miles of new 6-inch-diameter branch line pipeline extension (the Lake City 2nd branch line extension), relocation of a receiver to the Lake City town border station, and installation of a new take-off valve setting for the Lohrville town border station;
- Maximum allowable operating pressure (MAOP) uprate of 25.3 miles of the Lake City 2nd branch line pipeline and installation of a new take-off regulator setting to the Harcourt branch line;
- MAOP uprate of the Callender branch line pipeline; and
- MAOP uprate of the Manson 2nd branch line pipeline and installation of a new take-off regulator setting from the Manson 2nd branch line pipeline to the

Manson 1st branch line pipeline and Rockwell City branch line pipeline.

The general location of the Project facilities is shown in appendix 1.[1]

**Land Requirements for Construction**

Construction of the proposed facilities would disturb about 149 acres of land for the aboveground facilities and the pipeline. Following construction, Northern would maintain about 37 acres for permanent operation of the Project's facilities; the remaining acreage would be restored and revert to former uses. Approximately 53 percent of the Lake City 2nd branch line extension would be constructed adjacent to, and offset 25 feet from, Northern's existing Lake City 1st branch line. Where the new branch line extension deviates from the existing pipeline, the offset was increased to either avoid impacts on environmentally sensitive areas or allow for proper alignment of horizontal directional drill crossings.

**The EA Process**

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

**Consultation Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP20–504). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: August 31, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–19603 Filed 9–3–20; 8:45 am]

BILLING CODE 6717–01–P

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP19–1340–000.

*Applicants:* Viking Gas Transmission Company.

*Description:* Report Filing: Refund Report.

*Filed Date:* 8/28/20.

*Accession Number:* 20200828–5021.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1124–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* § 4(d) Rate Filing: 2020 ACA Tracker Filing—GSS, LSS, SS–2 & S–2 to be effective 10/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5015.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1125–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* Compliance filing 2020 Operational Entitlements Filing.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5023.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1126–000.
*Applicants:* TransColorado Gas Transmission Company LLC.
*Description:* § 4(d) Rate Filing: Quarterly Fuel and L&U Percentage Update to be effective 10/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5035.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1127–000.
*Applicants:* Rockies Express Pipeline LLC.
*Description:* § 4(d) Rate Filing: REX 2020–08–28 Negotiated Rate Agreement to be effective 9/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5057.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1128–000.
*Applicants:* Colorado Interstate Gas Company, L.L.C.
*Description:* § 4(d) Rate Filing: Annual Fuel and LUF True Up Filing to be effective 10/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5058.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1129–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Chevron 911109 Releases eff 9–1–2020 to be effective 9/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5118.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1130–000.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* § 4(d) Rate Filing: Negotiated Rate Update Filing (Conoco Sept 20) to be effective 9/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5135.
*Comments Due:* 5 p.m. ET 9/9/20.

*Docket Numbers:* RP20–1131–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Sep 2020 to be effective 9/1/2020.
*Filed Date:* 8/28/20.
*Accession Number:* 20200828–5153.
*Comments Due:* 5 p.m. ET 9/9/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–19616 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP20–509–000]**

### Columbia Gas of Pennsylvania, Inc.; Notice of Application

Take notice that on August 20, 2020, Columbia Gas of Pennsylvania, Inc (CPA), 121 Champion Way, Suite 100, Canonsburg, Pennsylvania 15317, filed in the above referenced docket an application pursuant to section 7(f) of the Natural Gas Act (NGA) requesting authorization to expand its service area determination granted in Docket No. CP18–49–000 to include a delivery point in Columbiana County, Ohio. CPA also requests: (1) Confirmation that CPA continues to qualify as a local distribution company for purposes of transportation under section 311 of the Natural Gas Policy Act (NGPA); (2) confirmation that CPA may continue to make off-system sales in support of its Pennsylvania distribution operations; and (3) continuation of the waiver of the Commission's accounting, reporting, and other regulatory requirements under the NGA and NGPA.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Brooke E. Wancheck, Assistant General Counsel, 290 W. Nationwide Blvd., Columbus, Ohio 43215, by telephone at (614) 460–5558.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list

maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new NGA section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on September 21, 2020.

Dated: August 31, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–19607 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶ 61,167 at ¶ 50 (2018).

[2] 18 CFR 385.214(d)(1).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP17–443–000]**

### National Fuel Gas Supply Corporation; Notice of Request for Extension of Time

Take notice that on July 20, 2020, National Fuel Gas Supply Corporation (National Fuel) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until July 24, 2021, to complete the Wharton WH23 Storage Well Abandonment Project (Project), as authorized after the 60-day deadline of National Fuel's prior notice issued by the Commission on May 25, 2017.

National Fuel was initially required to abandon the facilities by July 24, 2018. On July 27, 2018, the Office of Energy Projects, by delegated order, extended the deadline through July 24, 2019. On July 12, 2019, the Office of Energy Projects, by delegated order, extended the deadline through July 24, 2020. National Fuel now requests a one-year extension of this deadline, through July 24, 2021. National Fuel states that it requires more time to continue and complete pressure evaluations of Well WH23, and to undertake the plugging, and final restoration of the Well WH23 site.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on National Fuel's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).[1]

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[2] the Commission will aim to issue an order acting on the request within 45 days.[3] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[4] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[5] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[6] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel

[1] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 39 (2020).

[2] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[3] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[4] *Id.* at P 40.

[5] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[6] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on September 14, 2020.

Dated: August 28, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–19601 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC20–93–000.

*Applicants:* Tatanka Ridge Wind, LLC, WEC Infrastructure LLC.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Tatanka Ridge Wind, LLC, et al.

*Filed Date:* 8/28/20.

*Accession Number:* 20200828–5274.

*Comments Due:* 5 p.m. ET 9/18/20.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2721–009.

*Applicants:* El Paso Electric Company.

*Description:* Notice of Non-Material Change in Status of El Paso Electric Company.

*Filed Date:* 8/28/20.

*Accession Number:* 20200828–5268.

*Comments Due:* 5 p.m. ET 9/18/20.

*Docket Numbers:* ER15–632–010; ER14–2140–010; ER14–2141–010; R14–2465–011; ER14–2466–011; R14–2939–008; ER15–1952–008; R15–2728–010; ER15–634–010.

*Applicants:* CID Solar, LLC, Cottonwood Solar, LLC, RE Columbia Two LLC, RE Camelot LLC, Pavant Solar LLC, Imperial Valley Solar Company (IVSC) 2, LLC, Maricopa West Solar PV, LLC, Mulberry Farm, LLC, Selmer Farm, LLC.

*Description:* Notice of Non-Material Change in Status of the Dominion Companies, et al.

*Filed Date:* 8/28/20.

*Accession Number:* 20200828–5280.

*Comments Due:* 5 p.m. ET 9/18/20.

*Docket Numbers:* ER20–940–002.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance filing: 2020–08–31_Additional Compliance filing to SPP–JOA related to Affected Systems to be effective 4/4/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5353.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2772–000.

*Applicants:* New England Power Pool Participants Committee.

*Description:* § 205(d) Rate Filing: September 2020 Membership Filing to be effective 9/1/2020.

*Filed Date:* 8/28/20.

*Accession Number:* 20200828–5228.

*Comments Due:* 5 p.m. ET 9/18/20.

*Docket Numbers:* ER20–2773–000.

*Applicants:* NSTAR Electric Company.

*Description:* Initial rate filing: NSTAR–NEMC Transfer Agreement (ENE Use Rights) to be effective 9/26/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5191.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2774–000.

*Applicants:* NSTAR Electric Company.

*Description:* Initial rate filing: NSTAR–HQUS Transfer Agreement (CMEEC Use Rights) to be effective 10/31/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5196.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2775–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: Compliance Filing Pursuant to July 16 Order re: EL14–37–000 UTC Transactions to be effective 12/31/9998.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5200.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2776–000.

*Applicants:* NSTAR Electric Company.

*Description:* Initial rate filing: NSTAR–HQUS Transfer Agreement (MMWEC Use Rights) to be effective 10/31/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5206.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2777–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: Aurora Solar (Brenneman Solar) LGIA Filing to be effective 8/17/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5209.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2778–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: AL Solar C (Cusseta Solar & Storage) LGIA Filing to be effective 8/17/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5212.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2779–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 3215R8 People's Electric Cooperative NITSA NOAs to be effective 8/1/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5231.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2780–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2020–08–31_SA 2997 MidAmerican-MidAmerican 3rd Rev GIA (J529 J590) to be effective 8/17/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5265.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2781–000.

*Applicants:* Tri-State Generation and Transmission Association.

*Description:* Tariff Cancellation: Notice of Cancellation of Service Agreement No. 830 to be effective 2/25/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5304.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2782–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2020–08–31_SA 3061 MidAmerican-MidAmerican 2nd Rev GIA (J475 J555) to be effective 8/17/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5307.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2783–000.

*Applicants:* ISO New England Inc.,Versant Power.

*Description:* § 205(d) Rate Filing: Versant Power; Amendment of Schedule 20A–VP to be effective 11/1/2020.

*Filed Date:* 8/31/20.

*Accession Number:* 20200831–5315.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2784–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5753; Queue No. AF2–427 to be effective 8/18/2020.
*Filed Date:* 8/31/20.
*Accession Number:* 20200831–5325.
*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2785–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Revisions to Schedule 12-Appendix A to Reflect Rochelle/ComEd Transfer to be effective 6/9/2020.
*Filed Date:* 8/31/20.
*Accession Number:* 20200831–5326.
*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2786–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1148R28 American Electric Power NITSA and NOA to be effective 8/1/2020.
*Filed Date:* 8/31/20.
*Accession Number:* 20200831–5328.
*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* ER20–2787–000.
*Applicants:* Greenleaf Energy Unit 2 LLC.
*Description:* Tariff Cancellation: Cancellation filing to be effective 10/30/2020.
*Filed Date:* 8/31/20.
*Accession Number:* 20200831–5340.
*Comments Due:* 5 p.m. ET 9/21/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–19608 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 1869–060]**

### NorthWestern Energy; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping; Waiving Parts of the Pre-Filing Process; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 1869–060.

c. *Dated Filed:* July 1, 2020.

d. *Submitted By:* NorthWestern Energy.

e. *Name of Project:* Thompson Falls Hydroelectric Project.

f. *Location:* On the Clark Fork River in Sanders County in the city of Thompson Falls, Montana. The project includes 103.78 acres of federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Licensee Contact:* Mary Gail Sullivan, Director, Environmental & Lands Permitting & Compliance, NorthWestern Energy, 11 East Park Street, Butte, Montana 59701; phone: (406) 497–3382 or (406) 490–1838.

i. *FERC Contact:* Michael Tust at (202) 502–6522 or email at *michael.tust@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating NorthWestern Energy as the Commission's non-federal representatives for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. NorthWestern Energy filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online

Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by October 27, 2020.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this scoping document will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

**Scoping Meetings and Environmental Site Review**

Due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020, we are waiving section 5.8(b)(viii) of the Commission's regulations and do not intend to conduct a public scoping meeting or site visit in this case. Instead, we are soliciting written comments, recommendations, and information, on the SD1. Any individual or entity interested in submitting scoping comments must do so by the date specified in item o. SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

We may conduct the site visit, if needed, later in the process. Further revisions to the schedule may be made as appropriate.

Dated: August 28, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–19602 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–2771–000]**

### Guzman Western Slope LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request For Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Guzman Western Slope LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 21, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 31, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–19615 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL20–66–000]**

### Tri-State Generation and Transmission Association, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On August 28, 2020, the Commission issued an order in Docket No. EL20–66–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2018), instituting an investigation into whether Tri-State Generation and Transmission Association, Inc.'s (Tri-State) to determine whether Tri-State's Board Policy Nos. 101 and 115, Rate Schedule No. 308, and the Member Project Contracts are just and reasonable. *Tri-State Generation and Transmission Association, Inc.,* 172 FERC ¶ 61,172 (2020).

The refund effective date in Docket No. EL20–66–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL20–66–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2019),

within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: August 31, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–19611 Filed 9–3–20; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2019–0131; FRL–10013–90]**

## Final Scopes of the Risk Evaluations To Be Conducted for Twenty Chemical Substances Under the Toxic Substances Control Act; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Toxic Substances Control Act (TSCA), which was amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act in June 2016, and implementing regulations, EPA is announcing the availability of the final scope documents for the risk evaluations to be conducted for the 20 High-Priority Substances designated in December 2019. The scope document for each chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations the EPA plans to consider in conducting the risk evaluation for that chemical substance.

**DATES:** The scope documents announced in this notice are dated August 27, 2020.

**ADDRESSES:** The docket for this action is identified by docket identification (ID) number EPA–HQ–OPPT–2019–0131, and the docket ID numbers for the individual chemical substances are listed with the chemical substance in Unit IV. All the dockets are available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Ross Geredien, Risk Assessment Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency (Mailcode 7403M), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1864; email address: *geredien.ross@epa.gov.*

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

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

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

This action directly implements TSCA section 6(b)(4)(D), 15 U.S.C. 2605(b)(4)(D).

*C. What action is the Agency taking?*

EPA is announcing the availability of the final scope documents of the risk evaluations for the 20 chemical substances designated as High-Priority Substances for risk evaluation under TSCA. Through the risk evaluation process, EPA will determine whether the chemical substances present an unreasonable risk of injury to health or the environment under the conditions of use, in accordance with TSCA section 6(b)(4).

### II. Background

TSCA section 6(b)(1) requires EPA to prioritize chemical substances for risk evaluation (15 U.S.C. 2605(b)(1)). Effective December 20, 2019, EPA designated 20 chemical substances as High-Priority Substances for risk evaluation (Ref. 1), which initiated the risk evaluation process for those chemical substances (15 U.S.C. 2605(b)(3)(A); 40 CFR 702.17). The purpose of risk evaluation is to determine whether a chemical substance presents an unreasonable risk to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazard and exposure, exclude consideration of costs or other non-risk factors, use scientific information and approaches in a manner that is consistent with the requirements in TSCA for the best available science, and ensure decisions are based on the weight-of-scientific-evidence (15 U.S.C. 2605(b)(4)(F), 2625(h) and (i)). This process will culminate in a determination of whether or not the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use (40 CFR 702.47).

Pursuant to 40 CFR 702.41(c)(7), EPA announced the availability of and

sought public comment on the draft scope documents for the risk evaluations to be conducted for 13 of 20 High-Priority Substances under TSCA (85 FR 19941, April 9, 2020) (FRL–10007–11) (Ref. 2) and the remaining 7 of 20 High-Priority Substances under TSCA (85 FR 22733, April 23, 2020) (FRL–10008–05) (Ref. 3).

## III. Information and Comments Received

### *A. Overview of Public Comments*

Comments were received during two 45-day comment periods following the announcement of the draft scope documents for the risk evaluations to be conducted for 13 of 20 High-Priority Substances under TSCA (Ref. 2) and the remaining 7 of 20 High-Priority Substances under TSCA (Ref. 3). During both comment periods, the public was invited to submit comments on EPA's draft scope documents, including additional data or information relevant to the chemical substances or that otherwise could be useful to the Agency in finalizing the scope of the risk evaluations. To the extent that comments provided information on conditions of use, as well as other elements of the draft scope documents, those comments and other submitted information (*e.g.,* relevant studies and assessments) were used to inform revisions to the draft scope documents and may be considered in subsequent phases of the risk evaluation process.

EPA created one general docket to receive comments regarding the risk evaluation process and additional, individual dockets on each of the 20 High-Priority Substances undergoing risk evaluation to receive chemical-specific information. From all 21 dockets, EPA received 245 submissions; however, some commenters opted for one submission describing all their comments and submitted it to multiple dockets, other commenters chose to submit different comments to specific chemical-specific dockets, and some commenters did both. Therefore, EPA considered 78 of those submissions unique. EPA received submissions from 66 different entities, including potentially affected businesses or trade associations, environmental and public health advocacy groups and academia (some submissions were signed by more than one group), a group of state attorneys general, and other organizations.

Comments addressed the overall approach to the risk evaluation process (*e.g.,* collection, consideration, and systematic review of relevant information), the specific elements of the scope documents (*e.g.,* hazard, exposure, and potentially exposed or susceptible subpopulations (PESS)), information specific to the chemical substances (*e.g.,* relevant studies, assessments, and conditions of use (COUs)), and topics beyond the draft scope document phase of the process (*e.g.,* risk management). One comment (EPA–HQ–2018–0465–0028) was not related to the risk evaluation of the 20 High-Priority Substances. EPA considered those comments, as applicable and appropriate, in developing the final scope documents. Concurrently with the publication of the 20 final scope documents, EPA is publishing a response to comments document that contains a comprehensive summary of and response to public comments received on the 20 draft scope documents. The comprehensive response to comments document is available in the docket EPA–HQ–OPPT–2019–0131 (Ref. 4).

## IV. Final Scopes for the 20 Designated High-Priority Chemical Substances

The chemical substances for which EPA is publishing the final scopes of the risk evaluations are identified in the following Table, along with the corresponding Chemical Abstract System Registry Number (CASRN) and docket ID numbers.

TABLE—LIST OF THE 20 DESIGNATED HIGH PRIORITY CHEMICAL SUBSTANCES

| Chemical substance | CASRN | Docket ID No. |
|---|---|---|
| 1,3-Butadiene | 106–99–0 | EPA–HQ–OPPT–2018–0451 |
| o-Dichlorobenzene (Benzene, 1,2-dichloro-) | 95–50–1 | EPA–HQ–OPPT–2018–0444 |
| p-Dichlorobenzene (Benzene, 1,4-dichloro-) | 106–46–7 | EPA–HQ–OPPT–2018–0446 |
| 1,1-Dichloroethane | 75–34–3 | EPA–HQ–OPPT–2018–0426 |
| 1,2-Dichloroethane | 107–06–2 | EPA–HQ–OPPT–2018–0427 |
| trans-1,2-Dichloroethylene (Ethene, 1,2-dichloro-, (1E)-) | 156–60–5 | EPA–HQ–OPPT–2018–0465 |
| 1,2-Dichloropropane | 78–87–5 | EPA–HQ–OPPT–2018–0428 |
| Ethylene dibromide (Ethane, 1,2-dibromo-) | 106–93–4 | EPA–HQ–OPPT–2018–0488 |
| 1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta [g]-2-benzopyran (HHCB) | 1222–05–5 | EPA–HQ–OPPT–2018–0430 |
| 4,4′-(1-Methylethylidene)bis[2, 6-dibromophenol] (TBBPA) | 79–94–7 | EPA–HQ–OPPT–2018–0462 |
| Phosphoric acid, triphenyl ester (TPP) | 115–86–6 | EPA–HQ–OPPT–2018–0458 |
| 1,1,2-Trichloroethane | 79–00–5 | EPA–HQ–OPPT–2018–0421 |
| Tris(2-chloroethyl) phosphate (TCEP) (Ethanol, 2-chloro-, 1,1′,1″-phosphate) | 115–96–8 | EPA–HQ–OPPT–2018–0476 |
| Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, 1- butyl 2-(phenylmethyl) ester) | 85–68–7 | EPA–HQ–OPPT–2018–0501 |
| Dibutyl phthalate (1,2-Benzenedicarboxylic acid, 1,2- dibutyl ester) | 84–74–2 | EPA–HQ–OPPT–2018–0503 |
| Dicyclohexyl phthalate | 84–61–7 | EPA–HQ–OPPT–2018–0504 |
| Phthalic anhydride (1,3-Isobenzofurandione) | 85–44–9 | EPA–HQ–OPPT–2018–0459 |
| Formaldehyde | 50–00–0 | EPA–HQ–OPPT–2018–0438 |
| Di-ethylhexyl phthalate (1,2-Benzenedicarboxylic acid, 1,2- bis(2-ethylhexyl) ester) | 117–81–7 | EPA–HQ–OPPT–2018–0433 |
| Di-isobutyl phthalate (1,2-Benzenedicarboxylic acid, 1,2-bis(2-methylpropyl) ester) | 84–69–5 | EPA–HQ–OPPT–2018–0434 |

The final scope document for the risk evaluation for each of these 20 chemical substances includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations EPA plans to consider. Development of the scope is the first step of a risk evaluation. The final scope document for each risk evaluation includes the following components (40 CFR 702.41(c)):

- The conditions of use, as determined by the Administrator, that EPA plans to consider in the risk evaluation.
- The potentially exposed populations that EPA plans to evaluate; the ecological receptors EPA plans to evaluate; and the hazards to health and the environment that EPA plans to evaluate.
- A description of the reasonably available information and the science approaches that the Agency plans to use.

• A conceptual model that describes the actual or predicted relationships between the chemical substance, the conditions of use within the scope of the evaluation and the receptors, either human or environmental, with consideration of the life cycle of the chemical substance—from manufacturing, processing, distribution in commerce, storage, use, and disposal—and identification of human and ecological health hazards EPA plans to evaluate for the exposure scenarios EPA plans to evaluate.

• An analysis plan, which identifies the approaches and methods EPA plans to use to assess exposure, hazards, and risk, including associated uncertainty and variability, as well as a strategy for using reasonably available information and science approaches.

• A plan for peer review.

Based on public comments received, the Agency was able to update conditions of use presented in the draft scope documents and accept additional data or information from stakeholders that was useful to the Agency in finalizing the scope of the risk evaluations. In addition, public comments were considered to better inform the exposure pathways, routes, receptors, PESS, and hazards that EPA plans to consider in the risk evaluations for the 20 High-Priority Substances. Note that, as a result of the Ninth Circuit Court of Appeals' decision in *Safer Chemicals, Healthy Families* v. *U.S. EPA,* 943 F.3d 397, 425 (9th Cir. 2019), EPA will no longer exclude legacy uses or associated disposal from the definition of ''conditions of use.'' Rather, when these activities are intended, known, or reasonably foreseen, these activities will be considered uses and disposal, respectively, within the definition of ''conditions of use.''

**V. References**

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. High-Priority Substance Designations Under the Toxic Substances Control Act (TSCA) and Initiation of Risk Evaluation on High-Priority Substances; Notice of Availability. **Federal Register**. (84 FR 71924, December 30, 2019) (FRL–10003–15).

2. EPA. Draft Scopes of the Risk Evaluations to Be Conducted for Thirteen Chemical Substances Under the Toxic Substances Control Act; Notice of Availability. **Federal Register**. (85 FR 19941, April 9, 2020) (FRL–10007–11).

3. EPA. Draft Scopes of the Risk Evaluations to Be Conducted for Seven Chemical Substances Under the Toxic Substances Control Act; Notice of Availability. **Federal Register**. (85 FR 22733, April 23, 2020) (FRL–10008–05).

4. EPA. Summary of Public Comments Received on the Draft Scopes of the Risk Evaluations for Twenty Chemical Substances Under the Toxic Substances Control Act (TSCA). (August 2020).

**Authority:** 15 U.S.C. 2601 *et seq.*

**Andrew Wheeler,**

*Administrator.*

[FR Doc. 2020–19671 Filed 9–3–20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9052–6]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 24, 2020, 10 a.m. EST Through August 31, 2020, 10 a.m. EST

Pursuant to 40 CFR 1506.9.

**Notice**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

*EIS No. 20200177,* Draft, USFS, AK, South Revilla Integrated Resource Project, Comment Period Ends: 10/19/2020, Contact: Kristin Whisennand 406–626–2505.

*EIS No. 20200178,* Final, BLM, NV, Yellow Pine Solar Project, Review Period Ends: 10/05/2020, Contact: Whitney Wirthlin 702–515–5284.

*EIS No. 20200179,* Final, USFS, CA, Mitsubishi Cement Corporation South Quarry Plan of Operation, Review Period Ends: 10/05/2020, Contact: Scott Eliason 909–382–2830.

**Amended Notice**

*EIS No. 20200139,* Draft, FHWA, MD, I–495 & I–270 Managed Lanes Study Draft Environmental Impact Statement and Draft Section 4(f) Evaluation, Comment Period Ends: 11/09/2020, Contact: Jeanette Mar 410–779–7152. Revision to FR Notice Published 7/10/2020; Extending the Comment Period from 10/8/2020 to 11/9/2020.

Dated: August 31, 2020.

**Cindy S. Barger,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2020–19605 Filed 9–3–20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2019–0677; FRL–10014–28]**

## Final Lists Identifying Manufacturers Subject to Fee Obligations for EPA-Initiated Risk Evaluations Under Section 6 of the Toxic Substances Control Act (TSCA); Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** As required by the final rule on fees for the administration of the Toxic Substances Control Act (TSCA) (the Fees Rule), in which the Environmental Protection Agency (EPA) established fees to defray some of the costs of administering certain provisions of TSCA, EPA this document announces the availability of the final lists identifying the manufacturers (including importers) of the 20 chemical substances that have been designated as a High-Priority Substance for risk evaluation and for which fees will be charged. In January 2020, EPA announced the availability of and solicited public comment on the preliminary lists identifying manufacturers subject to fee obligations for EPA-initiated risk evaluations under TSCA. During the comment period, which closed on June 15, 2020, manufacturers (including importers) were also required to self-identify as a manufacturer of one of the 20 High-Priority Substances irrespective of whether they are included on the preliminary lists. Where appropriate, entities had the opportunity to avoid or reduce fee obligations by making certain certifications consistent with the Fees Rule. The public had the opportunity to correct errors or provide comments on

the preliminary lists. Manufacturers (including importers) identified on the final list will be subject to applicable fees.

**DATES:** Effective on August 27, 2020.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Benjamin Dyson, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 774–8976; email address: *dyson.benjamin@epa.gov.*

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

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

This action applies to entities that manufacture (including import) one or more of the High-Priority Substances currently undergoing a risk evaluation under TSCA section 6(b). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. The Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

### *B. What action is the Agency taking?*

EPA is announcing the availability of the final lists identifying manufacturers (including importers) that are subject to fee obligations under 40 CFR 700.45. These entities manufacture or import one or more of the 20 High-Priority Substances subject to EPA-initiated risk evaluations under TSCA section 6.

### *C. Why is the Agency taking this action?*

As amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016 (Pub. L. 114–182, see also *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act*), TSCA authorizes EPA to establish, by rule, a fee structure to defray some of the costs of administering certain provisions of TSCA. Pursuant to the Fees Rule, the Agency will collect payment from identified manufacturers (including importers) who manufacture (including import) a chemical substance that is the subject of a risk evaluation under TSCA section 6(b) (Ref. 1). As intended by Congress, these fees are a sustainable source of funds for EPA to fulfill its legal obligation to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, as required under TSCA section 6. Pursuant to TSCA section 6(b) and its implementing regulations, EPA has designated 20 chemical substances as High-Priority Substances for risk evaluation (Ref. 2) (84 FR 71924, December 30, 2019) (FRL–10003–15); those substances are listed in Unit III. EPA is now identifying the manufacturers (including importers) that are subject to fee obligations associated with the risk evaluations of these High-Priority Substances.

### *D. What is the Agency's authority for this action?*

TSCA provides EPA with authority to establish fees to defray a portion of the costs associated with administering EPA-initiated TSCA section 6 risk evaluations. On September 27, 2018, EPA finalized a rule imposing a fee for persons who manufacture (including import) a chemical substance that is the subject of an EPA-initiated risk evaluation under TSCA section 6 (Ref. 1). The requirements for those fee payments are codified in 40 CFR 700.45.

## II. Background

### *A. How was the final list developed?*

TSCA section 6(b)(1) requires EPA to prioritize chemical substances as High-Priority Substances for risk evaluation. In accordance with TSCA section 6(b) and 40 CFR 702.7, on March 21, 2019, EPA initiated the prioritization process for 20 chemical substances identified as candidates for High-Priority Substance designation (Ref. 3). On August 23, 2019, EPA proposed to designate the same 20 chemical substances as High-Priority Substances for risk evaluation (Ref. 4). EPA finalized the High-Priority Substance designations of the same 20 chemical substance proposed for High-Priority Substance designations (Ref. 2) and announced on January 27, 2020 the availability of the preliminary lists for the 20 High-Priority Substances designated (Ref. 5) (see docket EPA–HQ–OPPT–2019–0677). EPA provided a 60-day comment period, with two additional extensions closing the second comment period on June 15, 2020 (Ref. 6 and Ref. 7) (March 13 (*https://www.regulations.gov/document?D=EPA-HQ-OPPT-2019-0677-0058*) and May 28 (*https://www.regulations.gov/document?D=EPA-HQ-OPPT-2019-0677-0087*).

EPA developed each preliminary list using the most up-to-date information available, from information submitted to the Agency (*i.e.,* information submitted under TSCA section 8(a) (including the Chemical Data Reporting (CDR) Rule) and TSCA section 8(b), and the Toxics Release Inventory (TRI)). To include the two most recent CDR reporting cycle data (collected every four years) and to account for annual or other typical fluctuations in manufacturing (including import), EPA used six years of data submitted or available to the Agency under CDR and TRI to create the preliminary lists (2012–2018). EPA considered using other sources of information available to the Agency, such as publicly available information (*e.g.,* Panjiva, Datamyne) or information submitted to other agencies to which EPA has access (*e.g.,* U.S. Customs and Border Protection data) but concluded that data quality limitations would create more false positives than appropriate additions to the lists. Following publication of the preliminary lists, manufacturers of the 20 High-Priority Substances who had manufactured or imported the chemical substance in the previous five years were required to self-identify to EPA, irrespective of whether they were included in the preliminary lists. See 40 CFR 700.45(b)(5).

EPA is now announcing the final list of manufacturers (including importers) for the 20 High-Priority Substances who are responsible for fee payments (Ref. 8). EPA is also providing the list of companies that certified to ceasing manufacture for each of the 20 High-Priority Substances (Ref. 9).

EPA believes the requirement to self-identify, established by 40 CFR 700.45(b)(5), was sufficient to identify additional manufacturers (including importers). Manufacturers (including importers) on the preliminary lists had an opportunity to certify through CDX that: (1) They had already ceased manufacturing prior to the defined cutoff dates and will not manufacture (including import) for five years; or (2) they have not manufactured the chemical substance in the five-year period preceding publication of the preliminary lists. For this group of 20 chemicals, the cutoff date for ceasing manufacture or import of a chemical substance was March 20, 2019, which is the day prior to initiation of the prioritization process for the applicable designated High-Priority Substance. If EPA received such a certification statement from a manufacturer, then the manufacturer was not identified on the

final list and will not be obligated to pay the fee. Additionally, EPA found that the broad scope of the current Fees Rule unintentionally imposes potentially significant burdens on importers of chemical substances in articles, and manufacturers of byproducts and impurities, and that certain stakeholders would be obligated to undertake significant and burdensome efforts to attempt to determine the presence of the 20 High-Priority Substances in their products and processes. EPA announced the Agency's intention to immediately begin the rulemaking process to amend the Fees Rule to propose exemptions to the self-identification requirements in the Fees Rule associated with EPA-initiated risk evaluations for three categories of manufacturers of chemical substances subject to such risk evaluations: (1) Importers of articles containing the chemical substances; (2) producers of the chemical substances as a byproduct; and (3) producers or importers of the chemical substances as an impurity. As a bridge to the final revised rule EPA provided a ''No Action Assurance'' on March 24, 2020 (Ref. 10).

Additionally, the Agency was asked whether a manufacturer that has ceased manufacture of one of the 20 High-Priority Substances prior to the cutoff date for ceasing manufacture or import of a chemical substance (March 2019) other than manufacture in the three categories impacted by the planned regulatory change, and that also commits to not manufacturing the chemical in the future five years, other than in those same three categories should be subject to fee obligations. The Agency responded that in light of the rulemaking announcement, EPA does not expect to identify entities who otherwise meet the criteria for ''cessation'' except for manufacture or potential manufacture in one of the three categories—and who certify as such in the ''Additional Information'' field in CDX—on the final lists of responsible fee payers. Finally, entities had the opportunity to certify as to whether they meet the definition of a ''small business concern'' as defined in the Fees Rule and qualify for an 80% reduced fee amount.

*B. What are the final lists and fee obligations of manufacturers (including importers)?*

This Notice announces the availability of EPA's final list of manufacturers (including importers) of the 20 High-Priority Substances subject to risk evaluation who are responsible for payment of fees, as required by 40 CFR 700.45 (Ref. 2). The final lists are available at docket number EPA–HQ–OPPT–2019–0677 at *http://www.regulations.gov*and on EPA's website at *http://www.epa.gov/TSCA-fees.* Also included in the docket are the list of companies that certified to having ceased manufacturing by March 20, 2019 and have no plans to restart manufacturing in the next five years (Ref. 9) as well as those that certified to not manufacturing the chemical substance in the five-year period preceding publication of the preliminary lists (Ref. 11). The ''Certification of Cessation'' list also includes those manufacturers who ceased manufacturing by March 20, 2019 except for manufacture of a byproduct, or impurity or in an article. The final list of manufacturers differs from the preliminary lists (see docket number EPA–HQ–OPPT–2019–0677) for several reasons. For example, many CDR/TRI manufacturers that were identified on the preliminary list had either ceased manufacturing prior to the cutoff dates were not manufacturers (or importers) of the chemical substances. Such entities were not included on the final lists. Other entities from the preliminary lists, in accordance with the planned regulatory change, that only manufactured (or imported) chemicals as a byproduct, impurity, or in an article and certified as such, were not included in the final list. The only company that self-identified for TCEP imported a very small quantity in 2019 for R&D use only. The Agency used the discretion offered by the TSCA Fees Rule to not collect a fee from this one company. As a result, there are no fees associated with the risk evaluation for tris (2-chloroethyl) phosphate (115–96–8). The TSCA Fees Rule provides EPA flexibility to refine the final list of manufacturers in a manner that is reasonable and prudent, in light of statutory and regulatory obligations related to TSCA risk evaluations and associated fee payment obligations. As such, the Agency decided to not charge a fee to those importers who were only importing small quantities of the 20 HPS for research and development purposes only.

