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# Rules and Regulations

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

## DEPARTMENT OF ENERGY

## 2 CFR Part 910

**RIN 1991–AC15**

## Financial Assistance Regulations—Deviation Authority

**AGENCY:** Office of Acquisition Management, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (DOE) is adopting the interim final rule published on June 1, 2020 as final, without change. This final rule amends DOE's Financial Assistance Regulations to authorize deviations, when necessary to achieve program objectives; necessary to conserve public funds; otherwise essential to the public interest; or necessary to achieve equity.

**DATES:** This rulemaking is effective on October 14, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Harris, U.S. Department of Energy, Office of Acquisition Management, at (202) 287–1471 or by email at *John.Harris@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

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L. Review Under the Administrative Procedure Act
M. Congressional Notification
N. Approval by the Office of the Secretary of Energy

### I. Background and Summary of the Final Rule

This final rule amends DOE's Financial Assistance Regulations at 2 CFR part 910, to add deviation authority to provide the Director for the Office of Acquisition Management, for DOE actions, and the Deputy Associate Administrator for the Office of Acquisition and Project Management for the National Nuclear Security Administration (NNSA), for NNSA actions, or designee the authority to authorize deviations, when (1) necessary to achieve program objectives; (2) necessary to conserve public funds; (3) otherwise essential to the public interest; or (4) necessary to achieve equity.

The Department of Energy (DOE) published an interim final rule making the same amendments finalized in this final rule, and provided an opportunity for public comment, on June 1, 2020, 85 FR 32977. DOE received no public comments on the interim final rule. In this final rule, DOE adopts the interim final rule as final, without change.

This final rule reinstates deviation authority in 2 CFR part 910 to give DOE the authority to deviate from its financial assistance regulations. This deviation authority was originally in 10 CFR 600.4 but was not carried over in 2 CFR part 910 when DOE amended its Financial Assistance Regulations by adopting the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as provided in OMB Guidance in 2 CFR part 200. 79 FR 75867, 76024 (Dec. 19, 2014). In addition to adopting these requirements in its regulations, DOE amended its regulations to supplement the OMB Guidance. DOE did not, however, include in its supplementary amendments authority for the Department to deviate or approve exceptions to its regulations in 2 CFR part 910.

Previous to the adoption and addition of the regulations above, DOE had the authority to deviate from its financial assistance regulations. See 10 CFR 600.4(c)(2)(i) and (ii). This final rule reinstates deviation authority that was originally in 10 CFR 600.4 to give DOE/NNSA authority to approve a deviation when the conditions above have been met and as authorized by the designated officials.

### II. Procedural Requirements

#### *A. Review Under Executive Orders 12866 and 13563*

This regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

#### *B. Review Under Executive Orders 13771 and 13777*

On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' That order stated that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The order stated that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.

Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' The order required the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) Are outdated, unnecessary, or ineffective;

(iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of the Information Quality Act, or the guidance issued pursuant to that Act, particularly those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(vi) Derive from or implement Executive orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE concludes that this final rule is consistent with the directives set forth in these Executive orders. This final rule reinstates DOE's authority under 2 CFR part 910 to deviate from its financial assistance regulations under specified circumstances as was originally provided under 10 CFR 600.4.

*C. Review Under Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this final rule.

*D. Review Under the Paperwork Reduction Act*

This final rule imposes no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR part 1320 Appendix A.1) (PRA). DOE's associated information collection has been approved under OMB Control No. 1910–4100.

*E. Review Under the National Environmental Policy Act*

DOE has determined that this final rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act (42 U.S.C. 4321 *et seq.*)(NEPA) at paragraphs A5 and A6 of Appendix A to Subpart D, 10 CFR part 1021. Categorical exclusion A5 applies to a rulemaking that amends an existing rule or regulation and that does not change the environmental effect of the rule or regulation being amended. Categorical exclusion A6 applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

*F. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction.

Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

*G. Review Under Executive Order 13132*

Executive Order 13132, (64 FR 43255, August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order requires agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.

On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined this final rule and has determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

*H. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.* UMRA sections 202 and 205 do not apply to this action because they apply only to rules for which a general notice of proposed rulemaking is published. Nevertheless, DOE has determined that this final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by the private sector.

*I. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect family well-being. This rulemaking will

have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

*J. Review Under Executive Order 13211*

Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, (66 FR 28355, May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB), a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order, (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution and use. This final rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

*K. Review Under the Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*L. Review Under the Administrative Procedure Act*

In accordance with 5 U.S.C. 553(b), the Administrative Procedure Act, DOE generally publishes a proposed rule and solicits public comment on it before issuing the rule in final. DOE also generally provides at least a 30-day delay in effective date for final rules pursuant to 5 U.S.C. 553(d). This rulemaking, as a matter relating to grants, is exempt from the requirement to publish a notice of proposed rulemaking under 5 U.S.C. 553(a)(2).