This document announces the availability of EPA's final list of manufacturers (including importers) of the 20 High-Priority Substances subject to risk evaluation who are responsible for payment of fees, as required by 40 CFR 700.45 (Ref. 2). The final lists are available at docket number EPA–HQ–OPPT–2019–0677 at *http://www.regulations.gov* and on EPA's website at *http://www.epa.gov/TSCA-fees.* Also included in the docket are the list of companies that certified to having ceased manufacturing by March 20, 2019 and have no plans to restart manufacturing in the next five years (Ref. 9) as well as those that certified to not manufacturing the chemical substance in the five-year period preceding publication of the preliminary lists (Ref. 11). The ''Certification of Cessation'' list also includes those manufacturers who ceased manufacturing by March 20, 2019 except for manufacture of a byproduct, or impurity or in an article. The final list of manufacturers differs from the preliminary lists (see docket number EPA–HQ–OPPT–2019–0677) for several reasons. For example, many CDR/TRI manufacturers that were identified on the preliminary list had either ceased manufacturing prior to the cutoff dates were not manufacturers (or importers) of the chemical substances. Such entities were not included on the final lists. Other entities from the preliminary lists, in accordance with the planned regulatory change, that only manufactured (or imported) chemicals as a byproduct, impurity, or in an article and certified as such, were not included in the final list. Other entities that were not included on a preliminary list, such as importers of chemical substances for laboratory or R&D use that imported volumes below the CDR 25,000 lb threshold, self-identified as a manufacturer (including importer) during the reporting period and were therefore included on a final list. There are no fees associated with the risk evaluation for tris (2-chloroethyl) phosphate (115–96–8).

Fee obligations are set forth in 40 CFR 700.45 and include a total fee of $1,350,000 for EPA-initiated risk evaluations, with a reduced fee amount for small business concerns (Ref. 1). The total fee is shared amongst all identified manufacturers (including importers). The Fees Rule provides more detailed information on how EPA established the fee for EPA-initiated risk evaluations (Ref. 1).

In recognition of the unprecedented and unforeseen challenges to the economy as a result of public health emergency, the Agency is exploring options for payment flexibilities, including payment plans and extended due dates for fees. Manufacturers may also form a consortium to pay fees in accordance with 40 CFR 700.45(f)(3). The consortium must notify EPA that a consortium has formed within 60 days of the publication of the final scope of a risk evaluation. Once established, the consortium would determine how the fee would be split among the members, and ultimately paid to EPA. For additional information on the possible

division of costs amongst consortia and individual manufacturers, please see the Fees Rule Unit III.J, Multiple Parties Subject to Fee Obligation (Ref. 1).

*C. How can I access the final list?*

The final list of manufacturers that will be subject to the Fees Rule for EPA-initiated risk evaluations under section 6 of TSCA can be found at docket number EPA–HQ–OPPT–2019–0677 at *http://www.regulations.gov* and on EPA's website at *http://www.epa.gov/TSCA-fees.*

## III. Public Comments on Preliminary Lists and EPA Responses

EPA received public comments from 78 entities on the preliminary lists. As a general matter, many of the comments raised questions asking further clarification of what constitutes a byproduct or article; requesting a de minimis exemption; etc. The Agency responded to the questions by communicating directly with individual stakeholders, hosting conference calls with stakeholders, participating in webinars for stakeholders, improving web content, and adding Frequently Asked Questions to the EPA web page at *https://www.epa.gov/tsca-fees/frequent-questions-about-tsca-fees-epa-initiated-risk-evaluations.*

## IV. References

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

1. EPA. Fees for the Administration of the Toxic Substances Control Act. **Federal Register**. (83 FR 52694, October 17, 2018) (FRL–9984–41).
2. EPA. High-Priority Substance Designations Under the Toxic Substances Control Act (TSCA); Notice of Availability. **Federal Register**. (84 FR 71924, December 30, 2019) (FRL–10003–15).
3. EPA. Initiation of Prioritization Under the Toxic Substances Control Act (TSCA); Notice. **Federal Register**. (84 FR 10491, March 21, 2019) (FRL–9991–06).
4. EPA. Proposed High-Priority Substance Designations Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comment. **Federal Register**. (84 FR 44300, August 23, 2019) (FRL–9998–29).
5. EPA. Preliminary Lists Identifying Manufacturers Subject to Fee Obligations for EPA-Initiated Risk Evaluations Under Section 6 of the Toxic Substances Control Act (TSCA): Notice of Availability and Request for Comment. **Federal Register**. (85 FR 4661, January 27, 2020) (FRL–10003–14).
6. EPA. Preliminary Lists Identifying Manufacturers Subject to Fee Obligations for EPA-Initiated Risk Evaluations Under Section 6 of the Toxic Substances Control Act (TSCA): Notice of Availability and Request for Comment; Extension of Comment Period. **Federal Register**. (85 FR 14677, March 13, 2020) (FRL–10006–03).
7. EPA. Preliminary Lists Identifying Manufacturers Subject to Fee Obligations for EPA-Initiated Risk Evaluations Under Section 6 of the Toxic Substances Control Act (TSCA): Notice of Availability and Request for Comment; Extension of Comment Period. **Federal Register**. (85 FR 32036, May 28, 2020) (FRL–10010–37).
8. EPA. List of Final Manufacturers for all 20 High Priority Substances. August 2020
9. EPA. List of Manufacturers Who Certified as Ceasing Manufacture. August 2020.
10. EPA. ''No Action Assurance Letter'' of March 24, 2020.
11. EPA. List of Manufactures Who Self-Identified as ''No Manufacture''. August 2020.

**Authority:** 15 U.S.C. 2625.

**Andrew Wheeler,**

*Administrator.*

[FR Doc. 2020–19668 Filed 9–3–20; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OEM–2015–0725; FRL–10013–31–OLEM]**

## Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Final Action on Petitions for Reconsideration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action denying petitions for reconsideration.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) received three petitions for reconsideration of the final revisions to the Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act, published in the **Federal Register** on December 19, 2019. The agency is providing notice that it is denying all three petitions for reconsideration. The basis for EPA's action is set out fully in separate letters addressed to each petitioner, available in the rulemaking docket.

**DATES:** September 4, 2020.

**FOR FURTHER INFORMATION CONTACT:** James Belke, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8023; email address: *belke.jim@epa.gov,* or: William Noggle, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 566–1306; email address: *noggle.william@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. How can I get copies of this document and other related information?

A copy of this **Federal Register** notice, the petitions for reconsideration, and the separate letters describing the full basis for this action are available in the rulemaking docket (Docket ID No. EPA–HQ–OEM–2015–0725). Publicly available docket materials are available electronically through *www.regulations.gov*. In addition, following signature, an electronic copy of this final action and the letters will be available on the internet at *www.epa.gov/rmp/final-risk-management-program-rmp-reconsideration-rule*. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to obtain docket information via *https://www.regulations.gov/*. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets*.

## II. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that ''a petition for review of action of the Administrator in promulgating . . . any standard of performance or requirement under section [111] of [the CAA],'' or any other ''nationally applicable'' final action, ''may be filed only in the United States Court of Appeals for the District of Columbia.''

The EPA has determined that its actions denying the petitions for reconsideration are nationally applicable for purposes of CAA section 307(b)(1) because these actions directly relate to the Risk Management Program regulations promulgated under CAA

section 112(r), which are nationally applicable requirements. Thus, any petitions for review of the final letters denying the petitions for reconsideration must be filed in the Court of Appeals for the District of Columbia Circuit on or before November 3, 2020.

**Andrew Wheeler,**

*Administrator.*

[FR Doc. 2020–19576 Filed 9–3–20; 8:45 am]

BILLING CODE 6560–50–P

## EXPORT-IMPORT BANK

**[Public Notice: EIB–2020–0007]**

### Proposal To Adopt the 2010 Small Business Jobs Act Interim Rule as an Alternative Size Standard for Defining a Small Business for Export-Import Bank Programs; Correction

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice; correction.

**SUMMARY:** The Export-Import Bank of the United States published a document in the **Federal Register** of August 30, 2020 concerning a proposal to adopt the 2010 Small Business Jobs Act Interim Rule as an Alternative Size Standard for Defining a Small Business for Export-Import Bank Programs. The document published with an omitted sentence.

**FOR FURTHER INFORMATION CONTACT:** James Burrows, Senior Vice President, Office of Small Business, Export-Import Bank of the United States, at *james.burrows@exim.gov* or 202–565–3801.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of Friday, August 28, 2020 in FR Doc Public Notice: EIB–2020–0007 on page 53369, in the first column, correct the second sentence in the **SUMMARY** to read:

The Jobs Act mandated that until the SBA establishes a permanent tangible net worth and average net income based alternative size standard, SBA shall use the following alternative size standard for applicants for business loans under Section 7(a) of the Small Business Act (7(a) Loan Program) and applicants for development company loans under Title V of the Small Business Investment Act of 1958 (504 Loan Program) in addition to the use of industry based size standards: not more than $15 million in tangible net worth and not more than $5 million in average net income after Federal income taxes (excluding any carryover losses) of the applicant for the 2 full fiscal years before the date of the application (Interim Rule).

**DATES:** This announcement is made as of September 4, 2020.

Export-Import Bank of the United States.

**Joyce B. Stone,**

*Assistant Corporate Secretary.*

[FR Doc. 2020–19651 Filed 9–3–20; 8:45 am]

BILLING CODE 6690–01–P

## EXPORT-IMPORT BANK

**[Public Notice: 2020–6002]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Submission for OMB review and comments request.

**SUMMARY:** The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. EXIM plans to invite approximately 150 U.S. exporters and commercial lending institutions that have used EXIM's short-, medium-, and long-term programs over the previous calendar year with an electronic invitation to participate in the online survey. The proposed survey will ask participants to evaluate the competitiveness of EXIM's programs and how the programs compare to those of foreign credit agencies. EXIM will use the responses to develop an analysis of the Bank's competitiveness.

The survey can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/EXIM_Competitiveness_Report_Survey.pdf.*

**DATES:** Comments should be received on or before November 3, 2020 to be assured of consideration.

**ADRESSES:** Comments may be submitted electronically on *www.regulations.gov* (EIB 00–02).

**SUPPLEMENTARY INFORMATION:**

*Titles and Form Number:* EIB 00–02 Annual Competitiveness Report Survey of Exporters and Bankers.

*OMB Number:* 3048–0004.

*Type of Review:* Renewal.

*Need and Use:* The information requested enables EXIM to evaluate and assess its competitiveness with the programs and activities of the major official entities and to report on the Bank's status in this regard.

**Affected Public**

*The number of respondents:* 150.

*Estimated time per respondents:* 90 minutes.

*The frequency of response:* Annually.

*Annual hour burden:* 225 total hours.

**Government Expenses**

*Reviewing time per response:* 45 minutes.

*Responses per year:* 150.

*Reviewing time per year:* 112.5 hours.

*Average Wages per hour:* $42.50.

*Average cost per year:* $4,781.25 (time * wages).

*Benefits and overhead:* 20%.

*Total Government Cost:* $5737.5.

**Bassam Doughman,**

*IT Specialist.*

[FR Doc. 2020–19662 Filed 9–3–20; 8:45 am]

BILLING CODE 6690–01–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

**[OMB No. 3064–0099;–0149]**

### Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064–0099;–0149).

**DATES:** Comments must be submitted on or before November 3, 2020.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted

to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

*Proposal to renew the following currently approved collections of information:*

1. *Title:* Application for Waiver of Prohibition on Acceptance of Brokered Deposits

*OMB Number:* 3064–0099.

*Form Number:* None.

*Affected Public:* Insured state nonmember banks and state savings associations.

*Burden Estimates:*

SUMMARY OF ANNUAL BURDEN

| Information collection description | Type of burden | Obligation to respond | Estimated number of respondents | Estimated frequency of responses | Estimated time per response | Estimated annual burden |
|---|---|---|---|---|---|---|
| Application for Waiver of Prohibition on Acceptance of Brokered Deposits. | Reporting ... | Mandatory ... | 17 | On Occasion .. | 6 hours ..... | 102 hours |

*Total Estimated Annual Burden:* 102 hours.

*General Description of Collection:* Section 29 of the Federal Deposit Insurance Act prohibits undercapitalized insured depository institutions from accepting, renewing, or rolling over any brokered deposits. Adequately capitalized institutions may do so with a waiver from the FDIC, while well-capitalized institutions may accept, renew, or roll over brokered deposits without restriction. This information collection captures the burden associated with preparing and filing an application for a waiver of the prohibition on the acceptance of brokered deposits.

2. *Title:* Affiliate Marketing/Consumer Opt-out Notices.

*OMB Number:* 3064–0149.

*Form Number:* None.

*Affected Public:* Insured state nonmember banks and state savings associations that have affiliates and consumers that have a relationship with the foregoing.

*Burden Estimate:*

SUMMARY OF ANNUAL BURDEN

| Information collection description | Type of burden | Obligation to respond | Estimated number of respondents | Estimated frequency of responses | Estimated time per response | Estimated annual burden |
|---|---|---|---|---|---|---|
| Affiliate Marketing Disclosure—Implementation. | Third-Party Disclosure. | Mandatory ..... | 8 | Annually ..... | 6 hours ..... | 144 hours |
| Consumer Opt Out Notices ..... | Third-Party Disclosure. | Voluntary ..... | 857,027 | Annually ..... | 5 minutes .... | 71,419 hours |
| Affiliate Marketing Disclosure—Ongoing ..... | Third-Party Disclosure. | Mandatory ..... | 990 | Annually ..... | 2 hours ..... | 1,980 hours |

*Total Estimated Annual Burden:* 73,543 hours.

*General Description of Collection:* Section 214 of the FACT Act requires financial institutions that wish to share information about consumers with their affiliates, to inform such consumers that they have the opportunity to opt out of such marketing solicitations. The disclosure notices and consumer responses thereto comprise the elements of this collection of information.

**Request for Comment**

*Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 1, 2020.

**James P. Sheesley,**

*Acting Assistant Executive Secretary.*

[FR Doc. 2020–19629 Filed 9–3–20; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of Intent To Terminate Receiverships

*Notice is hereby given* that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS

| Fund | Receivership name | City | State | Date of appointment of receiver |
|---|---|---|---|---|
| 10152 | The Buckhead Community Bank | Atlanta | GA | 12/04/2009 |
| 10245 | Sun West Bank | Las Vegas | NV | 05/28/2010 |
| 10217 | Tamalpais Bank | San Rafael | CA | 04/16/2010 |
| 10277 | Palos Bank and Trust Company | Palos Heights | IL | 08/13/2010 |
| 10280 | Imperial Savings & Loan Association | Martinsville | VA | 08/20/2010 |
| 10452 | Heartland Bank | Leawood | KS | 07/20/2012 |
| 10455 | Jasper Banking Company | Jasper | GA | 07/27/2012 |
| 10502 | Valley Bank | Moline | IL | 06/20/2014 |

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this time frame.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 1, 2020.

**James P. Sheesley,**

*Acting Assistant Executive Secretary.*

[FR Doc. 2020–19630 Filed 9–3–20; 8:45 am]

BILLING CODE 6714–01–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0135; Docket No. 2020–0053; Sequence No. 7]**

## Information Collection; Prospective Subcontractor Requests for Bonds

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning prospective subcontractor requests for bonds. OMB approved this information collection for use through December 31, 2020. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

**DATES:** DoD, GSA, and NASA will consider all comments received by November 3, 2020.

**ADDRESSES:** DoD, GSA, and NASA invite interested persons to submit comments on this collection through *http://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*.

*Instructions:* All items submitted must cite Information Collection 9000–0135, Prospective Subcontractor Requests for Bonds. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov*.

**SUPPLEMENTARY INFORMATION:**

### A. OMB Control Number, Title, and Any Associated Form(s)

9000–0135, Prospective Subcontractor Requests for Bonds.

### B. Need and Uses

Part 28 of the Federal Acquisition Regulation (FAR) contains guidance related to obtaining financial protection against losses under Federal contracts (*e.g.,* bonds, bid guarantees, etc.). Part 52 contains the corresponding provisions and clauses. These collectively implement the statutory requirement for Federal contractors to furnish payment bonds under construction contracts subject to 40 U.S.C. chapter 31, subchapter III, Bonds.

This information collection is mandated by section 806(a)(3) of Public Law 102–190, as amended by sections 2091 and 8105 of the Federal Acquisition Streamlining Act of 1994 (10 U.S.C. 2302 note) (Pub. L. 103–335). Accordingly, the clause at 52.228–12, Prospective Subcontractor Requests for Bonds, requires prime contractors to promptly provide a copy of a payment bond, upon the request of a prospective subcontractor or supplier offering to furnish labor or material under a construction contract for which a payment bond has been furnished pursuant to 40 U.S.C. chapter 31.

### C. Common Form

This information collection is being converted into a common form. The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the

Federal Acquisition Regulation will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at *Reginfo.gov*.

**D. Annual Burden**

*General Services Administration*

*Respondents:* 565.
*Total Annual Responses:* 1,412.
*Total Burden Hours:* 480.

**E. Public Comment**

DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov*.

Please cite OMB Control No. 9000–0135, Prospective Subcontractor Requests for Bonds.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2020–19548 Filed 9–3–20; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0011; Docket No. 2020–0053; Sequence No. 8]**

## Information Collection; Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408)

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning preaward survey forms. OMB approved this information collection for use through December 31, 2020. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

**DATES:** DoD, GSA, and NASA will consider all comments received by November 3, 2020.

**ADDRESSES:** DoD, GSA, and NASA invite interested persons to submit comments on this collection through *http://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*.

*Instructions:* All items submitted must cite Information Collection 9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408). Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov*.

**SUPPLEMENTARY INFORMATION:**

**A. OMB Control Number, Title, and Any Associated Form(s)**

9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408).

**B. Need and Uses**

Contracting officers, prior to award, must make an affirmative determination that the prospective contractor is responsible, *i.e.,* capable of performing the contract. Before making such a determination, the contracting officer must have or obtain sufficient information to establish that the prospective contractor: Has adequate financial resources; or the ability to obtain such resources; is able to comply with required delivery schedule; has a satisfactory record of performance; has a satisfactory record of integrity; and is otherwise qualified and eligible to receive an award under appropriate laws and regulations. If such information is not readily available to the contracting officer, it is obtained through a preaward survey conducted by the contract administration office or another organization designated by the agency to conduct the surveys. The necessary data is collected from available data or through plant visits, phone calls, and correspondence in detail commensurate with the dollar value and complexity of the procurement. This clearance covers the information that prospective contractors must provide to ensure proper completion of the following preaward survey forms prescribed by the Federal Acquisition Regulation (FAR):

- Standard Form 1403 Preaward Survey of Prospective Contractor (General)
- Standard Form 1404 Preaward Survey of Prospective Contractor (Technical)
- Standard Form 1405 Preaward Survey of Prospective Contractor (Production)
- Standard Form 1406 Preaward Survey of Prospective Contractor (Quality Assurance)
- Standard Form 1407 Preaward Survey of Prospective Contractor (Financial Capability)
- Standard Form 1408 Preaward Survey of Prospective Contractor (Accounting System)

**C. Common Form**

This information collection is being converted into a common form. The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the Federal Acquisition Regulation will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at *Reginfo.gov*.

**D. Annual Burden**

*General Services Administration*

*Respondents:* 107.
*Total Annual Responses:* 107.
*Total Burden Hours:* 2,568.

**E. Public Comment**

DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of

automated collection techniques or other forms of information technology.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov*.

Please cite OMB Control No. 9000–0011, Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408).

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2020–19551 Filed 9–3–20; 8:45 am]

BILLING CODE 6820–EP–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 15–352, Occupational Safety and Health Training Project Grants (TPG).

*Date:* December 1–2, 2020.

*Time:* 8:00 a.m.–7:00 p.m., EST.

*Place:* Virtual Meeting.

*Agenda:* To review and evaluate grant applications.

*For Further Information Contact:* Marilyn Ridenour, B.S.N., M.P.H., Scientific Review Official, Office of Extramural Programs, CDC, 1095 Willowdale Road, Morgantown, West Virginia, 26505, Telephone: (304) 285–5879; Email: *MRidenour@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2020–19550 Filed 9–3–20; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Interagency Committee on Smoking and Health (ICSH)

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Interagency Committee on Smoking and Health (ICSH). This is a virtual meeting and is open to the public. The public is welcome to view the meeting via Zoom, limited only by the number of seats available, which is 500. This meeting will include time for members of the public to make an oral comment. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

**DATES:** The meeting will be held on October 15, 2020 from 12:30 p.m. to 4:00 p.m., EDT.

**ADDRESSES:** Zoom Virtual Meeting. For more information, including information regarding registration and login, please visit: *https://www.cdc.gov/tobacco/about/icsh/index.htm*.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Gallagher, Alternate Designated Federal Officer, MPH, Interagency Committee on Smoking and Health, CDC, 4770 Buford Highway NE, Atlanta, Georgia 30341, telephone (404) 639–6358; *kgallagher@cdc.gov*.

**SUPPLEMENTARY INFORMATION:**

*Purpose:* The Interagency Committee on Smoking and Health shall provide advice and guidance to the Secretary, Department of Health and Human Services (HHS), regarding: (a) Coordination of research, educational programs, and other activities within the Department that relate to the effect of smoking on human health and on coordination of these activities, with similar activities of other Federal and private agencies; and (b) establishment and maintenance of liaisons with appropriate private entities, other Federal agencies, and State and local public agencies, regarding activities relating to the effect of cigarette smoking on human health.

*Matters to be considered:* The agenda will include discussions on the topic of youth tobacco cessation. The meeting objective is to identify federal actions to prioritize areas of research that can be expedited to support tobacco cessation treatments for youth. Agenda items are subject to change as priorities dictate.

*Procedure for oral public comment:* All persons interested in making an oral public comment at the October ICSH meeting must submit an email request, according to the instructions provided, to Jade Chambers-Blair at *OSHIM@cdc.gov,* no later than 11:59 p.m., EDT, October 8, 2020. The email request should include the speaker's first and last name, organization, address, phone, and email. CDC will allow for as many comments as permitted by time and will queue individuals for comment in the order in which their requests were received. CDC staff will notify individuals regarding their request to speak by email by October 11, 2020. To accommodate the interest in participation in the oral public comment session of ICSH meetings, each speaker will be limited to 2 minutes, and each speaker may only speak once per meeting.

For more information on ICSH please visit the *CDC.gov* webpage: *https://www.cdc.gov/tobacco/about/icsh/index.htm*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2020–19642 Filed 9–3–20; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID–19

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Agency Order.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the issuance of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID–19.

**DATES:** This Order is effective September 4, 2020 through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Nina Witkofsky, Acting Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–10, Atlanta, GA 30329; Telephone: 404–639–7000; Email: *cdcregulations@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

There is currently a pandemic of a respiratory disease (''COVID–19'') caused by a novel coronavirus (SARS–COV–2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID–19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID–19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID–19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID–19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID–19.[1]

COVID–19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID–19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.[2] During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these best efforts, COVID–19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID–19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID–19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID–19. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID–19.

### Applicability

Under this Order, a landlord, owner of a residential property, or other person[3] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order. This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. Nor does this order apply to American Samoa, which has reported no cases of COVID–19, until such time as cases are reported.

In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID–19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

### Renter's or Homeowner's Declaration

Attachment A is a Declaration form that tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions to prevent the further spread of COVID–19 may use. To invoke the CDC's order these persons must provide an executed copy of the Declaration form (or a similar declaration under penalty of perjury) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. Each adult listed on the lease, rental agreement, or housing contract should likewise complete and provide a declaration. Unless the CDC order is extended, changed, or ended, the order prevents these persons from being evicted or removed from where they are living through December 31, 2020. These persons are still required to pay rent and follow all the other terms of their lease and rules of the place where they live. These persons may also still be evicted for reasons other than not paying rent or making a housing

[1] CDC, People with Certain Medical Conditions, *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html* (accessed August 26, 2020).

[2] Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID–19 and 1918 Influenza Pandemics. *JAMA New Open.* 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

[3] For purposes of this Order, ''person'' includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

payment. Executed declarations should not be returned to the Federal Government.

**Centers for Disease Control and Prevention, Department of Health and Human Services**

**Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2**

**Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID–19**

*Summary*

Notice and Order; and subject to the limitations under ''Applicability'': Under 42 CFR 70.2, a landlord, owner of a residential property, or other person [4] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

*Definitions*

''Available government assistance'' means any governmental rental or housing payment benefits available to the individual or any household member.

''Available housing'' means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

''Covered person'' [5] means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return),[6] (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [7] out-of-pocket medical expenses;

(4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

''Evict'' and ''Eviction'' means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage.

''Residential property'' means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

''State'' shall have the same definition as under 42 CFR 70.1, meaning ''any of the 50 states, plus the District of Columbia.''

''U.S. territory'' shall have the same definition as under 42 CFR 70.1, meaning ''any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.''

*Statement of Intent*

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID–19 within congregate or shared living settings, or through unsheltered homelessness;
- mitigating the further spread of COVID–19 from one U.S. State or U.S. territory into any other U.S. State or U.S. territory; and
- supporting response efforts to COVID–19 at the Federal, State, local, territorial, and tribal levels.

*Background*

There is currently a pandemic of a respiratory disease (''COVID–19'') caused by a novel coronavirus (SARS–COV–2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID–19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID–19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID–19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID–19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an

[4] For purposes of this Order, ''person'' includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

[5] This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. *See* Desmond, M., Gershenson, C., *Who gets evicted? Assessing individual, neighborhood, and network factors,* Social Science Research 62 (2017), 366–377, *http://dx.doi.org/10.1016/j.ssresearch.2016.08.017,* (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. *See* 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: *https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf.*

[6] According to one study, the national two-bedroom housing wage in 2020 was $23.96 per hour (approximately, $49,837 annually), meaning that an hourly wage of $23.96 was needed to afford a modest two bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was $38.76 (approximately $80,621 annually). *See* National Low-Income Housing Coalition, *Out of Reach: The High Cost of Housing 2020,* available at: *https://reports.nlihc.org/oor.* As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID–19 through movement into close quarters in new congregate, shared housing settings, or though homelessness, the higher income thresholds listed here have been determined to better serve this goal.

[7] An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID–19.[8]

COVID–19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID–19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.[9] During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID–19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID–19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID–19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID–19.

*Applicability*

This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

Additionally, this Order shall not apply to American Samoa, which has reported no cases of COVID–19, until such time as cases are reported.

This Order is a temporary eviction moratorium to prevent the further spread of COVID–19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;[10] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

Eviction and Risk of COVID–19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID–19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.[11] Studies show that COVID–19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an index case of COVID–19 than other close contacts.[12]

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID–19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.[13] Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116–136) to aid individuals and businesses adversely affected by COVID–19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID–19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.[14] The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.[15]

[8] CDC, People with Certain Medical Conditions, *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html* (accessed August 26, 2020).

[9] Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID–19 and 1918 Influenza Pandemics. *JAMA New Open.* 2020;3(8):e2017527. *doi:10.1001/jamanetworkopen.2020.17527.*

[10] Individuals who might have COVID–19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID–19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick,* available at *https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html.*

[11] United States Census Bureau. American Housing Survey, 2017. *https://www.census.gov/programs-surveys/ahs.html.*

[12] Bi Q, Wu Y, Mei S, et al. *Epidemiology and transmission of COVID–19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study.* Lancet Infect Dis 2020, *https://doi.org/10.1016/S1473-3099(20)30287-5.*

[13] *See* CDC COVID–19 Guidance for Shared or Congregate Housing, available at: *https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html.*

[14] Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

[15] See Congressional Research Service, *CARES Act Eviction Moratorium,* (April 7, 2020) available at: *https://crsreports.congress.gov/product/pdf/IN/IN11320.*

Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.[16]

The Federal moratorium, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were protected under State and local moratoria. In the absence of State and local protections, as many as 30–40 million people in America could be at risk of eviction.[17] A wave of evictions on that scale would be unprecedented in modern times.[18] A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID–19.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID–19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.[19] Approximately 15% of moves are interstate.[20]

Eviction, Homelessness, and Risk of Severe Disease From COVID–19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID–19 than the general population.[21] In Seattle-King County, 5–15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.[22] Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.[23]

People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID–19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID–19 have been identified in homeless shelters.[24] In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.[25] In Boston, Massachusetts, universal COVID–19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.[26] COVID–19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).[27] Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.[28]

CDC guidance recommends increasing physical distance between beds in homeless shelters.[29] To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID–19. The other is if homeless shelters turn away the recently homeless, who could become unsheltered, and further contribute to the spread of COVID–19. Neither consequence is in the interest of the public health.

The risk of COVID–19 spread associated with unsheltered homelessness (those who are sleeping outside or in places not meant for human habitation) is of great concern to CDC. Over 35% of homeless persons are typically unsheltered.[30] The unsheltered homeless are at higher risk for infection when there is community spread of COVID–19. The risks associated with sleeping and living outdoors or in an encampment setting are different than from staying indoors in a congregate setting, such as an emergency shelter or other congregate living facility. While outdoor settings may allow people to increase physical distance between themselves and others, they may also involve exposure to the elements and inadequate access to hygiene, sanitation facilities, health care, and therapeutics. The latter factors contribute to the further spread of COVID–19.

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID–19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID–19.[31] Also, the homeless

[16] See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: *https://www.huduser.gov/portal/datasets/assthsg/statedata98/descript.html.*

[17] See Emily Benfer, et al., *The COVID–19 Eviction Crisis: An Estimated 30–40 Million People in America are at Risk,* available at: *https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/.*

[18] As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. *https://evictionlab.org/national-estimates/.*

[19] See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: *https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html.*

[20] *Id.*

[21] See CDC, Coronavirus Disease 2019 (COVID–19), People Who Are at Increased Risk for Severe Illness, available at *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html* (accessed August 26, 2020).

[22] Seattle-King County. Point in Time Count. *https://regionalhomelesssystem.org/wp-content/uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf*

[23] United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: *https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf*

[24] Mosites E, et al, *Assessment of SARS-CoV–2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27–April 15, 2020.* MMWR 2020 May 1;69(17):521–522.

[25] Tobolowsky FA, et al. *COVID–19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020.* MMWR 2020 May 1;69(17):523–526.

[26] Baggett TP, Keyes H, Sporn N, Gaeta JM. *Prevalence of SARS-CoV–2 Infection in Residents of a Large Homeless Shelter in Boston.* JAMA. 2020 Apr 27;323(21):2191–2. Online ahead of print.

[27] Imbert E, et al. *Coronavirus Disease 2019 (COVID–19) Outbreak in a San Francisco Homeless Shelter.* Clin Infect Dis. 2020 Aug 3.

[28] National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: *https://nhchc.org/cdc-covid-dashboard/.*

[29] Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID–19. *https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html.*

[30] In January 2018, 552,830 people were counted as homeless in the United States. Of those, 194,467 (35 percent) were unsheltered, and 358,363 (65 percent) were sheltered. *See,* Council of Economic Advisors, *The State of Homelessness in America* (September 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf.*

[31] Hugo Vasquez-Vera, et al. *The threat of home eviction and its effects on health through the equity*

Continued

often have underlying conditions that increase their risk of severe outcomes of COVID–19.[32] Among patients with COVID–19, homelessness has been associated with increased likelihood of hospitalization.[33]

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many homeless move into shelters to escape the cold and the occupancy of shelters increases.[34] At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,[35] which may include seasonal influenza. While there are differences in the epidemiology of COVID–19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

In short, evictions threaten to increase the spread of COVID–19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID–19.

*Findings and Action*

Therefore, I have determined the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID–19 throughout the United States. I have further determined that measures by states, localities, or U.S. territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID–19.[36]

Based on the convergence of COVID–19, seasonal influenza, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as fall and winter approach, I have determined that a temporary halt on evictions through December 31, 2020, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the ''Applicability'' section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID–19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (''APA'') but rather an emergency action taken under the existing authority of 42 CFR 70.2. In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. *See* 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID–19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

A delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that could have potentially significant consequences. As discussed above, one potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk to COVID–19. Another potential consequence would be if evicted individuals become homeless and unsheltered, and further contribute to the spread of COVID–19. A delay in the effective date of the Order that leads to such consequences would defeat the purpose of the Order and endanger the public health. Immediate action is necessary.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately.

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

*Criminal Penalties*

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than $100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than $250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than $200,000 per event if the violation does not result in a death or $500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

*Notice to Cooperating State and Local Officials*

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid State and local authorities in the enforcement of their quarantine and

*lens: A systematic review.* Social Science and Medicine. 175 (2017) 199e208.

[32] Fazel S, Geddes JR, Kushel M. *The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations.* Lancet. 2014;384(9953):1529–1540.

[33] Hsu HE, et al. *Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID–19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020.* MMWR 2020 Jul 10;69(27):864–869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID–19. *Id.*

[34] *See,* generally, the Annual Homeless Assessment Report to Congress (2007), available at: *https://www.huduser.gov/Publications/pdf/ahar.pdf* (acknowledging the seasonality of shelter bed use).

[35] Ly TDA, Edouard S, Badiaga S, et al. Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015–2017: Cross sectional 1-day surveys. Clin Microbiol Infect. 2019; 25(2):249.e1–249.e6.

[36] In the United States, public health measures are implemented at all levels of government, including the Federal, State, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, *COVID–19 Housing Policy Scorecard,* available at: *https://evictionlab.org/covid-policy-scorecard/.*

other health regulations and to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

*Notice of Available Federal Resources*

While this order to prevent eviction is effectuated to protect the public health, the States and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG–CV and ESG–CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID–19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed, and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit *www.hudexchange.info/program-support.* For further information on HUD resources, tools, and guidance available to respond to the COVID–19 pandemic, State and local officials are directed to visit *https://www.hud.gov/coronavirus.* These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund may be used to fund rental assistance programs to prevent eviction. Visit *https://home.treasury.gov/policy-issues/cares/state-and-local-governments* for more information.

*Effective Date*

This Order is effective upon publication in the **Federal Register** and will remain in effect, unless extended, modified, or rescinded, through December 31, 2020.

**Attachment**

**Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID–19**

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID–19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;[37]
- I either expect to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary[38] out-of-pocket medical expenses;
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;
- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.[39]
- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to State and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

_____

Signature of Declarant Date

## Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: September 1, 2020.

**Nina B. Witkofsky,**

*Acting Chief of Staff, Centers for Disease Control and Prevention.*

[FR Doc. 2020–19654 Filed 9–1–20; 4:15 pm]

BILLING CODE 4163–18–P

[37] "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

[38] An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

[39] "Available housing" means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to you.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Disease, Disability, and Injury Prevention and Control, Special Emphasis Panel (SEP)—RFA–PS–21–001, Minority HIV Research Initiative (MARI) to Support Epidemiologic and Implementation Science Research in Racial/Ethnic Minority Communities Disproportionately Affected by HIV and Build Research Capacity Among Historically Underrepresented Researchers.

*Date:* December 15–16, 2020.

*Time:* 10:00 a.m.–5:00 p.m., EST.

*Place:* Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Boulevard, Atlanta, GA 30329.

*Agenda:* To review and evaluate grant applications.

*For Further Information Contact:* Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329–4027, (404) 718–8833, *GAnderson@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2020–19549 Filed 9–3–20; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Performance Review Board Members

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) is publishing the names of the Performance Review Board Members who are reviewing performance of Senior Executive Service (SES) members, Title 42 (T42) executives, and Senior Level (SL) employees for Fiscal Year 2020.

**FOR FURTHER INFORMATION CONTACT:** Henry Greene, Team Chief, Executive and Scientific Resources Office, Human Resources Office, Centers for Disease Control and Prevention, 11 Corporate Square Blvd., Mailstop US11–2, Atlanta, Georgia 30341, Telephone (770) 488–1140.

**SUPPLEMENTARY INFORMATION:** Title 5, U.S.C. Section 4314(c) (4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**. The following persons will serve on the CDC Performance Review Board, which will oversee the evaluation of performance appraisals of Senior Executive Service members for the Fiscal Year 2020 review period:

Dean, Hazel, Co-Chair
Shelton, Dana, Co-Chair
Wharton, Melinda
Dulin, Stephanie
Ethier, Kathleen
Kitt, Margaret
Kosmos, Christine
Peeples, Amy
Perry, Terrance
Pirkle, James
Schluter, William W.
Smagh, Kalwant

Dated: September 1, 2020.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2020–19675 Filed 9–3–20; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Advance Planning Document (APD) Process (OMB #0970–0417)

**AGENCY:** Office of Child Support Enforcement, Administration for Children and Families, Health and Human Services (HHS).

**ACTION:** Request for public comment.

**SUMMARY:** The Administration for Children and Families' (ACF) Office of Child Support Enforcement (OCSE) is requesting an update to the existing data collection for the Advance Planning Document (APD) process (OMB #0970–0417). OCSE proposes revisions to the annual burden estimates to reflect an increase in the number of states seeking approval to implement modernization solutions in efforts to replace antiquated legacy child support enforcement systems and to address an excess demand for emergency funding requests due to the impacts of the COVID–19 pandemic.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* The APD process, established at 45 CFR part 95, subpart F, is the procedure by which states request and obtain approval for Federal Financial Participation (FFP) in their cost of acquiring Automated Data Processing (ADP) equipment and services.

State child support agencies are required to establish and operate a federally approved statewide ADP and information retrieval system to assist in child support enforcement. States are required to submit an initial APD containing information to assist the Secretary of the U.S. Department of Health and Human Services (HHS) in determining if the state computerized support enforcement project planning and implementation meets federal certification requirements needed for the approval of FFP. States are then required to submit annual APD updates to HHS to report project status and request ongoing FFP for systems development, enhancements, operations, and maintenance. As-needed APDs are also submitted to acquire FFP when major milestones are missed or significant changes to project schedules occur. Based on an assessment of the information provided in the APD, states that do not meet the federal requirements necessary for approval are required to conduct periodic independent verification and validation services for high-risk project oversight.

In addition to the APDs providing HHS with the information necessary to determine the allowable level of federal funding for state systems projects, states also submit associated procurement and data security documents, such as requests for proposals (RFPs), contracts, contract amendments, and the biennial security review reports.

*Respondents:* State child support agencies.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Total number of responses per respondent | Average burden hours per response | Total burden hours | Annual burden hours |
|---|---|---|---|---|---|
| RFP and Contract | 50 | 4.5 | 4 | 900 | 300 |
| Emergency Funding Request | 21 | 1 | 2 | 42 | 14 |
| Biennial Reports | 54 | 1.5 | 1.5 | 121.5 | 40.5 |
| Advance Planning Document | 44 | 3.6 | 120 | 19,008 | 6,336 |
| Operational Advance Planning Document | 10 | 3 | 30 | 900 | 300 |
| Independent Verification and Validation (ongoing) | 3 | 12 | 10 | 360 | 120 |
| Independent Verification and Validation (semiannually) | 4 | 6 | 16 | 384 | 128 |
| Independent Verification and Validation (quarterly) | 10 | 12 | 30 | 3,600 | 1,200 |
| System Certification | 3 | 3 | 240 | 2,160 | 720 |
| Estimated Total Annual Burden Hours: | | | | | 9,158.50 |

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** 45 CFR part 95, subpart F.

**John M. Sweet, Jr,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2020–19674 Filed 9–3–20; 8:45 am]

BILLING CODE 4184–41–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[CFDA NUMBER: 93.568]**

### Reallotment of Fiscal Year 2019 Funds for the Low Income Home Energy Assistance Program (LIHEAP)

**AGENCY:** Division of Energy Assistance (DEA), Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Notice of public comment.

**SUMMARY:** Notice is hereby given of a preliminary determination that funds from the fiscal year (FY) 2019 Low Income Home Energy Assistance Program (LIHEAP) are available for reallotment to states, territories, tribes, and tribal organizations that received FY 2020 direct LIHEAP grants. No subgrantees or other entities may apply for these funds.

**DATES:** Submit comments on or before October 5, 2020.

**ADDRESSES:** Comments may be submitted to: Peter Edelman, Program Analyst, Division of Energy Assistance, Office of Community Services, Administration for Children and Families, Department of Health and Human Services, via email: *peter.edelman@acf.hhs.gov*.

**FOR FURTHER INFORMATION CONTACT:** Akm Rahman, Operations Branch Chief, Division of Energy Assistance, Office of Community Services, Administration for Children and Families, Department of Health and Human Services, via email: *akm.rahman@acf.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** According to Section 2607(b)(1) of the Low Income Home Energy Assistance Act, (42 U.S.C. 8626(b)(1)), if the Secretary of HHS determines as of September 1, of any fiscal year, an amount in excess of 10 percent of the amount awarded to a grantee for that fiscal year (excluding Leveraging and REACH funds) will not be used by the grantee during that fiscal year, then the Secretary must notify the grantee and publish a notice in the **Federal Register** that such funds may be reallotted to LIHEAP grantees during the following fiscal year. If reallotted, the LIHEAP block grant allocation formula will be used to distribute the funds. No funds may be allotted to entities that are not direct LIHEAP grantees during FY 2020. It has been determined that $948,485 in LIHEAP funds may be available for reallotment during FY 2020. This determination is based on FY 2019 Carryover and Reallotment Reports submitted by FY 2019 LIHEAP grantees showing 12 grantees as having funds available for reallotment. These grantees

include 2 states and 10 tribes, which are listed in the table below. Grantees submitted the FY 2019 Carryover and Reallotment Reports to the OCS, as required by regulations applicable to LIHEAP at 45 CFR 96.81(b). After publication of this notice DEA will redetermine the final reallotment amounts and make adjustments where necessary.

The LIHEAP statute allows grantees who have funds unobligated at the end of the federal fiscal year for which they are awarded to request that they be allowed to carry over up to 10 percent of their full-year allotments to the next federal fiscal year. Funds in excess of this amount must be returned to HHS and are subject to reallotment under section 2607(b)(1) of the Low Income Home Energy Assistance Act, (42 U.S.C. 8626(b)(1)). The amount described in this notice was reported by grantees as unobligated FY 2019 funds in excess of the amount that these grantees could carry over to FY 2020. In accordance with section 2607(b)(3) of the Act (42 U.S.C. 8626(b)(3)), HHS has notified each grantee of any balance that will be de-obligated for purpose of this anticipated reallotment and has given 30 days to provide comments directly to HHS. Public comments will be accepted for a period of 30 days from the date of publication of this notice.

All current LIHEAP grantees will be notified of the final reallotment amount redistributed to them for obligation in FY 2020. This decision will also be published in the **Federal Register** and in a Dear Colleague Letter that is posted to ACF's website at *https://www.acf.hhs.gov/ocs/resource/dear-colleagues*.

If funds are reallotted, they will be allocated in accordance with section 2604 of the Act (42 U.S.C. 8623) and must be treated by LIHEAP grantees receiving them as an amount appropriated for FY 2020. As FY 2020 funds, they will be subject to all requirements of the Act, including section 2607(b)(2) (42 U.S.C. 8626(b)(2)), which requires that a grantee obligate at least 90 percent of its total block grant allocation for a fiscal year by the end of the fiscal year for which the funds are appropriated, that is, by September 30, 2020.

ESTIMATED REALLOTMENT AMOUNTS OF FY 2019 LIHEAP FUNDS

| Grantee name | Grantee reported reallotment amount | Amount available for redistribution |
|---|---|---|
| Ohio | $206,951 | $206,951 |
| Utah | 540,516 | 540,516 |
| Chippewa Cree Tribe | 13,302 | 13,302 |
| Coeur d'Alene Tribe | 1,328 | 1,328 |
| Colorado River Indian Tribes | 595 | 595 |
| Hoh Indian Tribe | 2,472 | 0 |
| Karuk Tribe | 9,337 | 9,337 |
| Little River Band of Ottawa Indians | 32,069 | 3,247 |
| Northern Cheyenne Tribe | 5,704 | 5,704 |
| Paiute Tribe of Utah | 95,125 | 95,125 |
| Quinault Indian Nation | 1,285 | 7 |
| Sac and Fox Nation of Oklahoma | 30,768 | 30,767 |
| Sitka Tribe | 41,606 | 41,606 |
| Total | 981,058 | 948,485 |

**Statutory Authority:** 42 U.S.C. 8626.

**Karen Shields,**

*Senior Grants Policy Specialist, Office of Grants Policy.*

[FR Doc. 2020–19578 Filed 9–3–20; 8:45 am]

**BILLING CODE 4184–80–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2017–N–1095]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by October 5, 2020.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0769. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health

*OMB Control Number 0910–0769—Extension*

This information collection request collects information voluntarily submitted to the Center for Devices and Radiological Health (CDRH) on actual or potential health risk concerns about a medical device or radiological product or its use. Because, prior to the

establishment of the electronic submission process for voluntary allegations to CDRH, there had been no established guidelines or instructions on how to submit an allegation to CDRH, allegations often contained minimal information and were received via phone calls, emails, or conversationally. CDRH has established a consistent format and process for the submission of device allegations that enhances our timeliness in receiving, assessing, and evaluating voluntary allegations. The information provided in the allegations received by CDRH may be used to clarify the recurrence or emergence of significant device-related risks to the general public and the need to initiate educational outreach or regulatory action to minimize or mitigate identified risks.

In the **Federal Register** of February 10, 2020 (85 FR 7562), we published a 60-day notice requesting public comment on the proposed collection of information. FDA received two comments.

The first comment was not relevant to the information collection.

The second comment stated that the rule does not state whether people submitting allegations of regulatory misconduct are required to redact their contact information.

We disagree with the comment. Anyone may file a complaint reporting an allegation of regulatory misconduct. FDA encourages people submitting allegations to include supporting information and contact information in case additional information is needed for FDA to understand the allegation and act on the report; however, you can choose to submit a report anonymously. FDA will not share your identity or contact information with anyone outside FDA unless required to do so by law, regulation, or court order.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Electronic submission of voluntary allegations to CDRH. | 1,600 | 1 | 1,600 | 0.25 (15 minutes) ..... | 400 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 225 hours and a corresponding increase of 900 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: August 26, 2020.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2020–19563 Filed 9–3–20; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–1767]**

### Joint Meeting of the Psychopharmacologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; establishment of a public docket; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Joint Meeting of the Psychopharmacologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

**DATES:** The meeting will be held on October 8, 2020, from 8 a.m. Eastern Time to 5 p.m. Eastern Time.

**ADDRESSES:** Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2020–N–1767. The docket will close on October 7, 2020. Submit either electronic or written comments on this public meeting by October 7, 2020. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 7, 2020.

The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 7, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before September 25, 2020, will be provided to the committees. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2020–N–1767 for ''Joint Meeting of the Psychopharmacologic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

**FOR FURTHER INFORMATION CONTACT:** LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *PDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committees will discuss new drug application (NDA) 211179, for amphetamine sulfate immediate-release oral capsules, submitted by Arbor Pharmaceuticals, LLC, for the proposed indication of treatment of attention deficit hyperactivity disorder. The product has been formulated with properties intended to deter non-oral abuse, and the applicant has submitted data to support these abuse-deterrent properties for this product. The committees will be asked to discuss the overall risk-benefit profile of the product, including the potential public health impact, and whether the applicant has demonstrated abuse-deterrent properties for their product that would support labeling.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before September 25, 2020, will be provided to the committees. Oral presentations from the public will be scheduled between approximately 1 p.m. Eastern Time and 2 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 16, 2020. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 17, 2020.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 26, 2020.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2020–19562 Filed 9–3–20; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0133]**

### Pharmacokinetics in Patients With Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, Health and Human Services (HHS).

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' In general, drug development programs should be conducted so that when products are approved, the labeling provides appropriate dosing recommendations for patients with renal impairment. This draft guidance revises and replaces the draft guidance entitled ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing and Labeling'' (March 2010) and is meant to assist sponsors in the design and analysis of studies that assess the influence of impaired renal function on the pharmacokinetics (PK) and/or pharmacodynamics of an investigational drug and how such information can impact dosing.

**DATES:** Submit either electronic or written comments on the draft guidance by December 3, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2010–D–0133 for ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Lauren Milligan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3159, Silver Spring, MD 20903–0002, 301–796–5008, or *OCP@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' Drugs are eliminated from the body by a variety of mechanisms. Most drugs are cleared by a combination of some or all of the following pathways: Metabolism and transport in the small intestine, metabolism and transport in

the liver, and glomerular filtration and tubular secretion of unchanged drug by the kidneys (*i.e.,* renal excretion). If a drug is eliminated primarily through renal excretion, then impaired renal function usually alters the drug's PK to an extent that the dosage regimen may need to be changed from that used in patients with normal renal function. For most drugs that are likely to be administered to patients with impaired renal function, it is important to characterize PK in subjects with impaired renal function to provide appropriate dosing recommendations.

The safety and efficacy of a drug are generally established for a particular dosage regimen (or range of dosage regimens) in late-phase clinical trials that enroll patients from the target patient population. Frequently, however, individuals with advanced kidney disease are explicitly excluded from participation in these studies, hindering the assessment of the effects of severely impaired kidney function on the PK of a drug or the patient's clinical response. A well-planned drug development program can enable prospective dosage adjustment based on the observed or expected changes in the PK of a drug due to impaired renal function prior to initiating phase 2 or phase 3 trials.

This guidance replaces the 2010 version and provides updated recommendations on the following topics:

(1) When a dedicated study of a drug's PK in subjects with impaired renal function is recommended and when it may not be needed;

(2) The design and conduct of pharmacokinetic studies in subjects with impaired renal function;

(3) Considerations for characterizing a drug's PK in patients undergoing intermittent or continuous dialytic therapies;

(4) The use of pharmacokinetic information from phase 2 and 3 studies to inform dosing recommendations for patients with renal impairment; and

(5) The analysis and reporting of the results of studies that characterize the impact of renal impairment and how these data inform dosing.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required.

However, this draft guidance refers to previously approved FDA collections of information. These collections of information are subject to review by OMB under the PRA. The collection of information in 21 CFR 201.57 has been approved under OMB control number 0910–0572.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: August 31, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–19597 Filed 9–3–20; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–0026]**

### Issuance of Priority Review Voucher; Rare Pediatric Disease Product

**AGENCY:** Food and Drug Administration, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that VILTEPSO (viltolarsen) manufactured by Nippon Shinyaku Co., Ltd. (NS Pharma Inc., U.S. Agent), meets the criteria for a priority review voucher.

**FOR FURTHER INFORMATION CONTACT:** Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4061, Fax: 301–796–9856, email: *althea.cuff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that VILTEPSO (viltolarsen) manufactured by Nippon Shinyaku Co., Ltd. (NS Pharma Inc., U.S. Agent), meets the criteria for a priority review voucher.

VILTEPSO (viltolarsen) is indicated for the treatment of Duchenne Muscular Dystrophy in patients amenable to Exon 53 Skipping.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* **FOR FURTHER INFORMATION** about VILTEPSO (viltolarsen) go to the ''*Drugs@FDA*'' website at *http://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: August 31, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–19604 Filed 9–3–20; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Charter Renewal for the Advisory Committee on Organ Transplantation

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act (FACA), HHS is hereby giving notice that the Advisory Committee on Organ Transplantation (ACOT) has been renewed. The effective date of the renewed charter is August 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Robert Walsh, Designated Federal Officer, HRSA Division of

Transplantation, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Room 08W60, Rockville, Maryland 20857; 301–443–6839; or *rwalsh@hrsa.gov*.

**SUPPLEMENTARY INFORMATION:** The ACOT provides advice and recommendations to the Secretary of HHS (Secretary) on all aspects of organ donation, procurement, allocation, and transplantation, and on such other matters that the Secretary determines. ACOT is authorized by 42 U.S.C. 217a; Section 222 of the Public Health Service Act, as amended; 42 CFR 121.12.

The Committee is governed by provisions of the FACA, Public Law 92–463 (5 U.S.C. App. 2), which sets forth standards for the formation of advisory committees. The recommendations of the ACOT inform HHS programs and activities to support organ donation and transplantation. ACOT's recent recommendations in support of expanding reimbursement of living organ donor expenses were cited as a key part of the rationale for recent proposed HHS actions to expand this activity consistent with the President's Executive Order on Advancing American Kidney Health. The charter renewal for the ACOT was approved on August 31, 2020, which will also stand as the filing date. Renewal of the ACOT charter gives authorization for the committee to operate until August 31, 2022.

A copy of the ACOT charter is available on the ACOT website at *https://www.organdonor.gov/about-dot/acot.html*. A copy of the charter also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The website address for the FACA database is *http://www.facadatabase.gov/*.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2020–19644 Filed 9–3–20; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Solicitation of Nominations for Membership To Serve on the Advisory Committee on Heritable Disorders in Newborns and Children

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Request for advisory committee member nominations.

**SUMMARY:** HRSA is seeking nominations of qualified candidates to be considered for appointment as members of the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC or Committee). The Committee provides advice, recommendations, and technical information about aspects of heritable disorders and newborn and childhood screening to the Secretary of HHS (Secretary). HRSA is seeking nominations of qualified candidates for appointment to five positions on the Committee for terms of up to 4 years.

**DATES:** Written nominations for membership on the Committee must be received on or before September 22, 2020.

**ADDRESSES:** Nomination packages must be submitted electronically as email attachments to Mia Morrison, MPH at *ACHDNC@hrsa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mia Morrison, MPH, Maternal and Child Health Bureau, HRSA 5600 Fishers Lane, Room 18W–68, Rockville, MD 20857; 301–443–2521; or *ACHDNC@hrsa.gov.* A copy of the Committee charter and list of the current membership may be obtained by accessing the Committee website at *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/heritable-disorders/about/members.pdf.*

**SUPPLEMENTARY INFORMATION:** ACHDNC provides advice and recommendations to the Secretary of HHS (Secretary) on the development of newborn screening activities, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders.

In addition, the Committee provides advice and recommendations to the Secretary concerning grants, projects and technical information to develop policies and priorities for grants, including those that will enhance the ability of the state and local health agencies to provide for newborn and child screening, counseling, and health care services for newborns, and children having or at risk for heritable disorders. The Committee meets four times each calendar year, or at the discretion of the Designated Federal Officer in consultation with the ACHDNC Chair. The Committee is governed by the provisions of Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), and 41 CFR part 102–3, which set forth standards for the formation and use of advisory committees, and its Charter.

The Committee reviews and reports regularly on newborn and childhood screening practices for heritable disorders, recommends improvements in the national newborn and childhood heritable screening programs, and recommends conditions for inclusion in the Recommended Uniform Screening Panel (RUSP). The Committee's recommendations regarding additional conditions/inherited disorders for screening that have been adopted by the Secretary are included in the RUSP and constitute part of the comprehensive guidelines supported by HRSA pursuant to section 2713 of the PHS Act, codified at 42 U.S.C. 300gg–13. Under this provision, non-grandfathered health plans and group and individual health insurance issuers are required to cover screenings included in the HRSA-supported comprehensive guidelines without charging a co-payment, co-insurance, or deductible for plan years (*i.e.,* in the individual market, policy years) beginning on or after the date that is 1 year from the Secretary's adoption of the condition for screening.

**Nominations**

HRSA is requesting nominations for voting members to serve on the Committee to fill up to five positions for terms of up-to 4 years. The Secretary appoints Committee members with the expertise needed to fulfill the duties of the Advisory Committee. Nominees sought are medical, technical, or scientific professionals with special expertise in the field of heritable disorders or in providing screening, counseling, testing, or specialty services for newborns and children with, or at risk for having, heritable disorders; individuals who have expertise in ethics (*e.g.,* bioethics) and infectious diseases and who have worked and published material in the area of newborn screening; members of the public having demonstrated expertise about or concern with heritable disorders; and/or representatives from such federal agencies, public health constituencies, and medical professional societies with such expertise. Interested applicants may self-nominate or be nominated by another individual or organization. Nominees must reside in the United States and cannot be funded for international travel expenses.

Individuals selected for appointment to the Committee will be invited to serve for up-to 4 years. Members who are not federal officers or permanent federal employees are appointed as special government employees and receive a stipend and reimbursement for

per diem and travel expenses incurred for attending Committee meetings and/or conducting other business on behalf of the Committee, as authorized by section 5 U.S.C. 5703 for persons employed intermittently in government service. Members who are already officers or employees of the United States Government shall not receive additional compensation for service on the Committee, but receive per diem and travel expenses incurred for attending Committee meetings and/or conducting other business on behalf of the Committee.

The following information must be included in the package of materials submitted for each individual being nominated for consideration: (1) A statement that includes the name and affiliation of the nominee and a clear statement regarding the basis for the nomination, including the area(s) of demonstrated expertise or concern that may support eligibility of a nominee for service on the Committee, as described above; (2) confirmation the nominee is willing to serve as a member of the Committee; (3) the nominee's contact information (please include home address, work address, daytime telephone number, and an email address); and (4) a current copy of the nominee's curriculum vitae. Nomination packages may be submitted directly by the individual being nominated or by the person/organization recommending the candidate.

HHS will endeavor to ensure that the membership of the Committee is fairly balanced in terms of points of view represented and that individuals from a broad representation of geographic areas, gender, ethnic and minority groups, as well as individuals with disabilities, are considered for membership. Appointments shall be made without discrimination on the basis of age, race, color, national origin, sex, disability, or religion.

Individuals who are selected to be considered for appointment will be required to provide detailed information regarding their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required in order for HRSA to determine if the selected candidate is involved in any activity that may pose a potential conflict of interest with the official duties to be performed as a member of the Committee and to identify any required remedial action needed to address the potential conflict.

**Authority:** The ACHDNC was established under the Public Health Service (PHS) Act, 42 U.S.C. 217a: Advisory councils or committees and Title XI § 1111(g) (42 U.S.C. 300b–10(g)).

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2020–19631 Filed 9–3–20; 8:45 am]

**BILLING CODE 4165–15–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Promoting the Rule of Law Through Improved Agency Guidance Documents

**AGENCY:** Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** On October 9, 2019, the President issued Executive Order (E.O.) 13891: Promoting the Rule of Law Through Improved Agency Guidance Document. This E.O. requires all Federal Agencies to establish an on-line guidance portal and to rescind any guidance documents that are no longer active or valid.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services is updating its Notice published on July 2, 2020 regarding Executive Order 13891. In that Notice, HHS made available its guidance portal which included all active guidance documents across HHS's 27 Operating and Staff Divisions. That Notice brought awareness that while many of the Centers for Medicare and Medicaid's (CMS) active guidance documents were included, it was not reflective of CMS's full inventory. OMB had granted CMS an extension until July 31, 2020 to fully populate the database to reflect CMS's full inventory of active guidance documents.

This Notice informs of an additional OMB extension granted to the Centers for Medicare and Medicaid (CMS) until September 30, 2020 to fully populate all of its inventory of active guidance documents.

**FOR FURTHER INFORMATION CONTACT:** Samuel Shipley, Executive Secretariat, at *Guidance@hhs.gov* or (202) 690–5627.

**Wilma M. Robinson,**

*Deputy Executive Secretary, Department of Health and Human Services.*

[FR Doc. 2020–19568 Filed 9–3–20; 8:45 am]

**BILLING CODE 4150–03–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Cancer Institute Council of Research Advocates was renewed for an additional two-year period on August 17, 2020.

It is determined that the National Cancer Institute Council of Research Advocates is in the public interest in connection with the performance of duties imposed on the National Cancer Institute and National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), *harriscl@nih.gov* or Telephone (301) 496–2123.

Dated: September 1, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19619 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR–17–144: Limited Competition: National Primate Research Centers (P51).

*Date:* September 28–October 1, 2020.
*Time:* 3:00 p.m. to 12:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 3142, MSC 7850, Bethesda, MD 20892, (301) 827–7490, *brianscott@mail.nih.gov*.

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.
*Date:* October 8–9, 2020.
*Time:* 8:00 a.m. to 7:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov*.

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Kidney Molecular Biology and Genitourinary Organ Development.
*Date:* October 8, 2020.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Ganesan Ramesh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov*.

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.
*Date:* October 8–9, 2020.
*Time:* 8:30 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

*Name of Committee:* Oncology 1—Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.
*Date:* October 8–9, 2020.
*Time:* 9:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–408–9850, *morrowcs@csr.nih.gov*.

*Name of Committee:* Cell Biology Integrated Review Group; Development—2 Study Section.
*Date:* October 8–9, 2020.
*Time:* 9:00 a.m. to 3:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov*.

*Name of Committee:* Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Clinical Translational Imaging Science Study Section.
*Date:* October 8–9, 2020.
*Time:* 9:00 a.m. to 6:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Eleni Apostolos Liapi, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *eleni.liapi@nih.gov*.

*Name of Committee:* Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.
*Date:* October 8–9, 2020.
*Time:* 9:30 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, *mulkya@mail.nih.gov*.

*Name of Committee:* Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.
*Date:* October 8–9, 2020.
*Time:* 9:30 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov*.

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.
*Date:* October 8–9, 2020.
*Time:* 10:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301) 408–9072, *jollieda@csr.nih.gov*.

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.
*Date:* October 8–9, 2020.
*Time:* 10:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov*.

*Name of Committee:* Vascular and Hematology Integrated Review Group; Vascular Cell and Molecular Biology Study Section.
*Date:* October 8, 2020.
*Time:* 10:00 a.m. to 8:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.
*Date:* October 8–9, 2020.
*Time:* 10:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Fungai Chanetsa, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 31, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19624 Filed 9–3–20; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Institute of Mental Health, October 20, 2020, 9:00 a.m. to October 22, 2020, 5:00 p.m., PORTER NEUROSCIENCE RESEARCH CENTER, Building 35A, 35 Convent Drive, Bethesda, MD 20892 which was published in the **Federal Register** on January 6, 2020, 85 FR 516.

This notice is being amended to change the meeting format from an in-person to a virtual meeting. The dates and times remain the same. The meeting is closed to the public.

Dated: August 31, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19627 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Cancer Institute Clinical Trials and Translational Research Advisory Committee was renewed for an additional two-year period on April 14, 2020.

It is determined that the National Cancer Institute Clinical Trials and Translational Research Advisory Committee is in the public interest in connection with the performance of duties imposed on the National Cancer Institute and National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), *harriscl@nih.gov* or Telephone (301) 496–2123.

Dated: September 1, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19621 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute Of General Medical Sciences Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* NIGMS Initial Review Group Training and Workforce Development Subcommittee—D To Review MARC, U–RISE and G–RISE Applications.

*Date:* October 15–16, 2020.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Video Meeting).

*Contact Person:* Tracy Koretsky, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3AN.12F, Bethesda, MD 20892, (301) 594–2886, *Tracy.koretsky@nih.gov.*

*Name of Committee:* NIGMS Initial Review Group Training and Workforce Development Subcommittee—C Review of MARC and RISE applications.

*Date:* October 26–27, 2020.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Video Meeting).

*Contact Person:* Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18A, Bethesda, MD 20814, (301) 435–0807, *slicelw@mail.nih.gov*

*Name of Committee:* NIGMS Initial Review Group Training and Workforce Development Subcommittee—A NIGMS Review of T32 applications and Interventions that Promote Research Careers (R01) applications.

*Date:* November 19–20, 2020.

*Time:* 9:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Video Meeting).

*Contact Person:* Isaah S. Vincent, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12L, Bethesda, MD 20892, (301) 594–2948, *isaah.vincent@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 1, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19666 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; SEP–8: NCI Clinical and Translational R21 and Omnibus R03 Review.

*Date:* September 29–30, 2020.

*Time:* 9:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room

7W108, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20850, 240–276–6343, *schweinfestcw@mail.nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; SEP–6: NCI Clinical and Translational R21 and Omnibus R03 Review.

*Date:* October 8, 2020.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Rockville, MD 20850, 240–276–5122, *hasan.siddiqui@nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Program Project IV (P01).

*Date:* October 21–22, 2020.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Rockville, MD 20850, 240–276–5122, *hasan.siddiqui@nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; SEP–3: NCI Clinical and Translational R21 and Omnibus R03.

*Date:* October 28, 2020.

*Time:* 10:00 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W618, National Cancer Institute, NIH, Rockville, MD 20850, 240–276–6611, *mukesh.kumar3@nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Cohort Studies to Address Health Outcomes in Cancer Survivors.

*Date:* November 5, 2020.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W032, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Zhiqiang Zou, M.D., Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W242, Rockville, MD 20850, 240–276–6372, *zouzhiq@mail.nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Clinical Trials and Information Management Support (CTIMS).

*Date:* November 12, 2020.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850 (Telephone Conference Call).

*Contact Person:* Shakeel Ahmad, Ph.D., Chief, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850, 240–276–6442, *ahmads@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 1, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19663 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Arthritis and Musculoskeletal and Skin Diseases Initial Review Group: Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Review Committee

*Date:* October 15–16, 2020.

*Time:* 9:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Arthritis, Musculoskeletal and Skin Diseases, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Nakia C Brown, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Room 816, Bethesda, MD 20892, (301) 827–4905, *brownnac@mail.nih.gov.*

*Name of Committee:* Arthritis and Musculoskeletal and Skin Diseases Initial Review Group: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

*Date:* October 22–23, 2020.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Arthritis, Musculoskeletal and Skin Diseases, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Helen Lin, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, (301) 594–4952, *linh1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 1, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19664 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

*Date:* October 7–8, 2020.

*Time:* 11:00 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science A (or B).

*Date:* October 9, 2020.

*Time:* 11:00 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451–4251, *Armaz.aschrafi@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 31, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19625 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Support of Competitive Research (SCORE) Applications.

*Date:* November 6, 2020.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Sonia Ortiz-Miranda, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 402–9448, *sonia.ortiz-miranda@nih.gov*.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Pathway to Independence Award K99/R00 Applications.