DOE, however, published this rule as an interim final rule on June 1, 2020 and allowed for public comments sixty (60) days after date of publication in the **Federal Register**. DOE received no comments in response to its publication of the interim final rule. DOE is waiving the 30-day delay in effective date pursuant to 5 U.S.C. 553(a)(2).

*M. Congressional Notification*

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this final rule prior to its effective date. The report will state that it has been determined that this final rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

*N. Approval by the Office of the Secretary of Energy*

The Secretary of Energy has approved publication of this final rule.

**List of Subjects in 2 CFR Part 910**

Accounting, Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

**Signing Authority**

This document of the Department of Energy was signed on August 28, 2020, by S. Keith Hamilton, Deputy Associate Administrator for Acquisition and Project Management and Senior Procurement Executive, National Nuclear Security Administration, pursuant to delegated authority from the Administrator, National Nuclear Security Administration, and John R. Bashista, Director, Office of Acquisition Management and Senior Procurement Executive, Department of Energy, pursuant to delegated authority from the Secretary of Energy. These documents with the original signature and date are maintained by DOE/NNSA. 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 September 8, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

Accordingly, the interim rule amending Chapter 9 of Title 2 of the Code of Federal Regulations which was published at 85 FR 32977 on June 1, 2020, is adopted as final without change.

[FR Doc. 2020–20091 Filed 10–13–20; 8:45 am]

BILLING CODE 6450–01–P

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Part 722

**RIN 3133–AF17**

## Real Estate Appraisals

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** The NCUA Board (Board) is adopting as final an interim final rule to temporarily amend its regulations requiring all federally insured credit unions to provide appraisals of real estate for certain real estate related transactions. The final rule defers the requirement to obtain an appraisal or written estimate of market value for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Credit unions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan, and otherwise underwrite loans consistent with safety and soundness principles. The final rule allows credit unions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID event). The final rule adopts the interim final rule without change. The final rule is similar to a recent final rule issued by the Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (FRB); and Federal Deposit Insurance Corporation (FDIC) (collectively, the other banking agencies) that also defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions.

**DATES:** The final rule is effective October 14, 2020, through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** *Technical information:* Uduak Essien, Director—Credit Markets, (703) 518–6399, and Lou Pham, Senior Credit Specialist, (703) 548–2745, Office of Examination and Insurance. *Legal information:* Rachel Ackmann, Senior Staff Attorney, (703) 548–2601, and Gira Bose, Staff Attorney, (703) 518–6562, Office of General Counsel, National Credit Union Administration, each at 1775 Duke Street, Alexandria, VA 22314.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

*Impact of the COVID Event on Appraisals and Written Estimates of Market Value.*

Due to the impact of the COVID event, and the need for businesses and individuals to quickly access additional liquidity, the Board published an interim final rule in the **Federal Register** on April 21, 2020 (interim final rule),[1] to defer the requirement to obtain an appraisal or written estimate of market value for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. The interim final rule allows businesses and individuals to quickly access liquidity from real estate equity during the COVID–19 event.[2]

In this final rule, the Board is adopting the interim final rule as final and without change. The amendments to the NCUA's appraisal regulations allow for the deferral of appraisals and written estimates of market value for qualifying transactions through December 31, 2020, as detailed further below.

[1] 85 FR 22014 (Apr. 21, 2020).

[2] The coronavirus disease 2019 outbreak was declared a national emergency under Proclamation 9994, 85 FR 15337 (Mar. 18, 2020).

## II. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI)[3] directs each Federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions within its jurisdiction.[4] The purpose of Title XI is to protect federal financial and public policy interests[5] in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.[6]

Title XI directs the Board to prescribe appropriate standards for Title XI appraisals under its jurisdiction.[7] At a minimum, Title XI provides that a Title XI appraisal must be: (1) Performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); (2) a written appraisal, as defined by Title XI; and (3) subject to appropriate review for compliance with USPAP.[8] While appraisals ordinarily are completed before a lender and borrower close a real estate transaction, there is no specific requirement in USPAP that appraisals be completed at a specific time relative to the closing of a transaction.