*Date:* November 16, 2020.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 594–3907, *pikebr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 1, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19665 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* NIGMS Initial Review Group; Training and Workforce Development Subcommittee—B Review of Predoctoral Training Grant Applications.

*Date:* October 6–7, 2020.

*Time:* 9:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18A, Bethesda, MD 20814, (301) 435–0965, *newmanla2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 31, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19626 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH Early Phase Psychosocial and Confirmatory Efficacy Clinical Trials.

*Date:* October 9, 2020.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 31, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–19628 Filed 9–3–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Notice of Meeting for the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC)

**AGENCY:** Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Health and Human Services announces a meeting of the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC). The ISMICC is open to the public and members of the public can attend the meeting via telephone or webcast only, and not in person. Agenda with call-in information will be posted on SAMHSA's website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include information on federal efforts related to serious mental illness (SMI) and serious emotional disturbance (SED).

**DATES:** September 29, 2020, 1:00 p.m.—TBD (ET)/Open.

**ADDRESSES:** The meeting will be held at SAMHSA Headquarters, 5600 Fishers Lane, Rockville, Maryland 20857, Pavilions A and B. The meeting can be accessed via webcast at: *https://protect2.fireeye.com/url?k=766a2ec8-2a3f2718-766a1ff7-0cc47a6a52de-658aca2b78455d15&u= https://www.mymeetings.com/nc/join.php?i=PWXW1647116&p=4987834&t=c* or by joining the teleconference at the toll-free, dial-in number at 877–950–3592; passcode 4987834.

**FOR FURTHER INFORMATION CONTACT:** Pamela Foote, ISMICC Designated Federal Officer, SAMHSA, 5600 Fishers Lane, 14E53C, Rockville, MD 20857; telephone: 240–276–1279; email: *pamela.foote@samhsa.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background and Authority

The ISMICC was established on March 15, 2017, in accordance with section 6031 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to report to the Secretary, Congress, and any other relevant federal department or agency on advances in SMI and SED, research related to the prevention of, diagnosis of, intervention in, and treatment and recovery of SMIs, SEDs, and advances in access to services and supports for adults with SMI or children with SED. In addition, the ISMICC will evaluate the effect federal programs related to SMI and SED have on public health, including public health outcomes such as: (A) Rates of suicide, suicide attempts, incidence and prevalence of SMIs, SEDs, and substance use disorders, overdose, overdose deaths, emergency hospitalizations, emergency room boarding, preventable emergency room visits, interaction with the criminal justice system, homelessness, and unemployment; (B) increased rates of employment and enrollment in educational and vocational programs; (C) quality of mental and substance use disorders treatment services; or (D) any other criteria determined by the Secretary. Finally, the ISMICC will make specific recommendations for actions that agencies can take to better coordinate the administration of mental health services for adults with SMI or children with SED. Not later than one (1) year after the date of enactment of the 21st Century Cures Act, and five (5) years after such date of enactment, the ISMICC shall submit a report to Congress and any other relevant federal department or agency.

### II. Membership

This ISMICC consists of federal members listed below or their designees, and non-federal public members.

*Federal Membership:* Members include, The Secretary of Health and Human Services; The Assistant Secretary for Mental Health and Substance Use; The Attorney General; The Secretary of the Department of Veterans Affairs; The Secretary of the Department of Defense; The Secretary of the Department of Housing and Urban Development; The Secretary of the Department of Education; The Secretary of the Department of Labor; The Administrator of the Centers for Medicare and Medicaid Services; and The Commissioner of the Social Security Administration.

*Non-Federal Membership:* Members include, 14 non-federal public members appointed by the Secretary, representing psychologists, psychiatrists, social workers, peer support specialists, and other providers, patients, family of patients, law enforcement, the judiciary, and leading research, advocacy, or service organizations.

The ISMICC is required to meet at least twice per year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Pamela Foote. Individuals can also register on-line at: *https://snacregister.samhsa.gov/MeetingList.aspx.*

The public comment section is scheduled for 2:15 p.m. Eastern Time (ET), and individuals interested in submitting a comment, must notify Pamela Foote on or before September 18, 2020 via email to: *Pamela.Foote@samhsa.hhs.gov.*

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

Dated: September 1, 2020.

**Carlos Castillo,**

*Committee Management Officer.*

[FR Doc. 2020–19680 Filed 9–3–20; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7028–N–06]**

## 60-Day Notice of Proposed Information Collection: Moving to Work Demonstration; OMB Control No.: 2577–0216

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* November 3, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–3374, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Rogers.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

### A. Overview of Information Collection

*Title of Information Collection:* Moving to Work (MTW) Demonstration.

*OMB Approval Number:* Control Number 2577–0216.

*Type of Request:* Revision of a currently approved collection.

*Form Number:* HUD–50900.

*Description of the need for the information and proposed use:* All public housing authorities (PHA) are required to submit a five (5) year plan and annual plans as stated in Section 5A of the 1937 Act, as amended; however, the 39 existing MTW PHAs with a Standard MTW Agreement must submit an Annual MTW Plan and Annual MTW Report (Form 50900) in lieu of the standard PHA plan documents.

As the 2016 MTW Expansion Statute directs, HUD is authorized to expand the MTW demonstration program from the current level of 39 agencies to an additional 100 agencies over a period of seven years, ending in 2022. However, as is also required by 2016 MTW Expansion Statute, HUD also intends to designate these 100 new agencies in cohorts over a period of seven years, ending in 2022. Interested potential applicants, new PHAs, must submit applications to participate in the program. Each selected applicant will be placed into a specific cohort. For each cohort of PHAs selected, the 2016 MTW Expansion Statute requires HUD to direct one specific policy change to be implemented by the new MTW PHAs, which HUD will evaluate rigorously. These new MTW PHAs will be required to annually submit a new form titled, ''The Supplement to the Annual PHA Plan,'' and as such they will not be required to complete or submit this revised Form 50900.

The MTW Demonstration was authorized under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat 1321), dated April 26, 1996. The original MTW Demonstration statute permitted up to 30 PHAs to participate in the demonstration program. Nineteen PHAs were selected for participation in the MTW demonstration in response to a HUD Notice, published in the **Federal Register** on December 18, 1996, and five of the 30 slots were filled through the Jobs-Plus Community Response Initiative.

Additional MTW 'slots' have been added by Congress over time through appropriations statutes. Two PHAs were specifically named and authorized to join the demonstration in 1999 under the VA, HUD, and Independent Agencies Appropriations Act of 1999 (Pub L. 105–276, 112 Stat. 2461), dated October 21, 1998. A Public and Indian Housing Notice (PIH Notice 2000–52) issued December 13, 2000 allowed up to an additional 6 PHAs to participate in the MTW demonstration. The Consolidated Appropriations Act, 2008 (Pub L. 110–161, 121 Stat. 1844) added four named PHAs to the Moving to Work demonstration program.

Subsequent appropriations acts for 2009, 2010, and 2011 authorized a total of 12 additional MTW slots. As part of HUD's 2009 budget appropriation (Section 236, title II, division I of the Omnibus Appropriations Act, 2009, enacted March 11, 2009), Congress directed HUD to add three agencies to the MTW program. As part of HUD's 2010 budget appropriation (Section 232, title II, division A of the Consolidated Appropriations Act, 2010, enacted December 16, 2009), Congress authorized HUD to add three agencies to the MTW demonstration. In 2011, Congress again authorized HUD to add three MTW PHAs pursuant to the 2010 Congressional requirements.

A Standard MTW Agreement (Standard Agreement) was developed in 2007 and was transmitted to the existing MTW PHAs in January 2008. As additional MTW PHAs were selected, they too were provided with the Standard Agreement. As established by the Consolidated Appropriations Act, 2016, all 39 existing MTW PHAs continue to operate under the Standard Agreement, which was extended to 2028.

Under the Standard Agreement, all MTW PHAs are authorized to combine their operating, modernization and housing choice voucher funding, hereinafter referred to as ''MTW Funding.'' Also, because they cannot conform with the requirement for the regular PHA annual and 5 year plans and because HUD requires different information from these MTW PHAs for program oversight purposes as defined by the Standard Agreement, these sites are required to submit an MTW Annual Plan and an MTW Annual Report in accordance with their MTW Agreement, in lieu of the regular PHA annual and 5-year plans.

Through the MTW Annual Plan and Report, each MTW PHA will inform HUD, its residents and the public of the PHA's mission and strategy for serving the needs of low-income and very low-income families. The MTW Annual Plan, like the PHA Annual Plan, provides an easily identifiable source by which residents, participants in tenant-based programs, and other members of the public may locate policies, rules, and requirements concerning the PHA's operations, programs, and services. Revisions are being made to this Form 50900 to improve its usability and to

address minor issues identified by HUD and the MTW PHAs over time, including the following:

1. Simplification of information submitted annually by the PHA.
2. Clarification and reimagining of the information to be reported, annually, that will lead to the ability to ''tell the story'' of the Moving to Work demonstration as a whole.
3. Addition of language regarding unspent Operating and Voucher Reserves to increase the transparency locally and the planned use of the funds.
4. Support and increase local communities' knowledge and understanding of the MTW Program by requiring the inclusion of the PHA's Hardship Policy as an appendix to the MTW Annual Plan.

HUD is very interested in feedback from the interested stakeholders, MTW PHAs, and the community on this Form 50900 and the proposed revisions as presented.

*Respondents:* The respondents to this PRA are the 39 Public Housing Authorities (PHAs) that had MTW designation as of December 15, 2015 and potential applicants that may be submitting applications to participate in the program.

*Estimated Number of Respondents:* The estimated number of respondents is 39.

*Estimated Number of Responses:* There are 78 submissions per year, reflecting the 39 PHAs. Each submission is comprised of 7 sections each requiring a response. All 7 sections are completed with the first annual submission (Plan), and 5 of the 7 sections are completed with the second annual submission (Report). This results in a total of 2 submissions per PHA, across all 39 affected PHAs or 78 total responses, that include 468 sections.

*Frequency of Response:* MTW PHAs complete requirements associated with this Form twice per year (Plan and Report). In the Plan, the PHA completes each of the 7 sections of the Form. In the Report, the PHA completes only 5 of the 7 sections of the Form.

*Average Hours per Response:* The estimated average burden is 40.5 hours per response (or 81 total hours per year).

*Total Estimated Burdens:* The total estimated burdens are 81, given each PHA completes the form twice per year (Plan and Report).

| Program information | Respondents | Annual responses per respondent | Total responses per year | Burden per year per respondent | Total burden hours | * Hourly cost | Cost burden |
|---|---|---|---|---|---|---|---|
| Application | 50 | 1 | 50 | 20 | 1000 | 55.94 | $55,940 |
| 50900 "Annual MTW Plan and Report Elements" | | | | | | | |
| Introduction | 39 | [1] 2 | 78 | 1 | 78 | 55.94 | 4,363.32 |
| General Housing Authority Information | 39 | * 2 | 78 | 8 | 624 | 55.94 | 34,906.56 |
| Proposed MTW Activities | 39 | [2] 1 | 39 | 37 | 1443 | 55.94 | 80,721.42 |
| Ongoing MTW Activities | 39 | * 2 | 78 | 15 | 1170 | 55.94 | 65,449.80 |
| Sources and Uses of Funding | 39 | * 2 | 78 | 8 | 624 | 55.94 | 34,906.56 |
| Administrative | 39 | * 2 | 78 | [3] 7 | 546 | 55.94 | 30,543.24 |
| Certifications of Compliance | 39 | [4] 1 | 39 | 5 | 195 | 55.94 | 10,908.30 |
| Total Burden | 89 total | varies | 518 | 101 | 5,680 | | 317,739.20 |

[1] Submits 2 responses each year: Once in Annual MTW Plan, once in Annual MTW Report.
[2] Submits 1 response each year: Once in Annual MTW Plan.
[3] MTW PHAs do not have to submit HUD form 50077, Plan certification, and elements of this form have been included in this collection process and the total number of burden hours has been adjusted accordingly.
[4] Submits one response each year: In Annual MTW Report.

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including annual reporting based on the activities performance as related to the MTW program statutory objectives and through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 28, 2020.

**Merrie Nichols-Dixon,**

*Deputy Director, Office of Policy, Programs and Legislative Initiatives.*

[FR Doc. 2020–19614 Filed 9–3–20; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7028–N–05]**

## 60-Day Notice of Proposed Information Collection: Exigent Health and Safety Deficiency Correction Certification; OMB Control No.: 2577–0241

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, PIH, Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of

information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* November 3, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–3374, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Rogers.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

## A. Overview of Information Collection

*Title of Information Collection:* Exigent Health and Safety Deficiency Correction Certification.

*OMB Approval Number:* 2577–0241.

*Type of Request:* Extension of currently approved collection.

*Form Number:* N/A.

*Description of the need for the information and proposed use:*

HUD's Uniform Physical Condition Standards (UPCS) regulation (24 CFR part 5, subpart G) provides that HUD housing must be decent, safe, sanitary, and in good repair. The UPCS regulation also provides that all area and components of the housing must be free of health and safety hazards. HUD conducts physical inspections of the HUD housing to compliance with the UPCS standards. Pursuant to the UPCS inspection protocol, at the end of the inspection (or at the end of each day of a multi-day inspection) the inspector provides the property representative with a copy of the ''Notification of Exigent and Fire Safety Hazards Observed'' form. Each exigent health and safety (EHS) deficiency that the inspector observed that day is listed on the form. The property representative signs the form acknowledging receipt. PHAs are to correct/remedy/act abate all EHS deficiencies within 24 hours. Using the electronic format, PHAs are to notify HUD within three business days of the date of inspection—the date the PHA was provided notice of these deficiencies—that the deficiencies were corrected/remedied/acted on to abate within the prescribed time frames (per 24 CFR part 902).

*Respondents:* Public Housing Agencies.

*Estimated Number of Respondents:* 976.

*Estimated Number of Responses:* 976.

*Frequency of Response:* Once per year.

*Average Hours per Response:* 0.34 (approximately 20 minutes).

*Total Estimated Burdens:* 329.19 hours.

| Information collection | Number of respondents | * Average number of reponses per respondent | Total annual responses | Burden hours per response | Total hours |
|---|---|---|---|---|---|
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 1–2 | 384 | 1 | 384 | 0.12 | 46.08 |
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 3–5 | 241 | 1 | 241 | 0.17 | 40.97 |
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 6–10 | 159 | 1 | 159 | 0.33 | 52.47 |
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 11–20 | 99 | 1 | 99 | 0.83 | 82.17 |
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 21–50 | 64 | 1 | 64 | 1.0 | 64.00 |
| Physical Assessment Subsystem (PASS) # of EHS Deficiencies 51+ | 29 | 1 | 29 | 1.5 | 43.50 |
| Subtotals | 976 | | 976 | | 329.19 |

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 28, 2020.

**Merrie Nichols-Dixon,**

*Director, Office of Policy, Programs and Legislative Initiative.*

[FR Doc. 2020–19609 Filed 9–3–20; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7027–N–28]**

## 60-Day Notice of Proposed Information Collection: COVID19 HUD Contingency Plan for HUD Multifamily Rental Project Closing Documents; OMB Control No.: 2502–0618

**AGENCY:** Office of Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

**DATES:** *Comments Due Date:* November 3, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

### A. Overview of Information Collection

*Title of Information Collection:* COVID19 HUD Contingency Plan for HUD Multifamily Rental Project Closing Documents.

*OMB Approval Number:* 2502–0618.

*Type of Request:* New Collection.

*Form Numbers:* HUD–5985 & HUD–5960.

*Respondents:* Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

*Estimated Number of Respondents:* 612.

*Estimated Number of Responses:* 1,224.

*Frequency of Response:* Twice per annum.

*Average Hours per Response:* 1.00 hour [0.50 × 2 = 1 hour].

*Total Estimated Burdens:* 1,224.

*Description of the need for the information and proposed use:* This is a new collection based on situational conditions relating to the COVID–19 Coronavirus outbreak and the Presidential declaration that began a national emergency. This new PRA collection will serve as the authority for any new or future changes or revisions to multifamily programs impacted by COVID–19 or related pandemics.

The Lender's Certificate, HUD–92434, establishes the conditions, which the Lender agrees to abide by in consideration of HUD's commitment to FHA-insure mortgages, and by which the Lender certifies that the conditions have been fulfilled to date, including any work done prior to endorsement of the Note that has been approved by HUD in writing, and all HUD imposed conditions that have been met with respect to such work. The information collection requirements contained in the Lender's Certificate are to oversee the parties' compliance with all applicable legal requirements and therefore ensure protection of the FHA insurance fund. The HUD–92434M is required by the Closing Checklists via the Firm Commitment (Housing Notice 2018–03) and per the fact that the underlying forms contemplate hardcopy submission (since HUD historically has not accepted electronic submission of documents for closing purposes). The *Lender's Certification Regarding: Electronic Submission of Closing Documents* is a modification of the HUD–92434M that will set the Office of General Counsel's (''OGC'') temporary uniform electronic closing protocols until normal closing can resume after the COVID–19 Pandemic.

Relating to the current COVID–19 Coronavirus outbreak and the President declaring a national emergency the Department of Housing and Urban Development (''HUD'') and its offices remain open for business at this time, many are now engaged in full-time telework. It is therefore prudent and appropriate for the OGC, in collaboration with Multifamily to establish protocols, rules, and procedures that best ensure continuity of operations in the event of an extended closure of a specific division, regional or field office, or the determination that OGC in its entirety should work remotely. Pursuant to the March 16, 2020 HUD Memorandum issued for all Regional Counsel and Deputy Regional Counsel, all Associate Regional Counsel for Programs and all OGC Closing Attorneys, set forth protocols and best practices for the continued provision of legal services by HUD Closing Attorneys while working from home or from another remote location. Also included in the memorandum are suggestions that may be shared with outside counsel to facilitate the work being done remotely by OGC attorneys. Therefore, Regional Counsel will ensure that the temporary protocols set forth in the March 16, 2020 memorandum are adopted and applied consistently across the regional and field offices within their purview. When the pandemic subsides and OGC resumes normal closing operations consistently across the country, HUD will reconsider the temporary protocols in this memorandum. OGC attorney protocols for review and approval of draft closing documents must rely on electronic transmission of closing documents in lieu of hard copies in performing their initial reviews. This approach will ensure the continuation of reviews even if our external partners are unable to physically transmit the volume of paper documents needed at this stage. While providing increased flexibility to lenders in submitting closing documents, this protocol does not authorize any additional substantive modifications to the closing process without approval of the appropriate Regional Counsel and the Office of Insured Housing in Headquarters. Draft closing submission will remain consistent with the approach of Multifamily Housing and OGC will accept draft closing packages in fully electronic form.

*Respondents:* Estimation for the Escrow Agreement for Deferred Repairs & Debt Service—223(f)—(one closing):

*Estimated Number of Respondents:* 330.

*Estimated Number of Responses:* 330.

*Frequency of Response:* Once per annum.

*Average Hours per Response:* .50 hours.

*Total Estimated Burdens:* 165.

*Description of the need for the information and proposed use:* The form *Escrow Agreement for Deferred Repairs & Debt Service—223(f)* (''*Debt Service Escrow Agreement*''), sets the terms and conditions between the Borrower and Lender and provides for the establishment of an escrow by the

Borrower as security for completion of non-critical deferred repairs. Such escrow also serves as security for HUD's insurance of the loan. The agreement provides for prior approval of HUD for certain actions to be taken by the Borrower or Lender. The information collection requirements contained in Debt Service Escrow Agreement are to oversee the parties' compliance with all applicable legal requirements and therefore ensure protection of the FHA insurance fund.

The global pandemic relating to the COVID–19 Emergency has disrupted the U.S. economy with significantly increased unemployment and overall economic instability. This instability has carried over to real estate markets in general, including multifamily commercial markets. During these challenging times, HUD remains open for business and will continue as an active participant in sourcing new construction and refinance debt through its mortgage insurance programs. At the same time, HUD has reevaluated its underwriting requirements, particularly for market rate refinance transactions that may now experience increased vacancy, rent collection losses and income disruption both in the near and long term. Section 207 of the National Housing Act provides that no mortgage shall be acceptable for insurance unless the Secretary finds that the project is economically sound, and the MAP Guide permits specific mitigants to be employed to reduce risk for transactions currently in process but yet to receive a Firm Commitment to insure. These mitigants include but are not limited to the requirement of a Debt Service Reserve (DSR) for Section 223(f) transactions to offset anticipated operating losses post endorsement. To address risk and/or changed economic circumstances for transactions that have been issued a commitment to insure but have yet to endorse, HUD includes language in the Firm Commitment affirming that no material adverse change (MAC) has occurred between the issuance of the commitment and endorsement. Accordingly, HUD has taken the position that the impact of the COVID–19 Emergency has resulted in a material change in most, if not all, real estate markets and therefore, HUD will require mitigants to offset this additional risk. Accordingly, this form provides clarification and instructions to HUD staff describing additional mitigants that may be included in the Firm Commitment for Section 223(f) loans that are in processing, as well as for those projects for which a Firm Commitment has been issued.

Revisions to the OMB approved Form HUD–92476.1M is the temporary *Escrow Agreement for Deferred Repairs & Debt Service—223(f).* This form does not permanently replace the HUD–92476.1M. The revised escrow, while based on the HUD–92476.1M, is a separate document for temporary use during the COVID–19 emergency pursuant to Mortgagee Letter 2020–11 issued April 10, 2020. The temporary *Escrow Agreement for Deferred Repairs & Debt Service—223(f)* Form will remain in effect until such time as HUD determines that the real estate markets that have been negatively affected by the COVID–19 Emergency have stabilized and additional mitigants for Section 223(f) transactions are no longer required.

This new collection can be used to address future changes to multifamily programs or processes that may arise from impacts due to the COVID–19 pandemic.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Assistant Secretary for Housing—Federal Housing Commissioner, Dana T. Wade, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: September 1, 2020.

**Nacheshia Foxx,**

*Federal Register Liaison for the Department of Housing and Urban Development.*

[FR Doc. 2020–19623 Filed 9–3–20; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNV952000 L14400000.BJ0000.LXSSF2210000.241A; MO #4500143868 TAS: 20X]**

### Filing of Plats of Survey; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

**DATES:** Filing is applicable at 10:00 a.m. on the dates indicated below.

**FOR FURTHER INFORMATION CONTACT:** Michael O. Harmening, Chief Cadastral Surveyor for Nevada, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502–7147, phone: 775–861–6490. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

1. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada, on January 16, 2020.

The plat, in one sheet, representing the dependent resurvey of Mineral Survey No. 3868, Township 12 North, Range 63 East, Mount Diablo Meridian, Nevada, under Group No. 992, was accepted January 14, 2020. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada, on May 14, 2020.

The plat, in two sheets, representing the dependent resurvey of the Seventh Standard Parallel South, through a portion of Range 63 East, a portion of the subdivisional lines and potions of

certain mineral surveys, and metes-and-bounds surveys in sections 2 and 11, Township 29 South, Range 63 East, Mount Diablo Meridian, Nevada, under Group No. 978, was accepted May 8, 2020. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada, on June 25, 2020.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the subdivision of section 3, Township 3 South, Range 57 East, Mount Diablo Meridian, Nevada, under Group No. 965, was accepted June 18, 2020. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada, on June 30, 2020.

The plat, in five sheets, representing the dependent resurvey of a portion of the subdivisional lines and portions of certain mineral surveys, Township 20 South, Range 65 East, Mount Diablo Meridian, Nevada, under Group 952, was accepted May 8, 2020. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada, on July 23, 2020.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines, Township 4, South, Range 54 East, Mount Diablo Meridian, Nevada, under Group No. 988, was accepted July 21, 2020. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The surveys, listed above, are now the basic record for describing the lands for all authorized purposes. These records have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information.

**Authority:** 43 U.S.C., Chapter 3.

Dated: August 27, 2020.

**Michael O. Harmening,**

*Chief Cadastral Surveyor for Nevada.*

[FR Doc. 2020–19344 Filed 9–3–20; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVS01000. L51010000.ER0000. LVRWF1906420. 19X; N–90788; MO#4500146813]**

### Notice of Availability for the Final Environmental Impact Statement for the Yellow Pine Solar Project in Clark County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Yellow Pine Solar Project and by this notice is announcing its availability.

**DATES:** The BLM will not issue a final decision on the proposal for a minimum of 30 days from the date that the Environmental Protection Agency publishes its notice in the **Federal Register**.

**ADDRESSES:** Copies of the Final EIS for the Yellow Pine Solar Project are available through the ePlanning program: *https://eplanning.blm.gov/eplanning-ui/project/81665/510.*

**FOR FURTHER INFORMATION CONTACT:** Whitney Wirthlin, Acting Energy & Infrastructure Project Manager, telephone 702–515–5284; address 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301; email *blm_nv_sndo_yellowpine@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This Final EIS addresses two separate but connected applications submitted to the BLM Las Vegas Field Office. First, Yellow Pine Solar, LLC applied for a right-of-way (ROW) on public land to construct, operate and maintain a proposed solar energy generation station and ancillary facilities including battery storage, known as the Yellow Pine Solar Facility. Second, GridLiance West, LLC applied for a ROW on public land to construct, operate and maintain a GridLiance West 230-kilovolt (kV) Trout Canyon Substation and associated 230-kV transmission line. These two applications are collectively known as the Yellow Pine Solar Project.

The proposed Yellow Pine Solar Project is located approximately 10 miles southeast of Pahrump and approximately 32 miles west of Las Vegas in Clark County, Nevada. The Yellow Pine Solar Project would be located on approximately 3,000 acres of BLM managed public land.

The Final EIS analyzed the direct, indirect, and cumulative environmental impacts of the proposed action and alternatives. The Final EIS analyzed the Proposed Action, the Modified Layout Alternative, the Mowing Alternative, and the No Action Alternative. All of the analysis involves development on approximately 3,000 acres of public land; however, each action/alternative differs in how the facility is constructed. The Proposed Action would be divided into four unique sub-areas to avoid three large washes that cross the study area. The Proposed Action would involve solar development utilizing site preparation methods which include clearing vegetation to a height of no more than three inches within the solar arrays. Areas within the solar arrays that contain large shrubs, such as creosote bush, would also be tilled to remove stumps. The Modified Layout would involve one combined project area on the west side of the project study area to increase space between the project and the Tecopa Road, State Route 160 and the Stump Springs Desert Tortoise Translocation Area. The Mowing Alternative is a construction methods alternative that may be applied to either site layout. Under the Mowing Alternative, vegetation would be mowed at a height of 18 to 24 inches to address concerns related to the loss of topsoil, vegetation, and seedbanks. No tilling would occur under the Mowing Alternative. The No Action Alternative would be a continuation of existing conditions.

The Draft EIS for the Yellow Pine Solar Project was available for review during a 45-day comment period beginning March 20, 2020 (85 FR 16125). The BLM received a total of 90 submissions containing 512 individual comments. The comments received were submitted by individuals, governmental agencies, tribes, and other organizations. Key issues raised during the public comment period included potential biological, cultural, tribal, soils, vegetation, hydrological, visual and recreational resource impacts, fire risk/hazard, project alternatives, project design features/mitigation, and cumulative effects. Comments on the Draft EIS were considered and incorporated as appropriate into the

Final EIS. The Final EIS includes the revisions made to the Draft EIS to address the comments submitted, including incorporating recommendations from scientific literature and agency funded research to provide additional analysis and documentation on potential impacts and benefits to soils and vegetation under the mowing alternative. Responses to all comments are located in Appendix I of the Final EIS.

The BLM continues to consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Following a 30-day Final EIS availability and review period, a Record of Decision (ROD) would be issued. The decision reached in the ROD is subject to appeal at the Interior Board of Land Appeals. The 30-day appeal period begins with the issuance of the ROD.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

**Angelita Bulletts,**

*District Manager, Southern Nevada District.*

[FR Doc. 2020–19541 Filed 9–3–20; 8:45 am]

**BILLING CODE 4310–HC–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Stud Finders, Metal Detectors and Electrical Scanners, DN 3487;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Zircon Corporation on August 31, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic stud finders, metal detectors and electrical scanners. The complaint names as respondents: Stanley Black & Decker, Inc. of New Britain, CT; and Black & Decker (U.S.), Inc. of Towson, MD. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3487'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information,

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 1, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–19647 Filed 9–3–20; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–511 and 731–TA–1246–1247 (Review)]**

## Certain Crystalline Silicon Photovoltaic Products From China and Taiwan

### Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing and antidumping duty orders on certain crystalline silicon photovoltaic products (''CSPV products'') from China and the antidumping duty order on CSPV products from Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### Background

The Commission instituted these reviews on January 2, 2020 (85 FR 120) and determined on April 6, 2020 that it would conduct expedited review (85 FR 42430, July 14, 2020).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 31, 2020. The views of the Commission are contained in USITC Publication 5112 (August 2020), entitled *Certain Crystalline Silicon Photovoltaic Products from China and Taiwan: Investigation Nos. 701–TA–511 and 731–TA–1246–1247 (Review).*

By order of the Commission.

Issued: September 1, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–19638 Filed 9–3–20; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

## Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Filament Light-Emitting Diodes and Products Containing Same (II), DN 3486*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of The Regents of the University of California on August 31, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain filament light-emitting diodes and products containing same (II). The complaint names as respondents: General Electric Company of Boston, MA; Consumer Lighting (U.S.) LLC d/b/a GE Lighting of East Cleveland, OH; Savant Systems, Inc. of Hyannis, MA; Home Depot Product Authority, LLC of Atlanta, GA; Home Depot U.S.A., Inc. of Atlanta, GA; The Home Depot, Inc. of Atlanta, GA; Feit Electric Company, Inc. of Pico Rivera, CA; Satco Products, Inc. of Brentwood, NY; IKEA Supply AG of Switzerland; IKEA U.S. Retail LLC of Conshohocken, PA; and IKEA of Sweden AB of Sweden. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3486'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 31, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–19640 Filed 9–3–20; 8:45 am]

**BILLING CODE P**

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1088 (Modification)]**

## Certain Road Construction Machines and Components Thereof; Commission Determination To Modify Remedial Orders; Termination of Modification Proceeding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined to adopt the findings of the presiding Administrative Law Judge (''ALJ'') in the Recommended Determination (''RD'') and modify the limited exclusion order (''LEO'') and cease and desist order (''CDO'') issued in this investigation. The modification proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Houda Morad, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted the underlying investigation on November 29, 2017, based on a complaint filed by Caterpillar Inc. of Peoria, Illinois and Caterpillar Paving Products, Inc. of Minneapolis, Minnesota (collectively, ''Caterpillar''). *See* 82 FR 56625–26 (Nov. 29, 2017). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain road construction machines and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,140,693 (''the '693 patent''), 9,045,871, and 7,641,419. *See id.* The notice of investigation names as respondents Wirtgen GmbH and Wirtgen Group Holding GmbH, both of Windhagen, Germany; Joseph Vögele AG of Ludwigshafen, Germany; and Wirtgen America, Inc. of Antioch, Tennessee (''Wirtgen America'') (collectively, ''Wirtgen''). *See id.* The Office of Unfair Import Investigations was not a party to this investigation. *See id.*

On June 27, 2019, the Commission found a violation of section 337 in the underlying investigation based on the infringement of claim 19 of the '693 patent, and issued an LEO against the infringing articles imported by Wirtgen and a CDO (collectively, ''the remedial orders'') against Wirtgen America. *See* 84 FR 31910–11 (July 3, 2019).

On January 16, 2020, the Commission determined to institute a modification proceeding under 19 U.S.C. 1337(k) and 19 CFR 210.76 to adjudicate Wirtgen's assertion that the remedial orders do not cover its redesigned series 1810 machines. *See* 85 FR 3944 (Jan. 23,

2020). On June 22, 2020, the ALJ issued the subject RD finding no infringement of claim 19 of the '693 patent by Wirtgen's redesigned series 1810 machines.

On July 2, 2020, both Caterpillar and Wirtgen filed comments concerning the RD's findings, and on July 10, 2020, the parties filed responses to each other's comments. Wirtgen challenges the legality of the modification proceeding and the RD's finding that Wirtgen bears the burden of proof in such proceeding. In addition, Wirtgen faults the RD for construing a claim term, which, according to Wirtgen, is not permissible in the context of a modification proceeding. Caterpillar disagrees with the RD's claim construction and the RD's finding that Wirtgen's redesigned machines do not infringe claim 19 of the '693 patent.

Having reviewed the record of the underlying violation investigation, as well as the record of the modification proceeding, including the RD and the parties' comments and responses thereto, the Commission has modified the LEO and CDO to include an explicit carve-out with respect to Wirtgen's redesigned series 1810 machines as stated in the accompanying Order. Specifically, the Commission affirms the RD's claim construction determination and noninfringement findings as to the redesigned series 1810 machine. The Commission rejects Wirtgen's challenges to the scope of the LEO and CDO, as issued, and Wirtgen's challenges to the propriety of this modification proceeding. The Commission's decisions are explained more fully in the Commission Opinion that accompanies this notice.

The Commission vote for this determination took place on August 31, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 31, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–19585 Filed 9–3–20; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–458 and 731–TA–1154 (Second Review)]**

## Kitchen Appliance Shelving and Racks From China; Scheduling of Expedited Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping and countervailing duty orders on certain kitchen appliance shelving and racks from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** May 8, 2020.

**FOR FURTHER INFORMATION CONTACT:** Alejandro Orozco (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On May 8, 2020, the Commission determined that the domestic interested party group response to its notice of institution (85 FR 5980, February 3, 2020) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

*Staff report.*—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on September 2, 2020, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

*Written submissions.*—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before September 8, 2020 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by September 8, 2020. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted by Nashville Wire Products Manufacturing Company and SSW Holding Company, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 31, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–19591 Filed 9–3–20; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Filing of Proposed Settlement Agreement Regarding Environmental Claims In Connection With Clean Harbors Environmental Services Inc.

On August 31, 2020, a Proposed Consent Decree was filed in the United States District Court of Nebraska in the proceeding entitled *United States and State of Nebraska* v. *Clean Harbors Environmental Services, Inc., et al.,* Case No. 8:20–cv–351.

Plaintiffs United States of America, on behalf of the United States Environmental Protection Agency (''EPA''), and the State of Nebraska (''State''), acting through the Nebraska Attorney General, on behalf of the Nebraska Department of Environment and Energy (''NDEE''), have filed a complaint in this action concurrently with the Consent Decree, against Defendant, Clean Harbors Environmental Services, Inc. (''Clean Harbors''), seeking civil penalties and injunctive relief the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901, *et seq.,* the Clean Air Act (''CAA''), 42 U.S.C. 7401, *et seq.,* the Emergency Planning and Community Right-to-Know Act (''EPCRA''), 42 U.S.C. 11001, *et seq.,* and the Nebraska Environmental Protection Act (''NEPA''), Neb. Rev. Stat. § 81–1501 *et seq.*

Under the Proposed Consent Decree, Clean Harbors will pay a civil penalty of $790,000, ($498,820 to the United States and $291,180 to the State). Additionally, Clean Harbors will perform injunctive relief to better manage waste handling practices, including developing and implementing plans to better manage waste acceptance, secondary containment, inspections, and its risk management program. Clean Harbors will also conduct an audit under RCRA and the CAA to identify and address any issues with compliance under these statutes.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Nebraska* v. *Clean Harbors Environmental Services, Inc., et al.,* D.J. Ref. No. 90–7–1–11505. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* Alternatively, a paper copy of the Settlement Agreement will be provided upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

**Susan Akers,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2020–19618 Filed 9–3–20; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF LABOR

### Veterans' Employment and Training Service

### Notice of a Vacancy and Solicitation of Nominations for Appointment to the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO)

**AGENCY:** Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

**ACTION:** Notice.

**SUMMARY:** In accordance with the provisions of the Federal Advisory Committee Act (FACA) and its implementing regulations issued by the U.S. General Services Administration (GSA), the Secretary of Labor (the Secretary), is soliciting nominations from the public to fill one vacancy from a veterans service organization that has a national employment program to be considered for appointment as a member of the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO, or the Committee). The term of membership for the appointed member will run through January 31, 2022.

**DATES:** Nominations for membership on the Committee must be received no later than 11:59 p.m. EST on October 30, 2020. Packages received after this time will not be considered for the remainder of the current membership cycle ending January 31, 2022. The Committee looks to fill one vacancy as a result of this request. All nomination packages should be sent to the Designated Federal Official by email, *ACVETEO@dol.gov* with a subject line, ''2020 ACVETEO VSO Nomination''. For more information, contact Gregory B. Green, Designated Federal Official, ACVETEO, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–1312, Washington, DC 20210. Additional information regarding the Committee, including its charter, current membership list, annual reports and meeting minutes, may be found at *https://www.dol.gov/agencies/vets/about/advisorycommittee.*

**SUPPLEMENTARY INFORMATION:** The Committee's responsibilities are to: (a) Assess employment and training needs of veterans and their integration into the workforce; (b) determine the extent to which the programs and activities of the Department are meeting such needs; (c) assist the Assistant Secretary for Veterans' Employment and Training (ASVET) in conducting outreach to employers with respect to the training and skills of veterans and the

advantages afforded employers by hiring veterans; (d) make recommendations to the Secretary of Labor, through the ASVET, with respect to outreach activities and the employment and training needs of veterans; and (e) carry out such other activities deemed necessary to making required reports and recommendations under section 4110(f) of Title 38, U.S. Code. DOL is soliciting nominations to fill one vacancy on the Committee. The Committee is currently composed of 15 members, in addition to ex-officio members. As required by statute, the members of the Committee are appointed by the Secretary from the general public. DOL seeks nominees with the following experience:

(1) Diversity in professional and personal qualifications;

(2) Experience in military service;

(3) Current work with veterans;

(4) Veterans disability subject matter expertise;

(5) Experience working in large and complex organizations;

(6) Experience in transition assistance;

(7) Experience in the protection of employment and reemployment rights;

(8) Experience in education, skills training, integration into the workforce and outreach;

(9) Understanding of licensing and credentialing issues; and/or

(10) Experience in military/veteran apprenticeship programs.

*Requirements for Nomination Submission:* Nominations should be formatted in Microsoft Word or PDF (one nomination per nominator). The nomination package should include:

(1) Letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes, including military service, if applicable, that qualifies the nominee for service in this capacity).

(2) Statement from the nominee indicating willingness to regularly attend and participate in Committee meetings;

(3) Nominee's contact information, including name, mailing address, telephone number(s), and email address;

(4) Nominee's curriculum vitae or resume;

(5) Summary of the nominee's experience and qualifications relative to the experience listed above;

(6) Nominee biography;

(7) Provide a summary of the VSO's National Employment Program: To be considered as a Veteran Service Organization with a National Employment Program, the Veteran Service Organization must offer nationwide access to employment resources for all interested American veterans seeking employment.

(8) Recognition as a Veterans Service Organizations accredited by the Department of Veterans Affairs through the Office of the General Counsel, listed on this site: *https://www.va.gov/ogc/apps/accreditation/index.asp*.

(9) Statement that the nominee has no apparent conflicts of interest that would preclude membership.

(10) An affirmative statement that the nominee is not a federally registered lobbyist, and that the nominee understands that, if appointed, the nominee will not be allowed to continue to serve as an Advisory Committee member if the nominee becomes a federally registered lobbyist. Individual selected for appointment to the Committee will be reimbursed for per diem and travel for attending Committee meetings. The Department makes every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented. Every effort is made to ensure that a broad representation of geographic areas, gender, racial and ethnic minority groups, and the disabled are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information. An ethics review is conducted for each selected nominee.

Signed in Washington, DC, this 31st day of August 2020.

**John Lowry,**

*Assistant Secretary, Veterans' Employment and Training Service.*

[FR Doc. 2020–19596 Filed 9–3–20; 8:45 am]

**BILLING CODE 4510–79–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Request for Information on STEM Education

**AGENCY:** National Science Foundation.

**ACTION:** Notice of request for information.

**SUMMARY:** On behalf of the National Science and Technology Council's (NSTC's) Committee on STEM Education (CoSTEM) and in coordination with the White House Office of Science and Technology Policy (OSTP), the National Science Foundation (NSF) requests input related to the implementation of the Federal STEM Education Strategic Plan, *Charting a Course For Success: America's Strategy for STEM Education.*

**DATES:** Interested persons are invited to submit comments on or before 11:59 p.m. ET, October 19, 2020.

**ADDRESSES:** Comments submitted in response to this notice may be submitted online to: *CoSTEM@nsf.gov.* Email submissions should be machine-readable [PDF, Word] and not copy-protected. Submissions in the subject line of the email message should include ''Individual/Organization Name: STEM RFI Response'' (*e.g.,* Johnson High School: STEM RFI Response).

*Instructions:* Response to this RFI is voluntary. Each individual or organization is requested to submit only one response. Submission must not exceed 6 pages in 12 point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment. Comments containing references, studies, research, and other empirical data that are not widely published should include copies or electronic links of the referenced materials.

Please indicate on the first page of the response which question(s), identified by category and question number, you are responding to. Please only respond to the questions that are relevant to you and/or your stakeholders and provide a brief description of the perspective from which you are sharing (*e.g.,* I am a teacher, parent, or represent a non-profit STEM organization). If responding to more than one question, please identify the category and question number(s) (*e.g.,* ''Federal STEM Education Online Resource, questions 1–2'', ''Diversity, Equity, and Inclusion in STEM, question 4'', ''Strategic Partnerships, questions 9–11'', etc.) with specific response(s) directly below it.

No proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this RFI.

In accordance with Federal Acquisition Regulation 15.201(e), ''RFIs may be used when the Government does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted by the Government to form a binding contract.'' Additionally, those submitting responses are solely responsible for all expenses associated with response preparation.

**FOR FURTHER INFORMATION CONTACT:** For additional information, please direct your questions to Cindy Hasselbring,

OSTP, *STEM@ostp.eop.gov,* 202–456–4245.

**SUPPLEMENTARY INFORMATION:** This request is in alignment with 42 U.S.C. 6621(b)(5) of the America COMPETES Reauthorization Act of 2010, Public Law 111–358, which calls for CoSTEM to develop, implement, and update every 5 years a STEM Education Strategic Plan. This information request also addresses current and future changes in education systems that have been impacted by the COVID–19 pandemic. Information gathered from this request may be used to guide future Federal STEM education resource development.

*Categories in this Request for Information focus on the following elements of the Federal STEM Education Strategic Plan:*

- Future opportunities in STEM education;
- Develop STEM education digital resources;
- Increase diversity, equity, and inclusion in STEM;
- Engage students where disciplines converge;
- Develop and enrich strategic partnerships;
- Build computational literacy; and
- Community use and implementation of the Federal STEM Education Strategic Plan.

In December 2018, The White House released the Federal STEM Education Strategic Plan, *Charting a Course for Success: America's Strategy for STEM Education* to provide a vision for a future where all Americans have access to high-quality STEM education. This strategy was intended to serve as a ''North Star'' for the broader STEM community to help achieve its goals, pathways, and objectives.

The *goals* of the Federal STEM Education Strategic Plan:

- Build Strong Foundations for STEM Literacy;
- Increase Diversity, Equity, and Inclusion in STEM; and
- Prepare the STEM Workforce for the Future.

The Federal STEM Education Strategic Plan is built on four *pathways* representing a cross-cutting set of approaches, each with a specific set of objectives for achieving these goals:

- Develop and Enrich Strategic Partnerships;
- Engage Students where Disciplines Converge;
- Build Computational Literacy; and
- Operate with Transparency and Accountability.

These four pathways have the potential to catalyze and empower students, educators, employers, and communities to benefit learners at all levels and to harmonize the realization of a shared vision for American leadership in STEM literacy, innovation, and employment.

**Questions for Feedback**

Provided below are categories from which the Government is seeking your input. Please respond to those questions within your (organization's) area of expertise or need. In your response, please identify the category(s) and question number(s) to which you are responding.

**Future Opportunities in STEM Education**

In response to the COVID–19 pandemic, education systems (including preK–12, postsecondary, adult, and informal) were required to make a sudden shift to remote or asynchronous teaching and learning, and this may continue in the near term. Please provide insights to the questions below based on current experiences. For each response below please indicate the education system (preK–12, postsecondary, adult, and informal) that covers your response and whether you are addressing school systems, schools, teachers/faculty/instructors, learners, other, or more than one category.

1. What COVID–19 related digital barriers (*e.g.,* access to broadband or computers, digital learning platforms, online educational resources) have you found most prominent, impactful, or difficult to overcome? Are these barriers resolved fully, or partially? If resolved, how was that achieved? If not resolved, what barriers remain to resolving the challenge?

2. What new or existing educational programs, opportunities, or concepts would enhance remote (both synchronous and asynchronous) education? Please indicate which education system you are addressing and if the interventions are targeted toward schools, teachers/faculty/instructors (*e.g.,* virtual field experiences for preservice teachers, flexibility in scheduling classes, virtual internships, micro credentialing), learners (*e.g.,* pre-recorded sessions focused on enabling consistent instruction with individualized delivery options), or other areas.

3. What positive experiences using remote learning technologies have you had in recent months and how can they be enhanced or institutionalized to present new opportunities in STEM education? How has [or could] the Federal Government helped support these innovative technologies?

4. What are the greatest challenges that have emerged related to inequities in STEM with the shift to online education and training? What solutions did you identify, and what gaps remain in your ability to deliver/receive equitable STEM education services? How did you measure your solution's success?

5. What areas of professional learning would be most beneficial to educators providing remote instruction (*e.g.,* utilizing formative assessment, small group collaboration, facilitating meaningful discourse or inquiry, creating rigorous alternative assessments for those without access to technology/broadband)?

6. What data/information is the most important to collect about STEM education during the disruption of educational systems because of COVID–19? What data are you collecting currently related to the shift in education because of COVID–19?

7. What experience does your school system have with interoperable learning records or precision learning systems? If used, please share any barriers, solutions, or other information relevant to their effectiveness particularly related to digital barriers and the impact or effectiveness related to distance education. How were these concepts used or modified in response to COVID?

8. What actions did your STEM Learning Ecosystem take to support learning in response to COVID–19? Were these actions helpful? What barriers prevented you from taking additional actions that may have been useful?

**Develop STEM Education Digital Resources**

The Federal Government is seeking information on web-based STEM educational resources and opportunities for preK–12 teachers, post-secondary faculty, educational institutions, informal educators, parents, and students.

9. What type of web-based resources and opportunities would you hope to find on a STEM education website? Are there existing resource websites that could serve as a model for a Federal website? If so, please provide a link for reference. What aspects of this website should be utilized in a Federal website if such a site were developed?

10. Please describe your primary audience (*e.g.,* I primarily work with 7th grade science students in a formal classroom setting) and how the STEM education resources you identified above would help you serve your audience.

11. How would you like to see resources categorized (*e.g.,* subjects, topics, grade bands, Federal agency, other)? Do you have an example of another website that is categorized in this way? If so, please provide a link for reference.

**Increase Diversity, Equity, and Inclusion in STEM**

STEM education practices and policies at all levels should embody the values of inclusion and equity. All Americans deserve access to high-quality STEM education, regardless of geography, race, gender, ethnicity, socioeconomic status, veteran status, parental education attainment, disability status, learning challenges, and other social identities. For each response below, please indicate the education system or career experience for which you are responding.

12. What are the methods utilized by your organization to increase the recruitment, retention, inclusion, achievement, or advancement of individuals from groups that are underrepresented and underserved in STEM? For context, please briefly provide information on what groups your organization targets through these interventions? How are these interventions evaluated for success?

**Engage Students Where Disciplines Converge**

Real world STEM problems require students to ask and answer questions across traditional disciplinary boundaries. This type of transdisciplinary learning, or convergence, is encouraged to produce STEM-literate talent capable of integrating knowledge to produce innovative solutions. Toward this objective, the Federal STEM Education Strategic Plan aims to (1) enable STEM educators through upskilling, resourcing, and providing a forum to share best practices; (2) support the dissemination of transdisciplinary education best practices and programs, and (3) expand support for STEM learners to study transdisciplinary problems.

13. How do you or your organization use transdisciplinary learning, integrated STEM, convergence, or engineering design (*e.g.,* a community or global design/innovation challenge) in your experience? What topical areas in your curriculum do you teach to provide transdisciplinary learning opportunities? What approaches do you use to teach transdisciplinary learning? Why do you use this approach (*e.g.,* more engaging for students, school/administration promotes transdisciplinary learning) and how does it benefit your students' learning?

14. How has your ability to teach transdisciplinary concepts to your students changed in recent months because of the shift to remote teaching and learning? What teaching modalities have you employed to deliver transdisciplinary instruction virtually?

15. What training have you/your organization received in any of these approaches for teaching STEM education: transdisciplinary, integrated, convergence, or engineering design, etc.? Please describe the training, if any (including university coursework or professional development), that helped you/your organization prepare to teach STEM using an integrated or transdisciplinary approach. Why was that specific training helpful, and if not, what could be done differently?

16. If you are an educator or school system and interested in using a more integrated or transdisciplinary approach to teaching STEM, what professional development would help you teach in this way? What specific delivery mechanism work well for you (*e.g.,* online course, webinar, in-person workshop)? What technology tools would be helpful for you when using a transdisciplinary approach?

17. If you are a student, what specific delivery mechanism works well for you (*e.g.,* online course, webinar, in-person workshop)? What technology tools would be helpful for you to enhance your learning and engagement to deliver transdisciplinary education to your students?

**Develop and Enrich Strategic Partnerships**

The Federal Government seeks perspectives to building STEM learning ecosystems through cross-sector strategic partnerships that promote work-based learning programs aimed at reskilling and upskilling. For the following questions, a STEM education partnership is a group of multi-sector partners united by a common vision of creating accessible, inclusive STEM learning opportunities that increase STEM literacy, expose learners to multiple STEM career pathways, and prepare Americans for jobs of the future.

18. What factors drive successful work-based learning programs? What elements encourage or discourage students, schools, or industries from participating? How can Federal agencies expand partnerships with the private and non-profit sectors and educational institutions to train the workforce needed for jobs of the future through work-based learning opportunities? If your organization provides work-based learning opportunities, how has the COVID–19 pandemic impacted your program? How has your organization made adjustments in response?

19. If you are currently engaged in a STEM learning ecosystem, what are the characteristics of success? What is the role of the private sector in a successful STEM learning ecosystem? What is your STEM ecosystem doing to support STEM education since the COVID–19 pandemic began?

**Build Computational Literacy**

The Federal Government seeks information on building computational literacy in STEM education. In the Federal Strategy for STEM Education, computational literacy includes digital literacy, cybersafety, cyberethics, cybersecurity, data science, data security, intellectual property (IP), computational thinking, artificial intelligence, quantum information science, and digital platforms for teaching and learning. Considering this definition, please answer the questions below:

20. What are the benefits when integrating computational literacy within a STEM curriculum and/or with related standards, guidance, or resources? Please describe any challenges when integrating aspects of computational literacy into your instructional delivery.

21. What components, key concepts, or topics should be included to integrate computational literacy into STEM education at all levels? Please explain what they are and why they merit special attention.

22. What are existing programs, content, curriculum, or education and training opportunities that inform successful examples of building computational literacy in STEM education? Identify both Federal and non-federally sponsored research and programs.

23. What technologies and resources do you currently use (*e.g.,* apps, learning management systems, collaborative tools, STEM websites, websites linked to curriculum)? Are there others you would like to use, that you do not have access to both for in-person and remote teaching and learning?

**Community Use and Implementation of the Federal Stem Education Strategic Plan**

The Federal Government seeks information on community utilization of the Federal STEM Education Strategic Plan.

24. Please describe how your organization has used the Federal STEM

Education Strategic Plan. How does your work align with the goals and pathways identified in the Strategy (provided above)? What changes have you made to your program or activity in response to the Federal Strategy?

Thank you for taking the time to respond to this Request for Information. We appreciate your input.

Dated: August 31, 2020.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2020–19681 Filed 9–3–20; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 72–77; NRC–2020–0174]**

## In the Matter of Exelon Generation Company, LLC; Three Mile Island Generating Station, Unit 1; Independent Spent Fuel Storage Installation

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order; modification.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued a general license to the Exelon Generation Company, LLC (Exelon), authorizing the operation of the Three Mile Island Generating Station Independent Spent Fuel Storage Installation (ISFSI), in accordance with its regulations. The Order is being issued to Exelon to impose additional security requirements because Exelon has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of the NRC's regulations. The Order was issued August 27, 2020 and became effective immediately.

**DATES:** This Order became effective on August 27, 2020.

**ADDRESSES:** Please refer to Docket ID NRC–2020–0174 or NRC Docket No. 72–0077 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0174. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Tomeka Terry, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD 20852; telephone: 301–415–1488; email: *Tomeka.Terry@nrc.gov*.

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated: August 31, 2020.

For the Nuclear Regulatory Commission.

**John W. Lubinski,**

*Director, Office of Nuclear Material Safety and Safeguards.*

**ATTACHMENT—Order.**

**IN THE MATTER OF EXELON GENERATION COMPANY, LLC**

**THREE MILE ISLAND GENERATING STATION**

**INDEPENDENT SPENT FUEL STORAGE INSTALLATION**

**ORDER MODIFYING LICENSE (EFFECTIVE IMMEDIATELY)**

**I.**

Pursuant to section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC (or the Commission) is providing notice, in the matter of Exelon Generation Company, LLC's Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately). The text of the Order (not including Attachment 1, which contain Safeguards Information) is as follows.

**II.**

The NRC has issued a general license to Exelon Generation Company, LLC, (Exelon), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 72. This Order is being issued to Exelon because Exelon has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require licensees to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

**III.**

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and near Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, and the environment,

continue to be adequately protected, and that the common defense and security continue to be adequately protected, in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued Advisories, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the Three Mile Island Generating Station facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to promote the common defense and security and to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that these actions should be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that Exelon is implementing prudent measures to achieve a consistent level of protection to address the current threat environment, Exelon's general license issued pursuant to 10 CFR 72.210, ''General license issued,'' shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

**IV.**

Accordingly, pursuant to Sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the NRC's regulations in 10 CFR 2.202 and 10 CFR parts 50, 72, and 73, *it is hereby ordered,* effective immediately, that your general license is modified as follows:

A. Exelon shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in the Three Mile Island Generating Station physical security plan. Exelon shall demonstrate its ability to comply with the requirements in Attachments 1 and 2 to the Order no later than 365 days from the date of this Order or 90 days before the first day that spent fuel is initially placed in the ISFSI, whichever is earlier. Exelon must implement these requirements before initially placing spent fuel in the ISFSI. Additionally, Exelon must receive written verification from the NRC (Office of Nuclear Material Safety and Safeguards) that it has adequately demonstrated compliance with these requirements before initially placing spent fuel in the ISFSI.

B. 1. Exelon shall, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause Exelon to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide Exelon's justification for seeking relief from, or variation of, any specific requirement.

2. If Exelon considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, Exelon must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, Exelon must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

C. 1. Exelon shall, within twenty (20) days of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. Exelon shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Exelon's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals and documents produced by Exelon as a result of this Order, that contain Safeguards Information as defined by 10 CFR 73.22, shall be properly marked and handled, in accordance with 10 CFR 73.21 and 73.22.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

**V.**

In accordance with 10 CFR 2.202, Exelon must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the **Federal Register**. In addition, Exelon and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which Exelon relies and the reasons as to why the Order should not have been issued. If a person other than Exelon requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-filing process requires participants to submit and serve all adjudicatory documents electronically, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html*. Participants may not submit paper copies of their filings unless they seek an exemption in

accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submission is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. eastern time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., eastern time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary of the Commission, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by Exelon or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Exelon may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in Section III shall be final twenty (20) days from the date this Order is published in the **Federal Register**, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions of this Order, as specified in Section III, shall be final when the extension expires, if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated: August 31, 2020.

For the Nuclear Regulatory Commission.

**John W. Lubinski,**

*Director, Office of Nuclear Material Safety and Safeguards*

Attachment 1—Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) contains Safeguards Information and is not included in this **Federal Register** Notice.

Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations, dated July 2, 2020

*A. General Basis Criteria*

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage

installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the U.S. Nuclear Regulatory Commission (NRC)-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of section B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

*B. Additional Security Measures for Access Authorization Program*

1. The licensee shall develop, implement and maintain a program, or enhance its existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety for the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations must address at least the past three years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC, (such as a CHRC pursuant to compliance with orders for access to safeguards information) the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more than three years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent two years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (*e.g.,* driver's license; passport; government identification; state-, province-, or country-of-birth issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with ''Protection of Information,'' in Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, and shall verify and ensure, to the extent possible, the accuracy of the provided social security number and alien registration number, as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service for the past three years, and/or academic enrollment and attendance in lieu of employment, for the past five years.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government-granted security clearance (*i.e.,* Top Secret, Secret, or Confidential).

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local criminal history check shall cover all residences of record for the past three years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, *i.e.,* Top Secret, Secret or Confidential.

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed five years. Licensees need not conduct an independent reinvestigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, *i.e.,* Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

*C. Fingerprinting Program Requirements*

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the ''reviewing official,'' must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be prohibited from obtaining access.[1] Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore,

[1] The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process, is an administrative determination that is outside the scope of the Order.

if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to Safeguards Information (SGI) or unescorted access to any facility subject to NRC regulation, if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee under this Order, must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information,'' in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (*e.g.,* a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/employer who granted the Federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of three years from the date the individual no longer requires access to the facility.

*D. Prohibitions*

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge, or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

*E. Procedures for Processing Fingerprint Checks*

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Physical and Cyber Security Policy, Mail Stop T–08B20M, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Physical and Cyber Security Policy, marked for the attention of the Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *mailsvc.resource@nrc.gov*. Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards because of illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. To be able to submit secure electronic payments, licensees will need to establish an account with *Pay.Gov* (*https://www.pay.gov*). To request an account, the licensee shall send an email to *paygo@nrc.gov*. The email must include the licensee's company name, address, point of contact (POC), POC email address, and phone number. The NRC will forward the request to *Pay.Gov*; who will contact the licensee with a password and user lD. Once the licensee has established an account and submitted payment to *Pay.Gov,* they shall obtain a receipt. The licensee shall submit the receipt from *Pay.Gov* to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Reactor Security Branch, Division of Physical and Cyber Security Policy, at (301) 415–7513. Combined payment for multiple applications is acceptable. The application fee (currently $10) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for CHRCs, including the FBI fingerprint record.

*F. Right to Correct and Complete Information*

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.,* law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least 10 days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based on

the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

*G. Protection of Information*

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need to know.

4. The personal information obtained on an individual from a CHRC may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

[FR Doc. 2020–19573 Filed 9–3–20; 8:45 am]

BILLING CODE 7590–01–P

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2020–233 and CP2020–263; MC2020–234 and CP2020–264]**

## New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* September 10, 2020.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Docketed Proceeding(s)

### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

### II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–233 and CP2020–263; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 9 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 31, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory Stanton; *Comments Due:* September 10, 2020.

2. *Docket No(s).:* MC2020–234 and CP2020–264; *Filing Title:* USPS Request to Add Priority Mail Contract 653 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 31, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 10, 2020.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2020–19659 Filed 9–3–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89719; File No. SR–NSCC–2020–804]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice, as Modified by Amendment No. 1, To Introduce the Margin Liquidity Adjustment Charge and Include a Bid-Ask Risk Charge in the VaR Charge

September 1, 2020.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on July 30, 2020, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–NSCC–2020–804. On August 13, 2020, NSCC filed Amendment No. 1 to the advance notice, to make clarifications and corrections to the advance notice.[3] The advance notice, as modified by Amendment No. 1 (hereinafter, the ''Advance Notice''), is described in Items I, II and III below, which Items have been prepared by the clearing agency.[4] The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This Advance Notice consists of modifications to NSCC's Rules & Procedures (''Rules'') to (1) introduce a new component of the Clearing Fund, the Margin Liquidity Adjustment (''MLA'') charge, and (2) enhance the calculation of the volatility component of the Clearing Fund formula that utilizes a parametric Value-at-Risk (''VaR'') model (defined for purposes of this filing as the ''VaR Charge,'' and described in more detail in Item II(B)(i) below) by including a bid-ask spread risk charge, as described in greater detail below.[5]

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others*

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

*(B) Advance Notice Filed Pursuant to Section 806(e) of the Clearing Supervision Act*

Description of Proposed Change

NSCC is proposing to enhance its Clearing Fund methodology by (1) introducing a new component, the MLA charge, which would be calculated to address the risk presented to NSCC when a Member's portfolio contains large Net Unsettled Positions [6] in a particular group of securities with a similar risk profile or in a particular asset type (referred to as ''asset groups''), and (2) enhancing the calculation of the VaR Charge by including a bid-ask spread risk charge, as described in more detail below.[7]

(i) Overview of the Required Fund Deposit and NSCC's Clearing Fund

As part of its market risk management strategy, NSCC manages its credit exposure to Members by determining the appropriate Required Fund Deposits to the Clearing Fund and monitoring its sufficiency, as provided for in the Rules.[8] The Required Fund Deposit serves as each Member's margin.

The objective of a Member's Required Fund Deposit is to mitigate potential losses to NSCC associated with liquidating a Member's portfolio in the event NSCC ceases to act for that Member (hereinafter referred to as a ''default'').[9] The aggregate of all Members' Required Fund Deposits constitutes the Clearing Fund of NSCC. NSCC would access its Clearing Fund should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.

Pursuant to the Rules, each Member's Required Fund Deposit amount consists of a number of applicable components, each of which is calculated to address specific risks faced by NSCC, as identified within Procedure XV of the Rules.[10] The volatility component of each Member's Required Fund Deposit is designed to measure market price volatility and is calculated for Members' Net Unsettled Positions. The volatility component is designed to capture the market price risk associated with each Member's portfolio at a 99th percentile level of confidence. The VaR Charge is the volatility component applicable to most Net Unsettled Positions,[11] and usually comprises the largest portion of a Member's Required Fund Deposit. Procedure XV of the Rules currently provides that the VaR Charge shall be calculated in accordance with a generally accepted portfolio volatility margin model utilizing assumptions based on historical data as NSCC deems reasonable and a volatility range that NSCC deems appropriate.[12]

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[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Amendment No. 1 made clarifications and corrections to the description of the advance notice and Exhibits 3 and 5 of the filing, and these clarifications and corrections have been incorporated, as appropriate, into the description of the advance notice in Item I below.

[4] On July 30, 2020, NSCC filed this Advance Notice as a proposed rule change (SR–NSCC–2020–016) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 240.19b–4. On August 13, 2020, NSCC filed Amendment No. 1 to the proposed rule change to make similar clarifications and corrections to the proposed rule change. A copy of the proposed rule change, as modified by Amendment No. 1, is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[5] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[6] ''Net Unsettled Positions'' and ''Net Balance Order Unsettled Positions'' refer to net positions that have not yet passed their settlement date or did not settle on their settlement date, and are referred to collectively in this filing as Net Unsettled Positions. *See* Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *id.*

[7] The results of a study of the potential impact of adopting the proposed changes have been provided to the Commission.

[8] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters), *supra* note 4. NSCC's market risk management strategy is designed to comply with Rule 17Ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17Ad–22(e)(4).

[9] The Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. *See* Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 4.

[10] *Supra* note 4.

[11] As described in Procedure XV, Section I(A)(1)(a)(ii), (iii) and (iv), and Section I(A)(2)(a)(ii), (iii) and (iv) of the Rules, Net Unsettled Positions in certain securities are excluded from the VaR Charge and instead charged a volatility component that is calculated by multiplying the absolute value of those Net Unsettled Positions by a percentage. *Supra* note 4.

[12] Procedure XV, Section I(A)(1)(a)(i) and Section I(A)(2)(a)(i) of the Rules, *supra* note 4.

NSCC regularly assesses market and liquidity risks as such risks relate to its margining methodologies to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market. The proposed changes to include the MLA charge to its Clearing Fund methodology and to enhance the VaR Charge by including a bid-ask spread risk charge, as described below, are the result of NSCC's regular review of the effectiveness of its margining methodology.

(ii) Overview of Liquidation Transaction Costs and Proposed Changes

Each of the proposed changes addresses a similar, but separate, risk that NSCC faces increased transaction costs when it liquidates the Net Unsettled Positions of a defaulted Member due to the unique characteristics of that Member's portfolio. The transaction costs to NSCC to liquidate a defaulted Member's portfolio include both market impact costs and fixed costs. Market impact costs are the costs due to the marketability of a security, and generally increase when a portfolio contains large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type, as described more below. Fixed costs are the costs that generally do not fluctuate and may be caused by the bid-ask spread of a particular security. The bid-ask spread of a security accounts for the difference between the observed market price that a buyer is willing to pay for that security and the observed market price that a seller is willing to sell that security.

The transaction cost to liquidate a defaulted Member's portfolio is currently captured by the measurement of market risk through the calculation of the applicable volatility charge.[13] The proposed changes would supplement and enhance the current measurement of this market risk to address situations where the characteristics of the defaulted Member's portfolio could cause these costs to be higher than the amount collected for the applicable volatility charge.

First, as described in more detail below, the MLA charge is designed to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type. These positions may be more difficult to liquidate because a large number of securities with similar risk profiles could reduce the marketability of those large Net Unsettled Positions, increasing the market impact costs to NSCC. As described below, the MLA charge would supplement the applicable volatility charge.

Second, as described in more detail below, the bid-ask spread risk charge would address the risk that the transaction costs of liquidating a defaulted Member's Net Unsettled Positions may increase due to the fixed costs related to the bid-ask spread. As described below, this proposed change would be incorporated into, and, thereby, enhance the current measure of transaction costs through, the VaR Charge.

(iii) Proposed Margin Liquidity Adjustment Charge

In order to address the risks of an increased market impact cost presented by portfolios that contain large Net Unsettled Positions in the same asset group, NSCC is proposing to introduce a new component to the Clearing Fund formula, the MLA charge.

As noted above, a Member portfolio with large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type may be more difficult to liquidate in the market in the event the Member defaults because a concentration in that group of securities or in an asset type could reduce the marketability of those large Net Unsettled Positions. Therefore, such portfolios create a risk that NSCC may face increased market impact cost to liquidate that portfolio in the assumed margin period of risk of three business days at market prices.