All federally related transactions must have Title XI appraisals. Title XI defines a ''federally related transaction'' as a real estate-related financial transaction[9] that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser.[10] The Board has the authority to determine those real estate-related financial transactions that do not require the services of an appraiser and thus are not required to have Title XI appraisals.[11] The Board has exercised this authority by exempting certain categories of real estate-related financial transactions from its appraisal requirements.[12]

The Board has used its safety and soundness authority to require written estimates of market value for a subset of transactions for which an appraisal is not required.[13] Under the appraisal regulations, for these transactions, credit unions must obtain an appropriate written estimate of market value that is consistent with safe and sound practices.[14]

*Authority To Defer Appraisals and Written Estimates of Market Value*

In general, the Board requires that Title XI appraisals for federally related transactions occur prior to the closing of a federally related transaction.[15] The Interagency Guidelines on Appraisals and Evaluations provide similar guidance about written estimates of market value.[16] Under the interim final rule, and this final rule, deferrals of appraisals and written estimates of market value allow for expeditious access to credit. The Board authorized the deferrals, which are temporary, in response to the COVID event. Credit unions that defer receipt of an appraisal or written estimate of market value are still expected to conduct their lending activity consistent with safe and sound underwriting principles, such as the ability of a borrower to repay a loan and

[3] 12 U.S.C. 3331 *et seq.;* Public Law 101–73; 103 Stat. 183.

[4] The term ''Federal financial institutions regulatory agencies'' means the FRB, the FDIC, the OCC, the National Credit Union Administration, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

[5] These federal financial and public policy interests include those stemming from the Federal Government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These interests have been described in predecessor legislation and accompanying Congressional Reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100–1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047–33048 (1987).

[6] 12 U.S.C. 3331.

[7] 12 U.S.C. 3339.

[8] *Id.*

[9] 12 U.S.C. 3350(5). A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

[10] 12 U.S.C. 3350(4).

[11] Real estate-related financial transactions that the Board has exempted from its appraisal requirement are not federally related transactions under its appraisal regulations.

[12] *See* 12 CFR 722.3(a). The NCUA has determined that these categories of transactions do not require appraisals by state-certified or state-licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safety and soundness.

[13] *See* 12 CFR 722.3(d).

[14] The NCUA and the other banking agencies have provided guidance on appraisals and evaluations (referred to as written estimates of market value in part 722) through the Interagency Guidelines on Appraisals and Evaluations. *See* 75 FR 77450 (Dec. 10, 2010), *available at https://www.ncua.gov/files/letters-credit-unions/LCU2010-23Encl.pdf.*

[15] *See* 12 CFR 722.3(a), 722.4(b)&(d) (requiring an appraisal to: (1) Contain sufficient information and analysis to support the credit union's decision to engage in the transaction, and (2) be based on the definition of market value in the regulation, which takes into account a specified closing date for the transaction).

[16] *See* 75 FR 77450 (Dec. 10, 2010), available at *https://www.ncua.gov/files/letters-credit-unions/LCU2010-23Encl.pdf.*

other relevant laws and regulations.[17] These deferrals are not an exercise of the NCUA's waiver authority, because appraisals and written estimate of market value are being deferred, not waived. The deferrals also are not a waiver of USPAP requirements, given that: (1) USPAP does not address the completion of an appraisal assignment with the timing of a lending decision; and (2) the deferred appraisal must be conducted in compliance with USPAP.

The deferral of written estimates of market value reflects the same considerations relating to the impact of the COVID event as the deferral of appraisals. The Board requires written estimates of market value for certain exempt transactions as a matter of safety and soundness. Written estimates of market value do not need to comply with USPAP, but must be sufficiently robust to support a valuation conclusion. A written estimate of market value can be less complex than an appraisal and usually takes less time to complete than an appraisal, but it also commonly involves a physical property inspection. For these reasons, the Board also is using its safety and soundness authority [18] to allow for deferral of written estimates of market value.

By the end of the deferral period, credit unions must obtain appraisals or written estimates of market value that are consistent with safe and sound practices as required by the NCUA's appraisal regulations.

## III. The Interim Final Rule and Summary of Comments

The Board issued the interim final rule to allow a temporary deferral of the requirements for appraisals and written estimates of market value under the NCUA's appraisal regulations. The deferrals apply to both residential and commercial real estate-related financial transactions, excluding transactions for acquisition, development, and construction of real estate. The Board is excluding transactions for acquisition, development, and construction of real estate because these loans present heightened risks not associated with the financing of existing real estate.

The Board found good cause to issue the interim final rule without advance notice-and-comment procedures, but provided for a 45-day comment period. The comment period ended on June 5, 2020. The Board received five comments. Comments were received from credit union trade associations, a state credit union league, and an organization of state credit union supervisors. All of the commenters expressed general support for the interim final rule, and none opposed it. A few commenters suggested amendments and clarifications to the interim final rule, which are discussed in detail below.