The proposed MLA charge would be calculated to address this increased market impact cost by assessing sufficient margin to mitigate this risk. As described below, the proposed MLA charge would be calculated for different asset groups, and subgroups for the equities asset group. Essentially, the calculation is designed to compare the total market value of a Net Unsettled Position in a particular asset group or subgroup, which NSCC would be required to liquidate in the event of a Member default, to the available trading volume of that asset group or equities subgroup in the market.[14] If the market value of the Net Unsettled Position is large, as compared to the available trading volume of that asset group or subgroup, then there is an increased risk that NSCC would face additional market impact costs in liquidating that position in the event of a Member default. Therefore, the proposed calculation would provide NSCC with a measurement of the possible increased market impact cost that NSCC could face when it liquidates a large Net Unsettled Position in a particular asset group or subgroup.

Rather than calculate the market impact cost for each CUSIP, NSCC's MLA charge would estimate market impact cost at the portfolio-level using aggregated volume data. For example, as described in greater detail below, the calculation of market impact cost would include a measurement of the gross market value of the portfolio. Given the vast number of CUSIPs processed by NSCC, this approach is simpler and is expected to result in more predicable calculations of the MLA charge.

To calculate the MLA charge, NSCC would categorize securities into separate asset groups, which have similar risk profiles—(1) equities[15] (excluding equities defined as Illiquid Securities pursuant to the Rules[16]), (2) Illiquid Securities, (3) unit investment trusts, or UITs, (4) municipal bonds (including municipal bond exchange-traded products, or ''ETPs''), and (5) corporate bonds (including corporate bond ETPs). NSCC would then further segment the equities asset group into the following subgroups: (i) Micro-capitalization equities, (ii) small capitalization equities, (iii) medium capitalization equities, (iv) large capitalization equities, (v) treasury ETPs, and (vi) all other ETPs.[17]

[13] The calculation of the VaR Charge and the haircut-based volatility charge are described in Sections I.(A)(1)(a) and I.(A)(2)(a) of Procedure XV of the Rules. *Supra* note 4. The methodologies for these calculations and how they are designed to address risks faced by NSCC have been described in recent proposed rule change and advance notice filings. *See* Securities Exchange Act Release Nos. 82780 (February 26, 2018), 82 FR 9035 (March 2, 2018) (File No. SR–NSCC–2017–808); 82781 (February 26, 2018), 82 FR 9042 (March 2, 2018) (File No. SR–NSCC–2017–020).

[14] NSCC would determine average daily trading volume by reviewing data that is made publicly available by the Securities Industry and Financial Markets Association (''SIFMA''), at *https://www.sifma.org/resources/archive/research/statistics.*

[15] NSCC would exclude long positions in Family-Issued Securities, as defined in Rule 1 (Definitions) of the Rules, from the MLA charge. NSCC believes the margin charge applicable to long Net Unsettled Positions in Family-Issued Securities pursuant to Sections I.(A)(1)(a)(iv) and (2)(a)(iv) of Procedure XV of the Rules provides adequate mitigation of the risks presented by those Net Unsettled Positions, such that an MLA charge would not be triggered. *Supra* note 4.

[16] *See* Rule 1 (Definitions), *supra* note 4.

[17] Initially, the market capitalization categorizations would be: (i) Micro-capitalization equities would be less than $300 million, (ii) small capitalization equities would be equal to or greater than $300 million and less than $2 billion, (iii)

Continued

NSCC would first calculate a measurement of market impact cost for each asset group and equities subgroup for which a Member has Net Unsettled Positions in its portfolio. As described above, the calculation of an MLA charge is designed to measure the potential additional market impact cost to NSCC of closing out a large Net Unsettled Position in that particular asset group or equities subgroup.

Market Impact Cost Calculation for Market Capitalization Subgroups of Equities Asset Group

The market impact cost for each Net Unsettled Position in a market capitalization subgroup of the equities asset group would be calculated by multiplying four components: (1) An impact cost coefficient that is a multiple of the one-day market volatility of that subgroup and is designed to measure impact costs, (2) the gross market value of the Net Unsettled Position in that subgroup, (3) the square root of the gross market value of the Net Unsettled Position in that subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that subgroup, and (4) a measurement of the concentration of the Net Unsettled Position in that subgroup in the portfolio (as described in greater detail below).[18]

NSCC also represents that its measurement of the concentration of the Net Unsettled Position in the portfolio would include aggregating the relative weight of each CUSIP in that Net Unsettled Position relative to the weight of that CUSIP in the subgroup, such that a portfolio with fewer positions in a subgroup would have a higher measure of concentration for that subgroup.[19]

Market Impact Cost Calculation for the Other Asset Groups and Equities Subgroups

The market impact cost for Net Unsettled Positions in the municipal bond, corporate bond, Illiquid Securities and UIT asset groups and for Net Unsettled Positions in the treasury ETP and other ETP subgroups of the equities asset group would be calculated by multiplying three components: (1) An impact cost coefficient that is a multiple of the one-day market volatility of that asset group or subgroup, (2) the gross market value of the Net Unsettled Position in that asset group or subgroup, and (3) the square root of the gross market value of the Net Unsettled Position in that asset group or subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that subgroup.[20]

Total MLA Charge Calculation for Each Portfolio

For each asset group or subgroup, NSCC would compare the calculated market impact cost to a portion of the volatility charge that is allocated to Net Unsettled Positions in that asset group or subgroup (as determined by Sections I.(A)(1)(a) and I.(A)(2)(a) of Procedure XV of the Rules).[21] If the ratio of the calculated market impact cost to the applicable 1-day volatility charge is greater than a threshold, an MLA charge would be applied to that asset group or subgroup.[22] If the ratio of these two amounts is equal to or less than this threshold, an MLA charge would not be applied to that asset group or subgroup. The threshold would be based on an estimate of the market impact cost that is incorporated into the calculation of the applicable 1-day volatility charge, such that an MLA charge would apply only when the calculated market impact cost exceeds this threshold.

When applicable, an MLA charge for each asset group or subgroup would be calculated as a proportion of the product of (1) the amount by which the ratio of the calculated market impact cost to the applicable 1-day volatility charge exceeds the threshold, and (2) the 1-day volatility charge allocated to that asset group or subgroup.

For each Member portfolio, NSCC would add the MLA charges for Net Unsettled Positions in each of the subgroups of the equities asset group to determine an MLA charge for the Net Unsettled Positions in the equities asset group. NSCC would then add the MLA charge for Net Unsettled Positions in the equities asset group with each of the MLA charges for Net Unsettled Positions in the other asset groups to determine a total MLA charge for a Member.

The ratio of the calculated market impact cost to the 1-day volatility charge would also determine if NSCC would apply a downward adjustment, based on a scaling factor, to the total MLA charge, and the size of any adjustment. For Net Unsettled Positions that have a higher ratio of calculated market impact cost to the 1-day volatility charge, NSCC would apply a larger adjustment to the MLA charge by assuming that it would liquidate that position on a different timeframe than the assumed margin period of risk of three business days. For example, NSCC may be able to mitigate potential losses associated with liquidating a Member's portfolio by liquidating a Net Unsettled Position with a larger volatility charge over a longer timeframe. Therefore, when applicable, NSCC would apply a multiplier to the calculated MLA charge. When the ratio of calculated market impact cost to the 1-day volatility charge is lower, the multiplier would be one, and no adjustment would be applied; as the ratio gets higher the multiplier decreases and the MLA charge is adjusted downward.

The final MLA charge would be calculated daily and, when the charge is applicable, as described above, would be included as a component of Members' Required Fund Deposit.

Proposed Changes to NSCC Rules

The proposal described above would be implemented into Procedure XV of the NSCC Rules. Specifically, the proposed changes to Procedure XV would describe the calculation of the MLA charge in a new subsection (i) of Section I(A)(1) and a new subsection (g) of Section I(A)(2).

These new subsections would first identify each of the asset groups and subgroups. The proposed new subsections would then separately describe the two calculations of market

medium capitalization equities would be equal to or greater than $2 billion and less than $10 billion, and (iv) large capitalization equities would be equal to or greater than $10 billion. In determining the range of these market capitalization categorizations, NSCC would consult publications issued by sources it deems appropriate. NSCC would review these categories annually and any changes that NSCC deems appropriate would be subject to NSCC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework (''Model Risk Management Framework''). *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File No. SR–NSCC–2017–008); 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (File No. SR–NSCC–2018–009); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File No. SR–NSCC–2020–008).

[18] *See supra* note 13.

[19] The relative weight would be calculated by dividing the absolute market value of a single CUSIP in the Member's portfolio by the total absolute market value of that portfolio.

[20] *See supra* note 13.

[21] *Supra* note 4. NSCC's margining methodology uses a three-day assumed period of risk. For purposes of this calculation, NSCC would use a portion of the applicable volatility charge that is based on one-day assumed period of risk and calculated by applying a simple square-root of time scaling, referred to in this proposed rule change as ''1-day volatility charge.'' Any changes that NSCC deems appropriate to this assumed period of risk would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See supra* note 16.

[22] Initially, the threshold would be 0.4, because, currently, approximately 40 percent of the 1-day volatility charge addresses market impact costs. NSCC would review this threshold from time to time and any changes that NSCC deems appropriate would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

impact cost for these asset groups and subgroups by identifying the components of these calculations. The new subsections would state that NSCC would compare the calculated market impact cost to a portion of that Member's volatility charge, to determine if an MLA charge would be applied to an asset group or subgroup. The new subsections would then state that NSCC would add each of the applicable MLA charges calculated for each asset group together. Finally, the new subsections would state that NSCC may apply a downward adjusting scaling factor to result in a final MLA charge.

NSCC would also amend Section I(B)(2) of Procedure VX, which describes the Excess Capital Premium charge, to add the MLA charge to the list of Clearing Fund components that are excluded from the calculation of the Excess Capital Premium charge.[23] The Excess Capital Premium is imposed on a Member when the Member's Required Fund Deposit exceeds its excess net capital. NSCC believes that including the MLA charge in the calculation of the Excess Capital Premium could lead to more frequent and unnecessary Excess Capital Premium charges. This is not the intended purpose of the Excess Capital Premium charge and could place an unnecessary burden on Members.

(iv) Proposed Bid-Ask Spread Risk Charge

NSCC has identified potential risk that its margining methodologies do not account for the transaction costs related to bid-ask spread in the market that could be incurred when liquidating a portfolio. Bid-ask spreads account for the difference between the observed market price that a buyer is willing to pay for a security and the observed market price that a seller is willing to sell that security. Therefore, NSCC is proposing to include a bid-ask spread risk charge in the VaR Charge to address this risk.

In order to calculate this charge, NSCC would segment Member's portfolios into four bid-ask spread risk classes: (i) Large and medium capitalization equities, (ii) small capitalization equities, (iii) micro capitalization equities, and (iv) ETPs.[24]

Each risk class would be assigned a specific bid-ask spread haircut rate in the form of a basis point charge that would be applied to the gross market value in that particular risk class. The applicable bid-ask spread risk charge would be the product of the gross market value in a particular risk class in the Member's portfolio and the applicable basis point charge. The bid-ask spread risk charge would be calculated at the portfolio level, such that NSCC would aggregate the bid-ask spread risk charges of the applicable risk classes for the Member's portfolio.

NSCC proposes to review the haircut rates annually based on either the analysis of liquidation transaction costs related to the bid-ask spread that is conducted in connection with its annual simulation of a Member default or market data that is sourced from a third-party data vendor. Based on the analyses from recent years' simulation exercises, NSCC does not anticipate that these haircut rates would change significantly year over year. NSCC may also adjust the haircut rates following its annual model validation review, to the extent the results of that review indicate the current haircut rates are not adequate to address the risk presented by transaction costs from a bid-ask spread.[25]

The proposed initial haircuts are based on the analysis from the most recent annual default simulation and market data sourced from a third-party data vendor, and are listed in the table below:

| Class | Haircut (bps) |
|---|---|
| Large and Medium Capitalization Equities | 5.0 |
| Small Capitalization Equities | 12.3 |
| Micro Capitalization Equities | 23.1 |
| ETPs | 1.5 |

Proposed Changes to NSCC Rules

The proposal described above would be implemented into Procedure XV of the NSCC Rules. Specifically, NSCC would amend subsection (a)(i)(I) of Sections I(A)(1) and I(A)(2) of Procedure XV by stating that the calculations of the estimations of volatility described in these Sections shall include an additional bid-ask spread risk charge measured by multiplying the gross market value of each Net Unsettled Position by a basis point charge. The proposed change to this subsection would also state that the basis point charge would be based on four risk classes and would identify those risk classes.

(v) Implementation Timeframe

NSCC would implement the proposed changes no later than 10 Business Days after the later of the no objection to the Advance Notice and approval of the related proposed rule change[26] by the Commission. NSCC would announce the effective date of the proposed changes by Important Notice posted to its website.

Anticipated Effect on and Management of Risk

NSCC believes that the proposed changes to enhance the margining methodology as described above would enable NSCC to better limit its risk exposures to Members arising out of their Net Unsettled Positions.

As stated above, the proposed MLA charge is designed to help limit NSCC's exposures to the risks presented by a Member portfolio that contains large Net Unsettled Positions in securities of the same asset group, and would enhance NSCC's ability to address risks related to liquidating such positions in the event of a Member default. The proposed MLA charge would allow NSCC to collect sufficient financial resources to cover its exposure that it may face increased market impact costs in liquidating Net Unsettled Positions that is not captured by the applicable volatility charge.

The proposal to enhance the VaR Charge by including a bid-ask spread risk charge is also designed to help limit NSCC's exposures to the risks related to increased transaction costs due to the bid-ask spread in the market that could be incurred when liquidating a portfolio. Therefore, this proposed change would also help address NSCC's risks related to its ability to liquidate such positions in the event of a Member default.

By providing NSCC with a more effective measurement of its exposures, the proposed changes would also mitigate risk for Members because lowering the risk profile for NSCC would in turn lower the risk exposure that Members may have with respect to NSCC in its role as a central counterparty.

Consistency With Clearing Supervision Act

NSCC believes that the proposals are consistent with the Clearing Supervision Act, specifically with the risk management objectives and principles of Section 802(b), and with certain of the risk management standards adopted by the Commission pursuant to Section 805(a)(2), for the reasons described below.[27]

[23] *See* Section I.(B)(2) of Procedure XV of the Rules. *Supra* note 4.

[24] *See supra* note 16.

[25] All proposed changes to the haircuts would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

[26] *Supra* note 3.

[27] 12 U.S.C. 5464(a)(2) and (b)(1).

(i) Consistency With Section 805(b) of the Clearing Supervision Act

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[28]

NSCC believes the proposals are consistent with the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act and in the Covered Clearing Agency Standards.

First, the proposal would include the MLA charge as an additional component to the Clearing Fund. As described above, this new margin charge is designed to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type. These positions may be more difficult to liquidate in the market because a concentrating in that group of securities or in an asset type could reduce the marketability of those large Net Unsettled Positions, increasing the market impact costs to NSCC. The proposed MLA charge would allow NSCC to collect sufficient financial resources to cover its exposure that it may face increased market impact costs in liquidating Net Unsettled Positions that is not captured by the applicable volatility charge.

Second, the proposed bid-ask spread risk charge is designed to help limit NSCC's exposures to the risks related to increased transaction costs due to the bid-ask spread in the market that could be incurred when liquidating a portfolio. As stated above, this proposal would also help address NSCC's risks related to its ability to liquidate such positions in the event of a Member default.

Therefore, because the proposals are designed to enable NSCC to better limit its exposure to Members in the event of a Member default, NSCC believes they are consistent with promoting robust risk management. The proposals would also strengthen the liquidity of NSCC by requiring deposits to the Clearing Fund that are calculated to address the potential risks NSCC may face, which is one of NSCC's default liquidity resources.

As a result, NSCC believes the proposals would be consistent with the objectives and principles of Section 805(b) of the Clearing Supervision Act, which specify the promotion of robust risk management, promotion of safety and soundness, reduction of systemic risks and support of the stability of the broader financial system by, among other things, strengthening the liquidity of systemically important financial market utilities, such as NSCC.

(ii) Consistency With Rule 17Ad–22(e)(4)(i) and (6)(i) Under the Act

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like NSCC, and financial institutions engaged in designated activities for which the Commission is the supervisory agency or the appropriate financial regulator.[29] The Commission has accordingly adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act [30] and Section 17A of the Act (''Covered Clearing Agency Standards'').[31] The Covered Clearing Agency Standards require covered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[32]

NSCC believes that the proposed changes are consistent with Rules 17Ad–22(e)(4)(i) and (e)(6)(i) of the Covered Clearing Agency Standards [33] for the reasons described below.

Rule 17Ad–22(e)(4)(i) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[34]

As described above, NSCC believes that both of the proposed changes would enable it to better identify, measure, monitor, and, through the collection of Members' Required Fund Deposits, manage its credit exposures to Members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence.

Specifically, NSCC believes that the proposed MLA charge would effectively mitigate the risks related to large Net Unsettled Positions of securities in the same asset group within a portfolio and would address the potential increased risks NSCC may face related to its ability to liquidate such positions in the event of a Member default.

Therefore, NSCC believes that the proposal would enhance NSCC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. As such, NSCC believes the proposed changes are consistent with Rule 17Ad–22(e)(4)(i) under the Act.[35]

Additionally, NSCC believes that the proposed bid-ask spread risk charge would enhance NSCC's ability to identify, measure, monitor and manage its credit exposures to Members and those exposures arising from its payment, clearing, and settlement processes because the proposed changes would better ensure that NSCC maintains sufficient financial resources to cover its credit exposure to each Member with a high degree of confidence. NSCC believes that the proposed change would enable NSCC to more effectively identify, measure, monitor and manage its exposures to risks related to market price, and enable it to better limit its exposure to potential losses from Member defaults by providing a more effective measure of the risks related to market price. As described above, due to the bid-ask spread in the market, there is an observable transaction cost to liquidate a portfolio. The proposed bid-ask spread risk charge is designed to manage the risk related to this transaction cost in the event a Member's portfolio is liquidated. As such, NSCC believes that the proposed change would better address the potential risks that NSCC may face that are related to its ability liquidate a Member's Net Unsettled Positions in the event of that firm's default, and thereby enhance NSCC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully

[28] 12 U.S.C. 5464(b)(1).

[29] 12 U.S.C. 5464(a)(2).

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e).

[32] *Id.*

[33] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i).

[34] 17 CFR 240.17Ad–22(e)(4)(i).

[35] *Id.*

with a high degree of confidence. In this way, NSCC believes this proposed change is also consistent with Rule 17Ad–22(e)(4)(i) under the Act.[36]

Rule 17Ad–22(e)(6)(i) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[37]

The Required Fund Deposits are made up of risk-based components (as margin) that are calculated and assessed daily to limit NSCC's credit exposures to Members, including the VaR Charge. NSCC's proposed change to introduce an MLA charge is designed to more effectively address the risks presented by large Net Unsettled Positions in the same asset group. NSCC believes the addition of the MLA charge would enable NSCC to assess a more appropriate level of margin that accounts for these risks. This proposed change is designed to assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of portfolios that contain large Net Unsettled Positions in the same asset group and may be more difficult to liquidate in the event of a Member default. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[38]

Furthermore, NSCC believes that including the bid-ask spread risk charge within the calculation of the final VaR Charge would provide NSCC with a better assessment of its risks related to market price. This proposed change would enable NSCC to assess a more appropriate level of margin that accounts for this risk at the portfolio level. As such, each Member portfolio would be subject to a risk-based margining system that, at minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, consistent with Rule 17Ad–22(e)(6)(i) under the Act.[39]

[36] *Id.*

[37] 17 CFR 240.17Ad–22(e)(6)(i).

[38] *Id.*

[39] *Id.*

## III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its website of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2020–804 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2020–804. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2020–804 and should be submitted on or before September 21, 2020.

By the Commission.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–19656 Filed 9–3–20; 8:45 am]

BILLING CODE 8011–01–P

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89722; File No. SR–CboeBZX–2020–042]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Accommodate Exchange Listing and Trading of Options-Linked Securities

September 1, 2020.

On May 15, 2020, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BZX Rule 14.11(d) to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

permit Exchange listing and trading of Options-Linked Securities. The proposed rule change was published for comment in the **Federal Register** on June 3, 2020.[3]

On July 9, 2020, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change.

The Commission is issuing this order to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

## I. Description of the Proposal

Exchange Rule 14.11(d) provides for Exchange listing and trading of Securities Linked to the Performance of Indexes and Commodities (Including Currencies) (''Linked Securities'').[7] The Exchange proposes to amend Rule 14.11(d) to add Options-Linked Securities to the type of Linked Securities permitted to list and trade on the Exchange.

The proposed amendment would add Options-Linked Securities to the list of Linked-Securities set forth in paragraph (d) of Rule 14.11. Additionally, the proposal would provide that the payment at maturity with respect to Options-Linked Securities is based on the performance of U.S. exchange-traded options on any one or combination of the following: (a) Index Fund Shares; (b) Managed Fund Shares, (c) Exchange-Traded Fund Shares; (d) Linked Securities; (e) securities defined in Rule 14.11; (f) the S&P 100 Index, the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, the MSCI EAFE Index, the MSCI Emerging Markets Index, the NYSE FANG Index, the Russell 2000 Index, the Russell 1000 Index, the Russell 1000 Growth Index, the Russell 1000 Value Index, the Cboe Volatility Index, Communication Services Select Sector Index, the Consumer Discretionary Select Sector Index, the Consumer Staples Select Sector Index, the Energy Select Sector Index, the Financial Select Sector Index, the Health Care Select Sector Index, the Industrial Select Sector Index, the Materials Select Sector Index, the Real Estate Select Sector Index, the Technology Select Sector Index, or the Utilities Select Sector Index; or (g) a basket or index of any of the foregoing (''Options Reference Asset'').

The Exchange proposes that Option-Linked Securities[8] must meet both of the following initial listing criteria: (1) The value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; and (2) in the case of Options-Linked Securities that are periodically redeemable, the indicative value of the subject Options Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session. In addition, the Exchange will consider the suspension of trading in, and will initiate delisting proceedings pursuant to Rule 14.12 if any of the initial listing criteria described above are not continuously maintained. The Exchange also will consider the suspension of trading in, and will initiate delisting proceedings pursuant to Rule 14.12 under any of the following circumstances:

(A) If the aggregate market value or the principal amount of the Options-Linked Securities publicly held is less than $400,000;

(B) if an interruption to the dissemination of the value of the Options Reference Asset persists past the trading day in which it occurred or is no longer calculated or available and a new Options Reference Asset is substituted, unless the new Options Reference Asset meets the requirements of Rule 14.11(d)(2)(K); or

(C) if such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.[9]

According to the Exchange, the proposed standards would continue to ensure transparency surrounding the listing process for Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Assets, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Linked Securities. The Exchange further believes that its surveillance procedures are adequate to properly monitor the trading of Options-Linked Securities in all trading sessions and to deter and detect violations of Exchange Rules.

## II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2020–042 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[10] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[11] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.''[12]

[3] *See* Securities Exchange Act Release No. 88968 (May 28, 2020), 85 FR 34270 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 89267, 85 FR 42933 (July 15, 2020). The Commission designated September 1, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Rule 14.11(d) currently accommodates Exchange listing and trading of Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, and Multifactor Index-Linked Securities (collectively referred to as ''Linked Securities'').

[8] The proposal would move existing Rule 14.11(d)(2)(K)(v) (Multifactor Index-Linked Securities Listings Standards) to Rule 14.11(d)(2)(K)(vi), and would set forth the Option-Linked Securities Listing Standards in Rule 14.11(d)(2)(K)(v).

[9] According to the Exchange, the proposed continued listing criteria for Options-Linked Securities are substantially the same as existing Rules 14.11(d)(2)(K)(ii)(b) (Commodity-Linked Securities), 14.11(d)(2)(K)(iii)(c) (Fixed Income-Linked Securities), and 14.11(d)(2)(K)(iv)(c) (Futures-Linked Securities). The proposal would also add Options Reference Assets to the permitted types of Multifactor Reference Assets.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(5).

## III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[13]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by September 25, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 9, 2020.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[14] and any other issues raised by the proposed rule change under the Act. As discussed above, the Exchange proposes to adopt generic listing standards for Options-Linked Securities. The Exchange takes the position that the proposed Options-Linked Securities generic listing standards would continue to ensure transparency surrounding the listing process for Linked Securities. The Exchange also states that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities.

The Commission seeks commenters' views regarding whether the proposal is designed to protect investors and the public interest, and, in particular, whether there is adequate transparency and disclosure related to the options to which Options-Linked Securities or Multifactor Index-Linked Securities are proposed to be linked. In addition, the Commission seeks comment regarding whether additional requirements, either qualitative or quantitative, relating to either the generic listing standards for Options Linked Securities or the definition of Options Reference Assets, would help to ensure that the proposal is designed to prevent fraudulent and manipulative acts and practices.

Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBZX–2020–042 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2020–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2020–042 and should be submitted on or before September 25, 2020. Rebuttal comments should be submitted by October 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–19653 Filed 9–3–20; 8:45 am]

**BILLING CODE 8011–01–P**

[13] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[14] *See supra* note 3.

[15] 17 CFR 200.30–3(a)(57).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 34000; File No. 812–15133]**

## BlackRock ETF Trust III, et al.

August 31, 2020.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

**APPLICANTS:** BlackRock ETF Trust III (the ''Trust''), BlackRock Fund Advisors (the ''Adviser'') and BlackRock Investments, LLC (the ''Distributor'').

**SUMMARY OF APPLICATION:** Applicants request an order (''Order'') that permits: (a) ActiveShares ETFs (as described in the Reference Order (as defined below)) to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value; (c) certain affiliated persons of an ActiveShares ETF to deposit securities into, and receive securities from, the ActiveShares ETF in connection with the purchase and redemption of creation units; and (d) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the ActiveShares ETFs to acquire Shares of the ActiveShares ETFs. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be

amended from time to time (''Reference Order'').[1]

**FILING DATE:** The application was filed on June 3, 2020.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2020, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

**ADDRESSES:** The Commission: *Secretarys-Office@sec.gov.* Applicants: BlackRock ETF Trust III, BlackRock Fund Advisors and BlackRock Investments, LLC: c/o Benjamin J. Haskin, Willkie Farr & Gallagher LLP, *bhaskin@willkie.com.*

**FOR FURTHER INFORMATION CONTACT:** Adam Bolter, Senior Counsel, at (202) 551–6011 or David Nicolardi, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

## Applicants

1. The Trust is a statutory trust organized under the laws of the State of Delaware and will consist of one or more series operating as ActiveShares ETFs. The Trust will be registered as an open-end management investment company under the Act. Applicants seek relief with respect to Funds (as defined below), including an initial Fund (the ''Initial Fund''). The Funds will operate as ActiveShares ETFs as described in the Reference Order.[2]

2. The Adviser, a California corporation, will be the investment adviser to the Initial Fund. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser may enter into sub-advisory agreements with other investment advisers to act as sub-advisers with respect to the Funds (each a ''Sub-Adviser''). Any Sub-Adviser will be registered under the Advisers Act.

3. The Distributor is a Delaware limited liability company and a broker-dealer registered under the Securities Exchange Act of 1934, as amended, and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser and/or Sub-Adviser (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

## Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested Order would permit applicants to offer ActiveShares ETFs. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into a licensing agreement with Precidian Funds LLC in order to offer ActiveShares ETFs,[3] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Fund and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term ''Adviser''); (b) operates as an ActiveShares ETF as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference into the Order (each such company or series and the Initial Fund, a ''Fund'').[4]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants submit that for the reasons stated in the Reference Order the requested relief meets the exemptive standards under sections 6(c), 17(b) and 12(d)(1)(J) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–19561 Filed 9–3–20; 8:45 am]

**BILLING CODE 8011–01–P**

[1] Precidian ETFs Trust, *et al.,* Investment Company Act Rel. Nos. 33440 (April 8, 2019) (notice) and 33477 (May 20, 2019) (order).

[2] To facilitate arbitrage, an ActiveShares ETF disseminates a ''verified intraday indicative value'' or ''VIIV,'' reflecting the value of its portfolio holdings, calculated every second during the trading day. To protect the identity and weightings of its portfolio holdings, an ActiveShares ETF sells and redeems its Shares in creation units to authorized participants only through an unaffiliated broker-dealer acting on an agency basis.

[3] Aspects of the Funds are covered by intellectual property rights, including but not limited to those which are described in one or more patent applications.

[4] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference into the Order.

# SECURITIES AND EXCHANGE COMMISSION

## Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Wednesday, September 9, 2020.

**PLACE:** The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: September 2, 2020.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2020–19787 Filed 9–2–20; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89718; File No. SR–FICC–2020–802]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Advance Notice, as Modified by Amendment No. 1, To Introduce the Margin Liquidity Adjustment Charge and Include a Bid-Ask Risk Charge in the VaR Charges

September 1, 2020.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on July 30, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–FICC–2020–802. On August 13, 2020, FICC filed Amendment No. 1 to the advance notice, to make clarifications and corrections to the advance notice.[3] The advance notice, as modified by Amendment No. 1 (hereinafter, the ''Advance Notice''), is described in Items I, II and III below, which Items have been prepared by the clearing agency.[4] The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This Advance Notice consists of modifications to the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules'') and the FICC Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules,'' and together with the GSD Rules, ''Rules'') to introduce the Margin Liquidity Adjustment (''MLA'') charge as an additional component of GSD and MBSD's respective Clearing Funds, as described in greater detail below.[5]

The advance notice also consists of modifications to the GSD Rules, the MBSD Rules, the GSD Methodology Document—GSD Initial Market Risk Margin Model (''GSD QRM Methodology Document'') and the MBSD Methodology and Model Operations Document—MBSD Quantitative Risk Model (''MBSD QRM Methodology Document,'' and together with the GSD QRM Methodology Document, the ''QRM Methodology Documents'') in order to (i) enhance the calculation of the VaR Charges of GSD and MBSD to include a bid-ask spread risk charge, and (ii) make necessary technical changes to the QRM Methodology Documents in order to implement this proposed change.

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others*

FICC has not received or solicited any written comments relating to this proposal. FICC will notify the Commission of any written comments received by FICC.

*(B) Advance Notice Filed Pursuant to Section 806(e) of the Clearing Supervision Act*

Description of Proposed Change

FICC is proposing to enhance the methodology for calculating Required Fund Deposits to the respective Clearing Funds of GSD and MBSD by (1) introducing a new component, the MLA charge, which would be calculated to address the risk presented to FICC when a Member's portfolio contains large net unsettled positions in a particular group of securities with a similar risk profile

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Amendment No. 1 made clarifications and corrections to the description of the advance notice and Exhibits 3 and 5 of the filing, and these clarifications and corrections have been incorporated, as appropriate, into the description of the advance notice in Item I below.

[4] On July 30, 2020, FICC filed this Advance Notice as a proposed rule change (SR–FICC–2020–009) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 240.19b–4. On August 13, 2020, FICC filed Amendment No. 1 to the proposed rule change to make similar clarifications and corrections to the proposed rule change. A copy of the proposed rule change, as modified by Amendment No. 1, is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[5] Capitalized terms not defined herein are defined in the GSD Rules, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf,* and the MBSD Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf.*

or in a particular transaction type (referred to as ''asset groups''),[6] and (2) enhancing the calculation of the VaR Charges of GSD and MBSD by including a bid-ask spread risk charge, as described in more detail below.[7]

FICC is also proposing to make certain technical changes to the QRM Methodology Documents, as described in below, in order to implement the proposed enhancement to the VaR Charges.

(i) Overview of the Required Fund Deposits and the Clearing Funds

As part of its market risk management strategy, FICC manages its credit exposure to Members by determining the appropriate Required Fund Deposits to the GSD and MBSD Clearing Fund and monitoring their sufficiency, as provided for in the Rules.[8] The Required Fund Deposits serve as each Member's margin. The objective of a Member's Required Fund Deposit is to mitigate potential losses to FICC associated with liquidating a Member's portfolio in the event FICC ceases to act for that Member (hereinafter referred to as a ''default'').[9] The aggregate of all Members' Required Fund Deposits constitutes the respective GSD and MBSD Clearing Funds. FICC would access the GSD and MBSD Clearing Funds should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that Member's portfolio.

Pursuant to the Rules, each Member's Required Fund Deposit amount consists of a number of applicable components, each of which is calculated to address specific risks faced by FICC, as identified within the Rules.[10] The VaR Charge comprises the largest portion of a Member's Required Fund Deposit amount. Currently, the GSD QRM Methodology Document states that the total VaR Charge for each portfolio is the sum of the sensitivity VaR of the portfolio plus the haircut charges plus the repo interest volatility charges plus the pool/TBA basis charge. In the MBSD QRM Methodology Document, the current description of the total VaR Charge states that it is the sum of the designated VaR Charge and the haircut charge.

The VaR Charge is calculated using a risk-based margin methodology that is intended to capture the risks related to market price that is associated with the securities in a Member's portfolio. This risk-based margin methodology is designed to project the potential losses that could occur in connection with the liquidation of a defaulting Member's portfolio, assuming a portfolio would take three days to liquidate in normal market conditions. The projected liquidation gains or losses are used to determine the amount of the VaR Charge, which is calculated to cover projected liquidation losses at 99 percent confidence level for Members.[11]

FICC regularly assesses market and liquidity risks as such risks relate to its margining methodologies to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market. The proposed changes to include the MLA charge to its Clearing Fund methodology and to enhance the VaR Charges by including a bid-ask spread risk charge, as described below, are the result of FICC's regular review of the effectiveness of its margining methodology.

(ii) Overview of Liquidation Transaction Costs and Proposed Changes

Each of the proposed changes addresses a similar, but separate, risk that FICC faces increased transaction costs when it liquidates the net unsettled positions of a defaulted Member due to the unique characteristics of that Member's portfolio. The transaction costs to FICC to liquidate a defaulted Member's portfolio include both market impact costs and fixed costs. Market impact costs are the costs due to the marketability of a security, and generally increase when a portfolio contains large net unsettled positions in a particular group of securities with a similar risk profile or in a particular transaction type, as described more below. Fixed costs are the costs that generally do not fluctuate and may be caused by the bid-ask spread of a particular security. The bid-ask spread of a security accounts for the difference between the observed market price that a buyer is willing to pay for that security and the observed market price that a seller is willing to sell that security.

The transaction cost to liquidate a defaulted Member's portfolio is currently captured by the measurement of market risk through the calculation of the VaR Charge.[12] The proposed changes would supplement and enhance the current measurement of this market risk to address situations where the characteristics of the defaulted Member's portfolio could cause these costs to be higher than the amount collected for the VaR Charge.

First, as described in more detail below, the MLA charge is designed to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large net unsettled positions in a particular group of securities with a similar risk profile or in a particular transaction type. These positions may be more difficult to liquidate because a large number of securities with similar risk profiles could reduce the marketability of those large net unsettled positions, increasing the market impact costs to FICC. As described below, the MLA charge would supplement the VaR Charge.

Second, as described in more detail below, the bid-ask spread risk charge would address the risk that the transaction costs of liquidating a defaulted Member's net unsettled positions may increase due to the fixed costs related to the bid-ask spread. As described below, this proposed change would be incorporated into, and, thereby, enhance the current measure of transaction costs through, the VaR Charge.

(iii) Proposed Margin Liquidity Adjustment Charge

In order to address the risks of an increased market impact cost presented by portfolios that contain large net unsettled positions in the same asset group, FICC is proposing to introduce a new component to the GSD and MBSD Clearing Fund formulas, the MLA charge.

As noted above, a Member portfolio with large net unsettled positions in a

[6] References herein to ''Members'' refer to GSD Netting Members and MBSD Clearing Members, as such terms are defined in the Rules. References herein to ''net unsettled positions'' refer to, with respect to GSD, Net Unsettled Positions, as such term is defined in GSD Rule 1 (Definitions) and, with respect to MBSD, refers to the net positions that have not yet settled. *Supra* note 4.

[7] The results of a study of the potential impact of adopting the proposed changes have been provided to the Commission.

[8] *See* GSD Rule 4 (Clearing Fund and Loss Allocation) and MBSD Rule 4 (Clearing Fund Formula and Loss Allocation), *supra* note 4. FICC's market risk management strategy is designed to comply with Rule 17Ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17Ad–22(e)(4).

[9] The Rules identify when FICC may cease to act for a Member and the types of actions FICC may take. For example, FICC may suspend a firm's membership with FICC or prohibit or limit a Member's access to FICC's services in the event that Member defaults on a financial or other obligation to FICC. *See* GSD Rule 21 (Restrictions on Access to Services), and MBSD Rule 14 (Restrictions on Access to Services), of the Rules, *supra* note 4.

[10] *Supra* note 4.

[11] Unregistered Investment Pool Clearing Members are subject to a VaR Charge with a minimum target confidence level assumption of 99.5 percent. *See* MBSD Rule 4, Section 2(c), *supra* note 4.

[12] The calculation of the VaR Charge is described in GSD Rule 1 (Definitions) and MBSD Rules 1 (Definitions). *Supra* note 4.

particular group of securities with a similar risk profile or in a particular transaction type may be more difficult to liquidate in the market in the event the Member defaults because a concentration in that group of securities or in a transaction type could reduce the marketability of those large net unsettled positions. Therefore, such portfolios create a risk that FICC may face increased market impact cost to liquidate that portfolio in the assumed margin period of risk of three business days at market prices.

The proposed MLA charge would be calculated to address this increased market impact cost by assessing sufficient margin to mitigate this risk. As described below, the proposed MLA charge would be calculated for different asset groups. Essentially, the calculation is designed to compare the total market value of a net unsettled position in a particular asset group, which FICC would be required to liquidate in the event of a Member default, to the available trading volume of that asset group or equities subgroup in the market.[13] If the market value of the net unsettled position is large, as compared to the available trading volume of that asset group, then there is an increased risk that FICC would face additional market impact costs in liquidating that position in the event of a Member default. Therefore, the proposed calculation would provide FICC with a measurement of the possible increased market impact cost that FICC could face when it liquidates a large net unsettled position in a particular asset group.

To calculate the MLA charge, FICC would categorize securities into separate asset groups. For GSD, asset groups would include the following, each of which have similar risk profiles: (a) U.S. Treasury securities, which would be further categorized by maturity—those maturing in (i) less than one year, (ii) equal to or more than one year and less than two years, (iii) equal to or more than two years and less than five years, (iv) equal to or more than five years and less than ten years, and (v) equal to or more than ten years; (b) Treasury-Inflation Protected Securities (''TIPS''), which would be further categorized by maturity—those maturing in (i) less than two years, (ii) equal to or more than two years and less than six years, (iii) equal to or more than six years and less than eleven years, and (iv) equal to or more than eleven years; (c) U.S. agency bonds; and (d) mortgage pools transactions. For MBSD, to-be-announced (''TBA'') transactions, Specified Pool Trades and Stipulated Trades would be included in one mortgage-backed securities asset group.

FICC would first calculate a measurement of market impact cost with respect to the net unsettled positions of a Member in each of these asset groups. As described above, the calculation of an MLA charge is designed to measure the potential additional market impact cost to FICC of closing out a large net unsettled position in that particular asset group.

To determine the market impact cost for each net unsettled position in Treasuries maturing less than one year and TIPS for GSD and in the mortgage-backed securities asset group for MBSD, FICC would use the directional market impact cost, which is a function of the net unsettled position's net directional market value.[14] To determine the market impact cost for all other net unsettled positions, FICC would add together two components: (1) The directional market impact cost, as described above, and (2) the basis cost, which is based on the net unsettled position's gross market value.[15]

The calculation of market impact cost for net unsettled positions in Treasuries maturing less than one year and TIPS for GSD and in the mortgage-backed securities asset group for MBSD would not include basis cost because basis risk is negligible for these types of positions.

For all asset groups, when determining the market impact costs, the net directional market value and the gross market value of the net unsettled positions would be divided by the average daily volumes of the securities in that asset group over a lookback period.[16]

FICC would then compare the calculated market impact cost to a portion of the VaR Charge that is allocated to net unsettled positions in those asset groups.[17] If the ratio of the calculated market impact cost to the 1-day VaR Charge is greater than a threshold, an MLA charge would be applied to that asset group.[18] If the ratio of these two amounts is equal to or less than this threshold, an MLA charge would not be applied to that asset group. The threshold would be based on an estimate of the market impact cost that is incorporated into the calculation of the 1-day VaR charge, such that an MLA charge would apply only when the calculated market impact cost exceeds this threshold.

When applicable, an MLA charge for each asset group would be calculated as a proportion of the product of (1) the amount by which the ratio of the calculated market impact cost to the applicable 1-day VaR charge exceeds the threshold, and (2) the 1-day VaR charge allocated to that asset group.

For each Member portfolio, FICC would add the MLA charges for net unsettled positions in each asset group to determine a total MLA charge for a Member.

The ratio of the calculated market impact cost to the 1-day VaR Charge would also determine if FICC would apply a downward adjustment, based on a scaling factor, to the total MLA charge, and the size of any adjustment. For net unsettled positions that have a higher ratio of calculated market impact cost to the 1-day VaR Charge, FICC would apply a larger adjustment to the MLA charge by assuming that it would liquidate that position on a different timeframe than the assumed margin period of risk of three business days. For example, FICC may be able to mitigate potential losses associated with liquidating a Member's portfolio by liquidating a net unsettled position with a larger VaR Charge over a longer timeframe. Therefore, when applicable, FICC would apply a multiplier to the calculated MLA charge. When the ratio of calculated market impact cost to the 1-day VaR Charge is lower, the

[13] FICC would determine average daily trading volume by reviewing data that is made publicly available by the Securities Industry and Financial Markets Association (''SIFMA''), at *https://www.sifma.org/resources/archive/research/statistics.*

[14] The net directional market value of an asset group within a portfolio is calculated as the absolute difference between the market value of the long net unsettled positions in that asset group, and the market value of the short net unsettled positions in that asset group. For example, if the market value of the long net unsettled positions is $100,000, and the market value of the short net unsettled positions is $150,000, the net directional market value of the asset group is $50,000.

[15] To determine the gross market value of the net unsettled positions in each asset group, FICC would sum the absolute value of each CUSIP in the asset group.

[16] *Supra* note 12.

[17] FICC's margining methodology uses a three-day assumed period of risk. For purposes of this calculation, FICC would use a portion of the VaR Charge that is based on one-day assumed period of risk and calculated by applying a simple square-root of time scaling, referred to in this proposed rule change as ''1-day VaR Charge.'' Any changes that FICC deems appropriate to this assumed period of risk would be subject to FICC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework (''Model Risk Management Framework''). *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File No. SR–FICC–2017–014); 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (File No. SR–FICC–2018–010); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File No. SR–FICC–2020–004).

[18] FICC would review the method for calculating the thresholds from time to time and any changes that FICC deems appropriate would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

multiplier would be one, and no adjustment would be applied; as the ratio gets higher the multiplier decreases and the MLA charge is adjusted downward.

The final MLA charge would be calculated daily and, when the charge is applicable, as described above, would be included as a component of Members' Required Fund Deposit.

MLA Excess Amount for GSD Sponsored Members

For GSD, the calculation of the MLA charge for a Sponsored Member that clears through single account sponsored by a Sponsoring Member would be the same as described above. For a GSD Sponsored Member that clears through multiple accounts sponsored by multiple Sponsoring Members, in addition to calculating an MLA charge for each account (as described above), FICC would also calculate an MLA charge for the consolidated portfolio.

If the MLA charge of the consolidated portfolio is higher than the sum of all MLA charges for each account of the Sponsored Member, the Sponsored Member would be charged the amount of such difference, to be referred to as the ''MLA Excess Amount,'' in addition to the applicable MLA charge. If the MLA charge of the consolidated portfolio is not higher than the sum of all MLA charges for each account of the Sponsored Member, then the Sponsored Member will only be charged an MLA charge for each sponsored account, as applicable.

The MLA Excess Amount is designed to capture the additional market impact cost that could be incurred when a Sponsored Member defaults, and each of the Sponsoring Members liquidates net unsettled positions associated with that defaulted Sponsored Member. If large net unsettled positions in the same asset group are being liquidated by multiple Sponsoring Members, the market impact cost to liquidate those positions could increase. The MLA Excess Amount would address this additional market impact cost by capturing any difference between the calculations of the MLA charge for each sponsored account and for the consolidated portfolio.

Proposed Changes to GSD and MBSD Rules

The proposal described above would be implemented into the GSD Rules and MBSD Rules. Specifically, FICC would amend GSD Rule 1 (Definitions) and MBSD Rule 1 (Definitions) to include a description of the MLA charge.

The proposed change to GSD Rule 1 (Definitions) would first identify each of the asset groups and would then separately describe the two calculations of market impact cost by these asset groups by identifying the components of these calculations. The proposed definition would state that GSD would compare the calculated market impact cost to a portion of that Member's VaR Charge, to determine if an MLA charge would be applied to an asset group. The proposed definition would then state that GSD would add each of the applicable MLA charges calculated for each asset group together. Finally, the proposed definition would state that GSD may apply a downward adjusting scaling factor to result in a final MLA charge. The proposed change to GSD Rule 1 (Definitions) would also include a definition of the ''MLA Excess Amount.'' The proposed definition would state that it would be an additional charge applicable to Sponsored Members that clear through multiple accounts sponsored by multiple Sponsoring Members and would describe how the additional charge would be determined.

The proposed change to MBSD Rule 1 (Definitions) would define the MBS asset group, for purposes of calculating this charge, and would then describe the calculation of market impact cost for that asst group by identifying the components of this calculation. The proposed definition would state that MBSD would compare the calculated market impact cost to a portion of the Member's VaR Charge, to determine if an MLA charge would be applied to a net unsettled position. Finally, the proposed definition would state that MBSD may apply a downward adjusting scaling factor to result in a final MLA charge.

FICC would also amend GSD Rule 4 (Clearing Fund and Loss Allocation) and MBSD Rule 4 (Clearing Fund and Loss Allocation) to include the MLA charge as a component of the Clearing Fund formula.

(iv) Proposed Bid-Ask Spread Risk Charge

FICC has identified potential risk that its margining methodologies do not account for the transaction costs related to bid-ask spread in the market that could be incurred when liquidating a portfolio. Bid-ask spreads account for the difference between the observed market price that a buyer is willing to pay for a security and the observed market price that a seller is willing to sell that security. Therefore, FICC is proposing to amend the VaR models of GSD and MBSD to include a bid-ask spread risk charge in the VaR Charges of GSD and MBSD to address this risk.

In order to calculate this charge, GSD would segment Members' portfolios into separate bid-ask spread risk classes by product type and maturity. The bid-ask spread risk classes would be separated into the following types: (a) Mortgage pools (''MBS''); (b) TIPS; (c) U.S. agency bonds; and (d) U.S. Treasury securities, which would be further segmented into separate classes based on maturities as follows: (i) Less than five years, (ii) equal to or more than five years and less than ten years, and (iii) equal to or more than ten years. FICC would further segment the U.S. Treasury securities into separate classes based on maturities.

Only the MBS asset group is applicable to MBSD Member portfolios. FICC would exclude Option Contracts in to-be-announced (''TBA'') transactions from the bid-ask spread risk charge because, in the event of a Member default, FICC would liquidate any Option Contracts in TBAs in a Member's portfolio at the intrinsic value of the Option Contract and, therefore, does not face a transaction cost related to the bid-ask spread.

Each product type and maturity risk class would be assigned a specific bid-ask spread haircut rate in the form of a basis point charge that would be applied to the gross market value in that particular risk class. The applicable bid-ask spread risk charge would be the product of the gross market value in a particular risk class in the Member's portfolio and the applicable basis point charge. The bid-ask spread risk charge would be calculated at the portfolio level, such that FICC would aggregate the bid-ask spread risk charges of the applicable risk classes for the Member's portfolio.

FICC proposes to review the haircut rates annually based on either the analysis of liquidation transaction costs related to the bid-ask spread that is conducted in connection with its annual simulation of a Member default or market data that is sourced from a third-party data vendor. Based on the analyses from recent years' simulation exercises, FICC does not anticipate that these haircut rates would change significantly year over year. FICC may also adjust the haircut rates following its annual model validation review, to the extent the results of that review indicate the current haircut rates are not adequate to address the risk presented by transaction costs from a bid-ask spread.[19]

[19] All proposed changes to the haircuts would be subject to FICC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

The proposed initial haircuts are based on the analysis from the most recent annual default simulation and market data sourced from a third-party data vendor, and are listed in the table below:

| Class | Asset class | Maturity | Haircut (bps) |
|---|---|---|---|
| MBS | MBS | All | 0.8 |
| TIPS | TIPS | All | 2.1 |
| Agency | Agency bonds | All | 3.8 |
| Treasury 5– | Treasury | < 5 years | 0.6 |
| Treasury 5–10 | Treasury | 5–10 years | 0.7 |
| Treasury 10+ | Treasury | >10 years | 0.7 |

Proposed Changes to GSD and MBSD Rules

The proposal described above would be implemented into the GSD Rules and MBSD Rules. Specifically, FICC would include a description of the bid-ask spread risk charge in the current definitions of the VaR Charge in GSD Rule 1 (Definitions) and MBSD Rule 1 (Definitions). The proposed change would state that the calculations the VaR Charge shall include an additional bid-ask spread risk charge measured by multiplying the gross market value of each net unsettled position by a basis point charge. The proposed change would also state that the basis point charge would be based on six risk classes and would identify those risk classes.

Proposed Changes to QRM Methodology Documents

To implement this proposal, FICC is proposing to amend the QRM Methodology Documents to describe the bid-ask spread risk charge. Specifically, FICC would describe (i) that the bid-ask spread risk charge is designed to mitigate the risk related to transaction costs in liquidating a portfolio in the event of a Member default; (ii) how the bid-ask spread risk charge would be calculated; and (ii) the impact analysis that was conducted in each of the QRM Methodology Documents. The GSD QRM Methodology Document would describe the proposed six classes (listed in the table above). The MBSD QRM Methodology Document would state that the only class for MBSD portfolios is the MBS asset class, and that the Option Contracts in TBAs would be excluded from the proposed charge. Finally, FICC would update the descriptions of the total VaR Charge in the QRM Methodology Documents to include the bid-ask spread risk charge as a component of this charge.

(v) Proposed Technical Changes

Finally, FICC would amend the QRM Methodology Documents to re-number the sections and tables, and update certain section titles, as necessary, to add a new section that describes the proposed bid-ask spread risk charge.

(vi) Implementation Timeframe

FICC would implement the proposed changes no later than 10 Business Days after the later of the no objection to the Advance Notice and approval of the related proposed rule change [20] by the Commission. FICC would announce the effective date of the proposed changes by Important Notice posted to its website.

Anticipated Effect on and Management of Risk

FICC believes that the proposed changes to enhance the margining methodology as described above would enable FICC to better limit its risk exposures to Members arising out of their net unsettled positions.

As stated above, the proposed MLA charge is designed to help limit FICC's exposures to the risks presented by a Member portfolio that contains large net unsettled positions in securities of the same asset group and would enhance FICC's ability to address risks related to liquidating such positions in the event of a Member default. The proposed MLA charge would allow FICC to collect sufficient financial resources to cover its exposure that it may face an increased market impact cost in liquidating net unsettled positions that is not captured by the VaR Charge.

As described above, the proposed MLA Excess Amount is designed to capture any additional market impact cost that could be incurred when each of the Sponsoring Members liquidates large net unsettled positions in securities of the same asset group that are all associated with one defaulted Sponsored Member.

The proposal to enhance the VaR Charges by including a bid-ask spread risk charge is also designed to help limit FICC's exposures to the risks related to increased transaction costs due to the bid-ask spread in the market that could be incurred when liquidating a portfolio. Therefore, this proposed change would also help address FICC's risks related to its ability to liquidate such positions in the event of a Member default.

By providing FICC with a more effective measurement of its exposures, the proposed changes would also mitigate risk for Members because lowering the risk profile for FICC would in turn lower the risk exposure that Members may have with respect to FICC in its role as a central counterparty.

Consistency With Clearing Supervision Act

FICC believes that the proposals are consistent with the Clearing Supervision Act, specifically with the risk management objectives and principles of Section 802(b), and with certain of the risk management standards adopted by the Commission pursuant to Section 805(a)(2), for the reasons described below.[21]

(i) Consistency With Section 805(b) of the Clearing Supervision Act

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[22]

FICC believes the proposals are consistent with the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act and in the Covered Clearing Agency Standards.

First, the proposal would include the MLA charge as an additional component to the Clearing Fund. As described above, this new margin charge is designed to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large net

[20] *Supra* note 3.

[21] 12 U.S.C. 5464(a)(2) and (b)(1).

[22] 12 U.S.C. 5464(b)(1).

unsettled positions in a particular group of securities with a similar risk profile or in a particular transaction type. These positions may be more difficult to liquidate in the market because a concentration in that group of securities or in a transaction type could reduce the marketability of those large net unsettled positions, increasing the market impact costs to FICC. The proposed MLA charge would allow FICC to collect sufficient financial resources to cover its exposure that it may face increased market impact costs in liquidating net unsettled positions that is not captured by the VaR Charge.

Additionally, the proposed MLA Excess Amount would capture additional market impact cost that could be incurred when each of the Sponsoring Members liquidates large net unsettled positions in securities of the same asset group that are all associated with one defaulted Sponsored Member.

Second, the proposed bid-ask spread risk charge is designed to help limit FICC's exposures to the risks related to increased transaction costs due to the bid-ask spread in the market that could be incurred when liquidating a portfolio. As stated above, this proposal would also help address FICC's risks related to its ability to liquidate such positions in the event of a Member default.

Therefore, because the proposals are designed to enable FICC to better limit its exposure to Members in the event of a Member default, FICC believes they are consistent with promoting robust risk management. The proposals would also strengthen the liquidity of FICC by requiring deposits to the Clearing Fund that are calculated to address the potential risks FICC may face, which is one of FICC's default liquidity resources.

As a result, FICC believes the proposals would be consistent with the objectives and principles of Section 805(b) of the Clearing Supervision Act, which specify the promotion of robust risk management, promotion of safety and soundness, reduction of systemic risks and support of the stability of the broader financial system by, among other things, strengthening the liquidity of systemically important financial market utilities, such as FICC.

(ii) Consistency With Rule 17Ad–22(e)(4)(i) and (6)(i) Under the Act

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like FICC, and financial institutions engaged in designated activities for which the Commission is the supervisory agency or the appropriate financial regulator.[23] The Commission has accordingly adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act[24] and Section 17A of the Act (''Covered Clearing Agency Standards'').[25] The Covered Clearing Agency Standards require covered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[26]

FICC believes that the proposed changes are consistent with Rules 17Ad–22(e)(4)(i) and (e)(6)(i) of the Covered Clearing Agency Standards[27] for the reasons described below.

Rule 17Ad–22(e)(4)(i) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[28]

As described above, FICC believes that both of the proposed changes would enable it to better identify, measure, monitor, and, through the collection of Members' Required Fund Deposits, manage its credit exposures to Members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence.

Specifically, FICC believes that the proposed MLA charge would effectively mitigate the risks related to large net unsettled positions of securities in the same asset group within a portfolio and would address the potential increased risks FICC may face related to its ability to liquidate such positions in the event of a Member default. The proposed MLA Excess Amount would supplement this proposed charge to capture any additional market impact cost related to Sponsored Members that clear through multiple accounts with multiple Sponsoring Members.

Therefore, FICC believes that the proposal would enhance FICC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. As such, FICC believes the proposed changes are consistent with Rule 17Ad–22(e)(4)(i) under the Act.[29]

Additionally, FICC believes that the proposed bid-ask spread risk charge would enhance FICC's ability to identify, measure, monitor and manage its credit exposures to Members and those exposures arising from its payment, clearing, and settlement processes because the proposed changes would better ensure that FICC maintains sufficient financial resources to cover its credit exposure to each Member with a high degree of confidence. FICC believes that the proposed change would enable FICC to more effectively identify, measure, monitor and manage its exposures to risks related to market price, and enable it to better limit its exposure to potential losses from Member defaults by providing a more effective measure of the risks related to market price. As described above, due to the bid-ask spread in the market, there is an observable transaction cost to liquidate a portfolio. The proposed bid-ask spread risk charge is designed to manage the risk related to this transaction cost in the event a Member's portfolio is liquidated. As such, FICC believes that the proposed change would better address the potential risks that FICC may face that are related to its ability liquidate a Member's net unsettled positions in the event of that firm's default, and thereby enhance FICC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In this way, FICC believes this proposed change is also consistent with Rule 17Ad–22(e)(4)(i) under the Act.[30]

Rule 17Ad–22(e)(6)(i) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes

[23] 12 U.S.C. 5464(a)(2).

[24] *Id.*

[25] 17 CFR 240.17Ad–22(e).

[26] *Id.*

[27] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i).

[28] 17 CFR 240.17Ad–22(e)(4)(i).

[29] *Id.*

[30] *Id.*

of each relevant product, portfolio, and market.[31]

The Required Fund Deposits are made up of risk-based components (as margin) that are calculated and assessed daily to limit FICC's credit exposures to Members, including the VaR Charges. FICC's proposed change to introduce an MLA charge is designed to more effectively address the risks presented by large net unsettled positions in the same asset group. FICC believes the addition of the MLA charge would enable FICC to assess a more appropriate level of margin that accounts for these risks. This proposed change is designed to assist FICC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of portfolios that contain large net unsettled positions in the same asset group and may be more difficult to liquidate in the event of a Member default. The proposed MLA Excess Amount would further this goal by measuring any additional risks that could be presented by a Sponsored Member that clears through multiple accounts at multiple Sponsoring Members. Therefore, FICC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[32]

Furthermore, FICC believes that including the bid-ask spread risk charge within the calculation of the final VaR Charges of GSD and MBSD would provide FICC with a better assessment of its risks related to market price. This proposed change would enable FICC to assess a more appropriate level of margin that accounts for this risk at the portfolio level. As such, each Member portfolio would be subject to a risk-based margining system that, at minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, consistent with Rule 17Ad–22(e)(6)(i) under the Act.[33]

## III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its website of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2020–802 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2020–802. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2020–802 and should be submitted on or before September 21, 2020.

By the Commission.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–19658 Filed 9–3–20; 8:45 am]

**BILLING CODE 8011–01–P**

[31] 17 CFR 240.17Ad–22(e)(6)(i).

[32] *Id.*

[33] *Id.*

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## DEPARTMENT OF STATE

**[Public Notice 11181]**

## 60-Day Notice of Proposed Information Collection: Request for Approval of Special Validation for Travel to a Restricted Country or Area

**ACTION:** Notice of request for public comment.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

**DATES:** The Department will accept comments from the public up to *November 3, 2020.*

**ADDRESSES:** You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2020–0035'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PPTSpecialValidations@state.gov.*

• *Regular Mail:* Send written comments to: Special Validations, U.S. Department of State, CA/PPT/S/L/LA, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

**SUPPLEMENTARY INFORMATION:**

• *Title of Information Collection:* Request for Approval for Multiple-Entry Travel to a Restricted Country or Area.

• *OMB Control Number:* 1405–0228.

• *Type of Request:* Revision of a Currently Approved Collection.

• *Originating Office:* Bureau of Consular Affairs, Passport Services, CA/PPT/S/L/LA.

• *Form Number:* No form.

• *Respondents:* Individuals requesting they be granted single or multiple-entry special validation, in accordance with 22 CFR 51.64, to use a U.S. passport to travel to, in, or through a country or area as to which U.S. passports have been declared invalid for such travel pursuant to 22 U.S.C. 2l1a and Executive Order 11295 (August 5, 1966) and in accordance with 22 CFR 51.63(a).

• *Estimated Number of Respondents:* 150.

• *Estimated Number of Responses:* 150.

• *Average Time per Response for single entry validation request:* 45 minutes.

• *Average Time per Response for multiple-entry validation request:* 90 minutes.

• *Total Estimated Burden Time:* 150 hours.

• *Frequency:* Once per year when the individual wishes to travel to the restricted country or area, whether for single- or multiple-entry validation request.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

**Abstract of Proposed Collection**

The Secretary of State may exercise authority, under 22 U.S.C. 211a, Executive Order 11295 (August 5, 1966), and 22 CFR 51.63, to invalidate all U.S. passports for travel to a country or area if he determines that any of three conditions exist: The country is at war with the United States; armed hostilities are in progress in the country or area; or there is imminent danger to the public health or physical safety of U.S. travelers in the country or area. The regulations of the Department of State provide that an individual's passport may be considered for validation for travel to, in, or through a country or area despite such restriction if the individual's travel is determined to fall within one of several categories established by the regulation 22 CFR 51.64. Without the requisite validation, use of a U.S. passport for travel to, in, or through a restricted country or area may justify revocation of the passport for misuse under 22 CFR 51.62(a)(3) and subject the traveler to felony prosecution under 18 U.S.C. 1544 for misuse of a passport or other applicable laws.

The categories of persons specified in 22 CFR 51.64(b) as being eligible for consideration for passport validation are as follows:

(a) An applicant who is a professional reporter and journalist whose trip is for the purpose of collecting and making available to the public information about the restricted country or area;

(b) An applicant who is a representative of the American Red Cross or the International Committee of the Red Cross on an officially sponsored Red Cross mission;

(c) An applicant whose trip to the restricted country or area is justified by compelling humanitarian considerations; or

(d) An applicant whose trip to the restricted country or area is otherwise in the national interest.

The proposed information collection solicits data necessary for the Passport Services Directorate to determine whether an applicant is eligible to receive a special validation in his or her U.S. passport book permitting the applicant to make single or multiple round-trips to a restricted country or area, subject to additional requirements. The information requested consists of the applicant's name; a copy of the front and back of the applicant's valid government-issued photo identification card with the applicant's date of birth and signature; current contact information, including telephone number, email and mailing address; a statement explaining the reason that the applicant thinks their trip is in the national interest, including proposed travel dates and the applicant's role and responsibilities on the trip; and supporting documentary evidence. For those seeking a multiple-entry special validation, applicants must also identify they are seeking the multiple-entry type of special validation and submit the following: Documentation showing the applicant or their organization has a well-established history of traveling to the DPRK to work on well-monitored projects with compelling humanitarian considerations; the applicant's draft itinerary, including dates of travel and what specific work they intend to perform on each trip; and documentation that shows the applicant's humanitarian work requires that they make multiple trips to the DPRK in the next 365-day period. Those who are approved for a multiple-entry special validation must also submit a final itinerary detailing dates and purpose of travel at least one month (30 days) prior to each trip to the DPRK while using their multi-entry special validation U.S. passport. Failure to provide the requested information may result in denial of a special validation to use a U.S. passport to travel to, in, or through a restricted country or area.

Effective September 1, 2017, upon determining that there is imminent danger to the public health or physical safety of U.S. travelers in the Democratic People's Republic of Korea (DPRK), the former Secretary of State imposed a passport restriction with respect to travel to the DPRK. Such restriction was further renewed in 2018, and most recently in 2019 for one year, effective September 1, 2019. The estimated number of recipients represents the Department of State's estimate of the annual number of special validations requests individuals will submit who wish to use their U.S. passport to travel to the DPRK, based on the current number of requests following the implementation of the Secretary of State's passport restriction. At this time, there are no other countries or areas that are the subject of passport restrictions pursuant to 22 CFR 51.63.

**Methodology**

Instructions for individuals seeking to apply for a special validation to use a U.S. passport to travel to, in, or through

a restricted country or area is posted on a web page maintained by the Department (*travel.state.gov*). The web page directs applicants to submit the requested information via email to the Passport Services Directorate (*PPTSpecialValidations@state.gov*) or by mail to Special Validations, U.S. Department of State, CA/PPT/S/L/LA, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227.

Information collected in this manner will be used to facilitate the granting of special validations to U.S. nationals who are eligible. The primary purpose of soliciting the information is to establish whether an applicant is within one of the categories specified in the regulations of the Department of State codified at 22 CFR 51.64(b) and therefore eligible to be issued a U.S. passport containing a special validation enabling him or her to make one or multiple entry round-trips to a restricted country or area, and to facilitate the application for a passport of such applicants.

**Rachel Arndt,**

*Deputy Assistant Secretary for Passport Services, Consular Affairs, Department of State.*

[FR Doc. 2020–19636 Filed 9–3–20; 8:45 am]

**BILLING CODE 4710–06–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. AB 1304X]**

### Pacific Sun Railroad, L.L.C.—Discontinuance of Service and Trackage Rights Exemption—in San Diego County, Cal.

On August 17, 2020, Pacific Sun Railroad, L.L.C. (PSRR), filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to: (1) Discontinue its operations over approximately 21.5 miles of BNSF Railway Company (BNSF) rail line (the Leased Lines), consisting of the Escondido Subdivision, which extends from milepost 0.0 at Oceanside, Cal., to milepost 21.2 at Escondido, Cal., and the Miramar Spur, which extends approximately 0.3 miles eastward from milepost 252.9 at Miramar, Cal., on BNSF's San Diego Subdivision; and (2) discontinue local trackage rights over approximately 45.49 miles of BNSF rail line on BNSF's San Diego Subdivision (the Trackage Rights Line), extending from milepost 252.9 at Miramar to milepost 207.41 at the border of Orange County, Cal., and San Diego County, Cal. The Leased Lines and Trackage Rights Line collectively are referred to as the Lines. The Lines traverse U.S. Postal Service Zip Codes 92007, 92008, 92011, 92014, 92024, 92025, 92029, 92054, 92055, 92056, 92058, 92069, 92075, 92083, 92084, 92121, 92126, 92145, and 92672.

According to PSRR, it provides service on the Lines pursuant to an agreement with BNSF. PSRR explains that the agreement is due to terminate on September 30, 2020, and that BNSF will resume operation of the Lines in place of PSRR as of October 1, 2020. PSRR states that the proposed discontinuance will allow PSRR to end its common carrier obligations over the Lines but that no customer on the Lines will be without common carrier service as a consequence of the proposed discontinuance, as the discontinuance will merely facilitate an agreed-upon exchange of rail service providers from PSRR back to BNSF.

PSRR states that it believes the Lines do not contain any federally granted rights-of-way. PSRR also states that any documentation in its possession will be made available to those requesting it.

PSRR states that, because the Lines over which it seeks discontinuance authority represent the entire scope of its operations and PSRR will have no residual interest in railroad assets or any other regulated operations as a result of the proposed discontinuance, PSRR is entitled to relief from otherwise-applicable employee protective conditions.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 4, 2020.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent abandonment, this discontinuance does not require an environmental review. *See* 49 CFR 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by September 14, 2020, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(1)(i).

All filings in response to this notice must refer to Docket No. AB 1304X and must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on PSRR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606. Replies to this petition are due on or before September 24, 2020.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

Board decisions and notices are available at *www.stb.gov*.

Decided: August 31, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Brendetta Jones,**

*Clearance Clerk.*

[FR Doc. 2020–19558 Filed 9–3–20; 8:45 am]

**BILLING CODE 4915–01–P**

[1] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Youth Access to American Jobs in Aviation Task Force, Notice of Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a meeting of the Youth Access to American Jobs in Aviation Task Force (YIATF).

**DATES:** The meeting will be held on Friday, October 16, 2020 from 9:00 a.m.–2:00 p.m. Eastern Daylight Time.

Requests to attend the meeting must be received by Friday, October 2, 2020.

Requests for accommodations to a disability must be received by Friday, October 2, 2020.

If you wish to speak during the meeting, you must submit a written copy of your remarks to FAA by Friday, October 2, 2020.

Requests to submit written materials to be reviewed during the meeting must be received no later than Friday, October 2, 2020.

**ADDRESSES:** The meeting will be a virtual meeting. Members of the public who wish to observe the meeting must RSVP by emailing *S602YouthTaskForce@faa.gov.* General committee information including copies of the meeting minutes will be available on the YIATF website at *https://www.faa.gov/about/office_org/headquarters_offices/ahr/advisory_committees/youth_aviation/.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Angela Anderson, Designated Federal Officer, FAA, at *S602YouthTaskForce@faa.gov* or by phone at 202 267–9629. Any committee related request should be sent to the person listed in this section.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The YIATF was created under the Federal Advisory Committee Act (FACA), in accordance with Section 602 of the FAA Reauthorization Act of 2018 (Pub. L. 115–254), to provide strategies and recommendations encouraging youth to pursue a career in the field of aviation and to promote organizations and programs that provide education, training, mentorship, outreach, and recruitment of youth in the aviation industry.

## II. Agenda

At the meeting, the agenda will include the following topics:

- Welcome and Introductions
- Overview of FACA
- Member Expectations
- Overview of YIATF Objectives and Tasking
- Review of Action Items

A detailed agenda will be posted on the YIATF internet website address listed in the **ADDRESSES** section at least 15 days in advance of the meeting.

## III. Public Participation

The meeting will be open to the public. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. Anyone that has registered to attend will be notified in a timely manner prior to the meeting.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by Friday, October 2, 2020.

There will be a total of 15 minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the Federal Aviation Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to YIATF members. All prepared remarks submitted on time will be accepted and considered as part of the record. Any member of the public may present a written statement to the committee at any time. The public may present written statements to YIATF by emailing the Designated Federal Officer's address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on August 31, 2020.

**Angela O. Anderson,**

*Senior Advisor, Office of the Assistant Administrator for Human Resource Management, Federal Aviation Administration.*

[FR Doc. 2020–19552 Filed 9–3–20; 8:45 am]

**BILLING CODE 4910–13–P**

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# DEPARTMENT OF TRANSPORTATION

## Federal Railroad Administration

**[Docket Number FRA–2020–0070]**

## Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on August 26, 2020, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2020–0070.

*Applicant:* Norfolk Southern Corporation, T. A. Phillips, Senior Director—C & S Operations, 1200 Peachtree Street NE, Atlanta, GA 30309.

Specifically, NS requests permission to discontinue the traffic control system and change the method of operation to non-controlled track on the Youngstown Line, milepost (MP) YG 75.6 (CP Castle) to MP YG 81.0 (CP Wampum) on Main Two of the Pittsburgh Division. NS gives the reason for the changes as line rationalization and system improvement.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 19, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://*

*www.transportation.gov/privacy*. See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety Chief Safety Officer.*

[FR Doc. 2020–19652 Filed 9–3–20; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

### Hazardous Materials: Notice of Applications for Modifications to Special Permits

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Transportation (DOT).

**ACTION:** List of applications for modification of special permits.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before September 21, 2020.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

**SUPPLEMENTARY INFORMATION:** Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 1, 2020.

**Donald P. Burger,**

*Chief, General Approvals and Permits Branch.*

SPECIAL PERMITS DATA

| *Application No.* | *Applicant* | *Regulation(s) affected* | *Nature of the special permits thereof* |
|---|---|---|---|
| 9998–M | Accumulators, Inc. | 173.302(a) | To modify the special permit to add three additional bladder designs. (modes 1, 2, 3, 4). |
| 14636–M | Department Of Defense (Military Surface Deployment & Distribution Command). | 172.301(c), 180.209 | To modify the special permit to streamline the identification of tubes being requalified and to authorize additional OCONUS locations. (modes 1, 3, 4). |
| 15691–M | Department Of Defense (Military Surface Deployment & Distribution Command). | 172.301(c), 180.209 | To streamline the listing of authorized cylinders, update the locations where the permitted cylinders are authorized and remove the one time extension and restate the five year re-qualification requirements. (modes 1, 2, 3, 4). |
| 16154–M | Patriot Fireworks USA, LLC | 172.101(i), 173.62, 173.62 | To modify the special permit to authorize cargo webbing (netting) or metal fencing or grating as authorized methods to secure fireworks against significant lateral movement and preventing the release of any fireworks into the interior of the freight container. (mode 1). |
| 21018–M | Packaging And Crating Technologies, LLC. | 172.200, 172.300, 172.400, 172.600, 172.700(a), 173.185(b), 173.185(c), 173.185(f). | To modify the special permit to authorize batteries up to 1200Wh to be transported in Thermo Shield pleatwrap. (modes 1, 2, 3). |

[FR Doc. 2020–19641 Filed 9–3–20; 8:45 am]

**BILLING CODE 4909–60–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

### Hazardous Materials: Notice of Actions on Special Permits

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of actions on special permit applications.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

**DATES:** Comments must be received on or before October 5, 2020.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

**SUPPLEMENTARY INFORMATION:** Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 1, 2020.

**Donald P. Burger,**

*Chief, General Approvals and Permits Branch.*

| Application No. | Applicant | Regulation(s) affected | Nature of the special permits thereof |
|---|---|---|---|
| | | **SPECIAL PERMITS DATA—Granted** | |
| 9998–M | Accumulators, Inc | 173.302(a) | To add a new line of piston-type hydro-pneumatic accumulators (to the currently permitted bladder-type accumulators). |
| 11489–M | Joyson Safety Systems | 172.320, 173.56(b) | To modify the special permit to clarify origination and destination for testing and to remove the no other hazardous materials may be transported within the same cargo carrying body on a transport vehicle or freight container restriction. |
| 14301–M | Gascon A Division Of Southey Holdings (Pty) Ltd. | 178.274(b)(1), 178.276(a)(2), 178.276(b)(1) | To modify the special permit to authorize a new calculation method for calculating allowable external pressure. |
| 14543–M | LBM Techno Gas GmbH. | 173.304(a)(2), 178.65(f), 178.65(g) | To modify the special permit to authorize additional Division 2.2 gases and to authorize high pressure testing at 100% at a modified pressure of 375 bar. |
| 15483–M | National Aeronautics And Space Administration. | 173.302a | To modify the special permit to authorize a different 2.2 gas to be incorporated into the permit. |
| 15863–M | Baker Hughes Oilfield Operations LLC. | 173.301(f), 173.302a | To modify the special permit to authorize an additional mode of transportation (passenger aircraft). |
| 16413–M | Amazon.com, Inc | 172.301(c), 173.185(c)(1)(iii), 173.185(c)(3)(i), 173.159a(c)(1), 173.159a(c)(2), 173.185(c)(1)(iv). | To modify the special permit to authorize an additional hazmat and packaging for it and to authorize the use of QR codes to link to the latest version of the authorizing permit. |
| 21015–N | Amazon.com, Inc | 172.203(a), 172.315(a)(2) | To authorize the transportation in commerce of materials shipped under limited quantity exceptions with a reduced size limited quantity marking. |
| 21055–N | AVL Powertrain Engineering, Inc. | 172.101(j), 173.185(a)(1), 173.185(b)(3) | To authorize the transportation in commerce of a single prototype lithium ion battery. Only one shipment is authorized under the terms of this special permit. |
| 21061–N | KLA Corporation | 173.212, 173.213 | To authorize the transportation in commerce of certain flammable solids in non-DOT specification packaging. |
| 21075–N | Aerojet Rocketdyne, Inc | 172.200(a), 172.201(a) | To authorize the transportation in commerce of explosives between manufacturing facility and storage bunkers along approximately 5 miles of unpopulated low traffic highway without shipping papers. |
| 21081–N | Romeo Systems, Inc | 172.102 | To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo only aircraft. |
| 21092–N | Lynden Air Cargo, LLC | 172.101(j), 172.301(c), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1). | To authorize the transportation in commerce of explosives forbidden aboard cargo-only aircraft. |
| | | **SPECIAL PERMITS DATA—Denied** | |
| 20336–M | Geotek Coring Inc | 173.3(d)(3) | To modify the special permit to authorize the use of a refrigerated ISO container of double the current length and the use of triple the number of salvage containers per ISO container. |
| 20916–N | Messer LLC | 180.407(d)(2)(vi) | To authorize the replacement of cargo tank data plates without requiring the original manufacturers ASME U stamp. |

| Application No. | Applicant | Regulation(s) affected | Nature of the special permits thereof |
|---|---|---|---|
| 20998–N | Daicel Safety Systems Americas, Inc. | 173.301(a)(1), 173.302(a), 178.65(c)(3) | To authorize the manufacture, mark, sale and use of non-DOT specification cylinders (pressure vessels) for use as components of automobile vehicle safety systems. These pressure vessels may be charged with non-toxic, non-liquefied gases or mixtures thereof and are authorized for transportation in commerce subject to requirements and limitations specified herein. |
| 21043–N | Community Surgical Supply Of Toms River Inc. | 180.207 | To authorize the transportation in commerce of certain hazardous materials in DOT specification 3AL cylinders that are requalified in 10-year retest interval rather than 5-year intervals using ultrasonic examination. |
| 21060–N | Central Specialties, Inc | 173.315 | To authorize the transportation in commerce of storage tanks (cargo tanks?) for the purpose of transporting liquefied petroleum gas. |
| **SPECIAL PERMITS DATA—Withdrawn** | | | |
| 21027–N | FIBA Technologies, Inc | 180.207(d)(1) | To authorize the transportation in commerce of seamless steel UN pressure receptacles that have been requalified in accordance with ISO 18119:2018. |

[FR Doc. 2020–19646 Filed 9–3–20; 8:45 am]
BILLING CODE 4910–60–P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

### Hazardous Materials: Notice of Applications for New Special Permits

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** List of applications for special permits.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1–Motor vehicle, 2–Rail freight, 3–Cargo vessel, 4–Cargo aircraft only, 5–Passenger-carrying aircraft.

**DATES:** Comments must be received on or before October 5, 2020.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

**SUPPLEMENTARY INFORMATION:** Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 1, 2020.

**Donald P. Burger,**

*Chief, General Approvals and Permits Branch.*

| Application No. | Applicant | Regulation(s) affected | Nature of the special permits thereof |
|---|---|---|---|
| **Special Permits Data** | | | |
| 21091–N | Air Products and Chemicals, Inc.. | 173.301(f), 173.301(g) | To authorize the transportation in commerce of hydrogen in tube trailers containing non-DOT Specification cylinders manufactured under DOT–SP 14576 that do not have pressure relief devices. (mode 1) |
| 21093–N | Orbital Sciences, LLC | 172.101(j)(2), 173.185(a)(1), 173.185(b)(3)(i). | To authorize the transportation in commerce of the lithium metal battery identified as Model No. 9ER20P–20B, manufactured by Orion HIT, which are specifically designed for space flight, as Class 9 without passing UN T.6—Impact Test. (modes 1, 3, 4) |
| 21094–N | Umbra Lab, Inc. | 173.185(a)(1), 173.185(b) | To authorize the transportation of prototype lithium batteries within a spacecraft. (mode 1) |
| 21095–N | Suterra, LLC | 173.306(i)(1) | To authorize the transportation in commerce of limited quantities of aerosols for which the completed package exceeds 66 lbs gross weight. (modes 1, 2) |

| Application No. | Applicant | Regulation(s) affected | Nature of the special permits thereof |
|---|---|---|---|
| 21096–N | Pacira Cryotech, Inc. | 171.23, 173.306(j) | To authorize the transportation in commerce of receptacles, small that have a oxidizer subsidiary hazard under 49 CFR 173.306(j). (modes 1, 4, 5) |
| 21097–N | United States Dept Of Geological Survey. | | To authorize the transportation in commerce of methane hydrate in dry shippers using liquefied nitrogen. (modes 1, 4) |
| 21098–N | The Dow Chemical Company | 172.203(a), 172.302(c), 173.31(d)(1)(ii). | To authorize the transportation in commerce of tank cars for which the external visual inspection of the manway cover gasket on AAR Specification 211, DOT Specification 111, DOT Specification 117J, DOT Specification 117R and DOT Specification 117P tank cars by alternative means. (mode 2) |
| 21099–N | StageFX, Inc. | 173.51(a), 173.64, 173.65 | To authorize the use of the 2018 APA Standard 87–1C: Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics for classification of pyrotechnic materials. (modes 1, 4) |
| 21102–N | Subaru Of America, Inc. | | To authorize the transportation in commerce of emissions monitoring devices that are in-use during transportation. (mode 1) |
| 21103–N | Kalitta Air, LLC | 172.200, 172.300, 172.400, 175.30. | To authorize the transportation in commerce of certain hazardous materials by cargo aircraft without shipping papers, marking and labeling, and information to the pilot-in-command. (mode 4) |
| 21104–N | Kelley Fuels, Inc. | 172.336(c) | To authorize the transportation in commerce of cargo tanks containing either gasoline or diesel fuel with a placard permanently marked with a ''1203'' UN number identification mark. (mode 1) |
| 21106–N | General Motors, LLC | 173.185(b)(1) | To authorize the transportation in commerce of lithium ion cells in Large Packaging by highway and rail. (mode 1, 2) |
| 21108–N | Aerospacelab | 173.185(a)(1) | To authorize the transportation in commerce of low production lithium batteries contained in equipment by motor vehicle and cargo-only aircraft. |

[FR Doc. 2020–19643 Filed 9–3–20; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Brian Morrissey—Deputy General Counsel—Chair
2. Sunita Lough—Deputy Commissioner for Services & Enforcement (IRS)
3. Krishna Vallabhaneni—Tax Legislative Counsel, Office of Tax Policy

Alternate: Eric Hylton, Commissioner, Small Business/Self Employed (IRS)

This publication is required by 5 U.S.C. 4314(c)(4).

**Michael J. Desmond,**

*Chief Counsel, Internal Revenue Service.*

[FR Doc. 2020–19613 Filed 9–3–20; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Drita Tonuzi—Deputy Chief Counsel (Operations)—Chair
2. Peter Blessing—Associate Chief Counsel (International)
3. Charles Pillitteri—Deputy Division Counsel (Small Business/Self Employed)
4. Holly Porter—Associate Chief Counsel (Passthrough & Special Industry)
5. Kathryn Patterson—Deputy Division Counsel (Large Business and International)
6. Gary Sharp—Deputy Associate Chief Counsel (General Legal Services)

Alternate—Joanne Minsky—Deputy Division Counsel (Wage & Investment)

This publication is required by 5 U.S.C. 4314(c)(4).

**Michael J. Desmond,**

*Chief Counsel, Internal Revenue Service.*

[FR Doc. 2020–19612 Filed 9–3–20; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Privacy Act of 1974; System of Records

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new Treasury system of records titled, ''Department of the Treasury, Departmental Offices .227—Committee on Foreign Investment in the

United States (CFIUS) Case Management System.''

**DATES:** Written comments must be received by October 5, 2020. The new routine uses will be applicable on October 5, 2020 unless Treasury receives comments and determines that changes to the system of records notice are necessary.

**ADDRESSES:** Written comments on this notice may be submitted electronically through the Federal government eRulemaking portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department of the Treasury (Treasury) to make the comments available to the public. Please note that comments submitted through *https://www.regulations.gov* will be public, and can be viewed by members of the public. Due to COVID–19-related restrictions, Treasury has temporarily suspended its ability to receive public comments by mail.

In general, Treasury will post all comments to *https://www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting material, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice and privacy issues, contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records at U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622–5710.

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new Treasury system of records titled, ''Department of the Treasury, Departmental Offices .227—Committee on Foreign Investment in the United States (CFIUS) Case Management System.''

As background, in 2018, the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), Subtitle A of Title XVII of Public Law 115–232, 132 Stat. 2173, was enacted. FIRRMA amends section 721 of the Defense Production Act of 1950, as amended (Section 721), which delineates the authorities and jurisdiction of Committee on Foreign Investment in the United States (CFIUS). FIRRMA maintains CFIUS's jurisdiction over any transaction that could result in foreign control of any U.S. business, and broadens the authorities of the President and CFIUS under Section 721 to review and take action to address any national security concerns arising from certain non-controlling investments and certain real estate transactions involving foreign persons.

Executive Order 13456, 73 FR 4677 (January 23, 2008), directs the Secretary of the Treasury to issue regulations implementing Section 721. On January 17, 2020, Treasury published two rules broadly implementing FIRRMA, and those rules took effect on February 13, 2020. 85 FR 3112 and 85 FR 3158. Subsequent amendments were made to the regulations in 2020. 85 FR 8747 and 85 FR 45311.

Pursuant to Section 721 and its implementing regulations, CFIUS assesses or reviews, and may subsequently investigate (in the case of a review), transactions that could result in foreign control of a U.S. business and certain non-controlling investments and certain real estate transaction involving foreign persons to determine the effects of such transactions on the national security of the United States. As part of CFIUS's national security processes, Treasury, as chair of CFIUS, disseminates information submitted by parties to the transaction and other available information to certain Executive Branch agencies. Among other things, CFIUS evaluates certain personal identifier information of individuals associated with the foreign person engaged in the transaction and certain parent entities (*e.g.,* for purposes of conducting background checks), which informs CFIUS's determination of the effects of a transaction on the national security of the United States. At times, this may include personal identifier information of U.S. nationals if a U.S. national is a board member or officer of, has an ownership interest in, or has another relevant role related to, an entity engaged in a transaction before CFIUS or its parent entities. CFIUS may also receive certain personal identifier information of a U.S. national who is involved in a transaction as an individual if, for example, such individual is selling real estate in a transaction filed with CFIUS. In addition, CFIUS may collect personal identifier information for other purposes associated with its national security functions, including, for example, personal identifier information related to a security officer or other person who may be involved in mitigating a risk posed to national security.

This new system of records supports CFIUS's collection of transaction information for analysis in the performance of its assessments, reviews and investigations of transactions, and for other purposes associated with its national security functions. The system may include records from other systems of records both within Treasury and in records provided by certain other Executive Branch agencies for the purpose of facilitating CFIUS's assessment, review and investigation of transactions. In maintaining its records, CFIUS is obligated to comply with its governing statute, and to the extent not inconsistent with that statute, generally applicable laws. Any records from another Treasury system of records or another Executive Branch agency's system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k), which may also be included in this system of records, retains the same exempt status such records have in the system for which such exemption is claimed. Additionally, pursuant to section 721(c) of the Defense Production Act of 1950, as amended, 50 U.S.C. 4565(c), and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS under Section 721 is exempt from disclosure under the Freedom of Information Act, as amended (FOIA), 5 U.S.C. 552, and no such information or documentary material may be made public.

The related information collections have been submitted to the Office of Management and Budget (OMB) under control number 1505–0121.

Additionally, Departmental Offices is issuing a separate Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act.

This established system will be included in Treasury's inventory of record systems. Below is the description of the Treasury, Departmental Offices .227—CFIUS Case Management System.

Treasury provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the U.S. Senate, and the OMB, pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication

under the Privacy Act,'' dated December 23, 2016.

**Ryan Law,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records.*

**SYSTEM NAME AND NUMBER:**

Department of the Treasury, Departmental Offices .227—Committee on Foreign Investment in the United States (CFIUS) Case Management System.

**SECURITY CLASSIFICATION:**

Classified.

**SYSTEM LOCATION:**

Records are maintained at the Departmental Offices: 1500 Pennsylvania Avenue NW, Washington, DC 20220.

**SYSTEM MANAGER(S):**

Departmental Offices:

a. Director of Business Operations, Office of International Affairs, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

b. Chief Information Officer, U.S. Department of the Treasury, 1750 Pennsylvania Avenue NW, Washington, DC 20220.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 321; 5 U.S.C. 301; 50 U.S.C. 4565; E.O. 11858, 12333, 12968, and 13526, as amended; 85 FR 3112; 85 FR 3158; 85 FR 8747; 85 FR 45311.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to collect information submitted by the parties to transactions assessed, reviewed or investigated by CFIUS and other available information related to such transactions, and disseminate such information to certain Executive Branch agencies to coordinate CFIUS's national security functions related to such transactions.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals for whom personal identifier information is needed by CFIUS to perform its national security functions. These individuals could include, for example, individuals in leadership or other positions in parties engaged in transactions filed with CFIUS or in such entities' parents, subsidiaries, or affiliates, individuals holding ownership interests or other roles in such entities, or individuals proposed to perform, or performing, security officer or other functions relating to mitigation of a national security threat, and individuals selling real estate or a business in a transaction filed with CFIUS.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of ''personal identifier information'' listed at 31 CFR 800.502(c)(5)(vi)(B) and 31 CFR 802.502(b)(3)(vi)(B), curriculum vitae (or other professional synopsis), and other information provided to or in possession of CFIUS. This includes:

- full name (last, first, middle name);
- all other names and aliases used;
- business address;
- nationality;
- country and city of residence;
- date of birth, in the format MM/DD/YYYY;
- place of birth;
- U.S. or foreign passport number (if more than one, all must be fully disclosed), nationality, date and place of issuance, and expiration date and, if a U.S. visa holder, the visa type and number, date and place of issuance, and expiration date; and
- dates and nature of foreign government and foreign military service (where applicable), other than military service at a rank below the top two non-commissioned ranks of the relevant foreign country.

**RECORD SOURCE CATEGORIES:**

The information contained in these records may be provided by the individual who is the subject of the record, their representative, or the representative of a party to a transaction filed with CFIUS, or through other means.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

Only to the extent consistent with CFIUS's governing statute and confidentiality restrictions, including section 721 of the Defense Production Act of 1950, as amended (Section 721), and in addition to those disclosures generally permitted under the Privacy Act of 1974, as amended, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To appropriate agencies, entities and persons, including the United States Department of Justice (DOJ), when such records and/or information or portions thereof are relevant to any administrative or judicial action or proceeding;

(2) To any domestic governmental entity, or to any foreign governmental entity of a United States ally or partner, under the exclusive direction and authorization of the chairperson of CFIUS, when such records and/or information or portions thereof are important to the national security analysis or actions of CFIUS, only to the extent necessary for national security purposes, and subject to appropriate confidentiality and classification requirements;

(3) To the National Archives and Records Administration Archivist (or the Archivist's designee) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(4) To appropriate agencies, entities, and persons when (1) Treasury suspects or has confirmed that there has been a breach of the system of records; (2) Treasury has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, Treasury (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when Treasury determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(6) To Executive Branch agencies, pursuant to Section 721, to assess, review and investigate transactions in respect of which the records or information were collected or any other transactions assessed, reviewed or investigated by CFIUS; and

(7) To parties to transactions assessed reviewed or investigated by CFIUS, when CFIUS requires additional information or clarification on issues related to individuals who hold certain positions with respect to, or an ownership interest in, the entities engaged in such transactions or their subsidiaries, parents or affiliates, or individuals proposed to perform, or performing, security officer or other functions relating to mitigation of a national security threat, including monitoring of such mitigation, or are otherwise involved in the transaction.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored electronically on the Treasury Secure Data Network (the computer and infrastructure network Treasury uses to transmit classified information) or on paper in facilities and containers suitable for securing classified information.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be retrieved by an individual's name, Social Security number, national identity number or passport number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records in this system are maintained according to the General Records Schedule 5.2, item 020, Intermediary Records. Records in this system are destroyed upon verification of successful creation of the final document or file, or when no longer needed for business use, whichever is later.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the records in the system. Access to the computer system containing the records in this system is limited to those appropriately cleared individuals who have a need to know the information for the performance of their official duties.

**RECORD ACCESS PROCEDURES:**

See ''Notification Procedures'' below.

**CONTESTING RECORD PROCEDURES:**

See ''Notification Procedures'' below.

**NOTIFICATION PROCEDURES:**

Pursuant to Section 721 and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS, as the President's designee, under Section 721 is exempt from disclosure under the Freedom of Information Act, as amended (FOIA), 5 U.S.C. 552, and no such information or documentary material may be made public. Further, the Secretary of the Treasury has also exempted this system from the notification, access, and amendment procedures of the Privacy Act of 1974, as amended (Privacy Act), 5 U.S.C. 552a, because it contains classified information and investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act. Subject to the foregoing, Treasury's Departmental Offices will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, Appendices A–M. Requests for information and specific guidance on where to send requests for records may be addressed to Director, FOIA Services, Department of the Treasury, 1750 Pennsylvania Avenue NW, Washington, DC 20220.

When seeking records about yourself from this system of records or any other Treasury system of records your request must conform with the Privacy Act regulations set forth in 31 CFR 1.26. While no specific form is required, you may obtain forms for this purpose from the Director, FOIA Services, Department of the Treasury, 1750 Pennsylvania Avenue NW, Washington, DC 20220.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

Certain records in this system are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). See 31 CFR 1.36.

Additionally, pursuant to Section 721 and subject to certain exceptions provided therein, any information or documentary material filed with CFIUS, as the President's designee, under Section 721 is exempt from disclosure under FOIA, and no such information or documentary material may be made public.

[FR Doc. 2020–19590 Filed 9–3–20; 8:45 am]

BILLING CODE 4810–25–P

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Generic Clearance Approval Request for Cognitive and Psychological Research

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments should be received on or before October 5, 2020 to be assured of consideration.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

**Internal Revenue Service (IRS)**

*Title:* Generic Clearance Approval Request for Cognitive and Psychological Research.

*OMB Control Number:* 1545–1349.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* The proposed research will improve the quality of data collection by examining the psychological and cognitive aspects of methods and procedures such as: Interviewing processes, forms redesign, survey and tax collection technology and operating procedures (internal and external in nature).

*Form:* None.

*Affected Public:* Businesses and other for-profit organizations, and Individuals or Households.

*Estimated Number of Respondents:* 6,000.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 6,000.

*Estimated Time per Response:* 1 hour, 30 minutes.

*Estimated Total Annual Burden Hours:* 9,000 hours.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 31, 2020.

**Spencer W. Clark,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2020–19579 Filed 9–3–20; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### United States Mint

### Notification of Citizens Coinage Advisory Committee September 22–23, 2020, Public Meeting; Correction

**ACTION:** Notice; correction.

**SUMMARY:** The United States Mint published a notice titled ''Notification of Citizens Coinage Advisory Committee September 22–23, 2020, Public Meeting'' in the **Federal Register** on August 24, 2020. The notice contained an error. This document corrects the error.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Warren; United States Mint Liaison to the CCAC; 801 Ninth Street NW, Washington, DC 20220; or call 202–354–7208.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of August 24, 2020, in FR Doc. 2020–18447, the notice incorrectly stated the title of one of the coin programs. The correct title is National Law Enforcement Museum Commemorative Coins.

**Eric Anderson,**

*Executive Secretary, United States Mint.*

[FR Doc. 2020–19570 Filed 9–3–20; 8:45 am]

BILLING CODE P

## DEPARTMENT OF VETERANS AFFAIRS

### Prosthetics and Special-Disabilities Programs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that a virtual meeting of the Federal Advisory Committee on Prosthetics and Special-Disabilities Programs will be held on Monday, September 21–Tuesday, September 22, 2020. The meeting sessions will begin and end as follow:

| Date | Time (eastern standard time) |
|---|---|
| September 21, 2020 | 8:30 a.m.–4:30 p.m. |
| September 22, 2020 | 8:30 a.m.–12:30 p.m. |

The virtual meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of VA on VA's prosthetics programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special-disabilities programs, which are defined as any program administered by the Secretary to serve Veterans with spinal cord injuries, blindness or visual impairments, loss of extremities or loss of function, deafness or hearing impairment, and other serious incapacities in terms of daily life functions.

On September 21, 2020, the Committee will convene open virtual sessions on Electronic Health Record Update; Audiology and Speech Pathology Service; National Veterans Sports Program; Office of Academic Affiliations; Caregiver Program; and Prosthetic and Sensory Aids Service.

On September 22, 2020, the Committee members will convene open virtual sessions on Recreation and Creative Arts Therapy; Rehabilitation Research and Development; 3D Printing Medical Applications in Veterans Health Administration (VHA); and VHA Reorganization at VA Central Office.

Although no time will be allocated at this virtual meeting for receiving oral presentations from the public, the public may submit 1–2-page summaries of their written statements for the Committee's review. Public comments may be received no later than September 14, 2020 for inclusion in the official meeting record. Please send these comments to Judy Schafer, Ph.D., Designated Federal Officer, Rehabilitation and Prosthetic Services, Veterans Health Administration, at *Judy.Schafer@va.gov.*

Members of the public who wish to obtain a copy of the agenda, should contact Ms. Judy Schafer, Ph.D., at *Judy.Schafer@va.gov* and provide your name, professional affiliation, email address, and phone number. For any members of the public that wish to attend virtually, they may use the WebEx link at: *https://veteransaffairs.webex.com/webappng/sites/veteransaffairs/meeting/download/2ca0d02109634c9da749fc357ba5acbd?siteurl=veteransaffairs&MTID=m9a036c6bdee834368a4100b8ca3dfd1f.* Meeting number (access code): 199 173 3476, Meeting password: h6J6ETzNC@8, or to join by phone: 1–404–397–1596. Real time closed captioning will be available.

Dated: September 1, 2020.

**LaTonya L. Small,**

*Federal Advisory Committee Management Office.*

[FR Doc. 2020–19648 Filed 9–3–20; 8:45 am]

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**Federal Register**

Vol. 85, No. 173

Friday, September 4, 2020

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## FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

54233–54480 ..... 1
54481–54884 ..... 2
54885–55168 ..... 3
55169–55358 ..... 4

## CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
9705 (See Proc. 10064) .....54877
9759 (See Proc. 10064) .....54877
10064 .....54877
10065 .....55161
10066 .....55163
10067 .....55165
10068 .....55167

**Administrative Orders:**
Memorandums:
Memorandum of August 29, 2020 .....54883

**7 CFR**

**Proposed Rules:**
1222 .....54945

**10 CFR**

72 .....54885

**12 CFR**

624 .....54233

**Proposed Rules:**
22 .....54946
208 .....54946
339 .....54946
614 .....54946
760 .....54946

**14 CFR**

39 .....54481, 54885, 54888, 54891, 54893, 54896, 54900, 55169, 55171
71 .....54233, 55174
95 .....55174
97 .....54902, 54909

**Proposed Rules:**
25 .....55198
39 .....54286, 54515
71 .....55200

**17 CFR**

227 .....54483
239 .....54483
240 .....55082
276 .....55155

**18 CFR**

292 .....54638
375 .....54638

**Proposed Rules:**
37 .....55201
38 .....55201

**26 CFR**

1 .....55185

**27 CFR**

9 .....54491

**29 CFR**

**Proposed Rules:**
2509 .....55219
2510 .....54288
2550 .....55219

**31 CFR**

501 .....54911

**32 CFR**

199 .....54914

**33 CFR**

100 .....54494
117 .....54496
165 .....54497, 54499, 54501, 55190

**Proposed Rules:**
165 .....54946

**34 CFR**

600 .....54742
602 .....54742
668 .....54742

**36 CFR**

**Proposed Rules:**
214 .....54311
228 .....54311
261 .....54311

**39 CFR**

551 .....55192

**40 CFR**

52 .....54504, 54507, 54509, 54510, 54924
141 .....54235
143 .....54235
180 .....54259, 54927, 55193
300 .....54931

**Proposed Rules:**
52 .....54947, 54952, 54954, 54960, 54961
81 .....54517
131 .....54967
300 .....54970

**41 CFR**

201 .....54263

**42 CFR**

9 .....54271
410 .....54820
413 .....54820
414 .....54820
422 .....54820
423 .....54820
482 .....54820
483 .....54820
485 .....54820
488 .....54820

493 ..... 54820
**Proposed Rules:**
405 ..... 54327

**44 CFR**
64 ..... 55196

**47 CFR**
**Proposed Rules:**
1 ..... 54523

**49 CFR**
571 ..... 54273
1244 ..... 54936

**50 CFR**
17 ..... 54281
622 ..... 54513, 54942, 54943
648 ..... 54514
679 ..... 54285
**Proposed Rules:**
17 ..... 54339
660 ..... 54529
679 ..... 55243
680 ..... 55243

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 18, 2020**

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