### *Supervisory Expectations*

Under the interim final rule, credit unions may close a real estate loan without a contemporaneous appraisal or written estimate of market value, subject to a requirement that credit unions obtain the appraisal or written estimate of market value, as would have been required under the appraisal regulations without the deferral, within a period of 120 days after closing of the transaction. While appraisals and written estimates of market value can be deferred, the Board expects credit unions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property. In addition, the Board continues to expect credit unions to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit. The NCUA also stated in a Letter to Credit Unions that the agency ''encourages credit unions to make every effort to obtain an appraisal or written estimate of value during the early stages of a real estate loan transaction.'' [19]

Two commenters were concerned about supervisory expectations for credit unions that exercise their option to defer an appraisal or written estimate of market value. One commenter stated that the NCUA should ensure credit unions that avail themselves of the deferment period are not penalized, regardless of the steps they took to obtain an appraisal during the COVID event. The commenter suggested adopting a supervisory policy stating that when considering enforcement actions the NCUA will consider the circumstances that credit unions may face as a result of the pandemic and will be sensitive to good-faith efforts demonstrably designed to assist members. The commenter also stated that such a good-faith policy is consistent with the recent Executive Order on regulatory relief.[20] Another commenter similarly expressed concern that there is no assurance of a safe harbor for credit unions and requested further commentary or guidance to direct examiners to be flexible in working with credit unions delaying appraisals and written estimates of market value. The Board understands the difficulties caused by the COVID event and intends to be sensitive to good-faith efforts to comply with applicable rules during the pandemic. The Board also notes recent efforts to clarify post crisis expectations for managing loans for which regulatory flexibilities have been used. Generally, the Board expects that, after the COVID event, credit unions should continue to adhere to safety and soundness standards and should refer to prudent risk management guidance for managing loans that were made during the COVID event. Existing flexibilities in appraisal standards and the interagency appraisal regulations are described in the *Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus*.[21] Credit unions should also consider the *Joint Statement on Additional Loan Accommodations Related to COVID–19* [22] (Joint Statement), issued by the Federal Financial Institutions Examination Council (FFIEC) member agencies.[23] The Joint Statement provides guidance on managing loans as they approach the end of COVID event-related accommodation periods. The Joint Statement also provides guidance on offering additional accommodations.

### *Acquisition, Development, and Construction Loans*

Under the interim final rule, transactions for acquisition, development, and construction of real estate are excluded from the flexibility to defer appraisals and written estimates of market value for 120 days. One commenter requested case-by-case leeway to delay valuation for

[17] *See,* 12 U.S.C. 1786(b) and (e); and 12 CFR 723.4; 12 CFR 741.3(b).

[18] *Id.*

[19] Residential Appraisals Threshold Increase and Other COVID–19 Related Relief Measures, Letter to Credit Unions 20–CU–10 (Apr. 2020), *available at https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/residential-appraisals-threshold-increase-and-other-covid-19-related-relief-measures.*

[20] Exec. Order No. 13,924, 85 FR 31353 (May 22, 2020).

[21] Press Release: *Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus* (Apr. 14, 2020).

[22] *Joint Statement on Additional Loan Accommodations Related to COVID–19, available at https://www.ncua.gov/files/press-releases-news/joint-statement-additional-loan-accommodations.pdf.*

[23] The FFIEC is composed of the following: a member of the FRB, appointed by the Chairman of the FRB; the Chairman of the FDIC; the Chairman of the NCUA; the Comptroller of the Currency; the Director of the Bureau of Consumer Financial Protection; and, the Chairman of the State Liaison Committee.

acquisition, development, and construction loans as well, if, for example, additional collateral secures such borrowings and all other legal and safety and soundness requirements are met and documented. The Board does not believe it is prudent to allow deferrals of appraisals or written estimates of market value for acquisition, development, and construction loans. As discussed in the interim final rule, repayment of loans for such transactions is generally dependent on the completion or sale of the property being held as collateral as opposed to repayment generated by existing collateral or the borrower. Therefore, it would be more prudent to have a formal appraisal or written estimate of market value that can provide an accurate assessment of collateral before any credit extension is necessary for such transactions.

*Appraisals With Lower Valuations*

The interim final rule also stated that the Board expects credit unions to develop an appropriate risk mitigation strategy if the appraisal or written estimate of market value ultimately reveals a market value significantly lower than the expected market value. The interim final rule further provided that such a risk mitigation strategy should consider all risks that affect the credit union's safety and soundness, balanced with mitigation of financial harm to COVID event affected borrowers. One commenter asked the NCUA to provide clear guidance to address instances where a final valuation differs from the initial assessment. The commenter did not believe that credit unions should be required to take any action pertaining to the borrower and the loan at issue.

The Board did not prescribe methods or documentation standards for valuations estimated during the deferral period, but prudent credit unions should retain information that was used to support their estimates. Credit unions should continue to develop a loan-to-value estimate in accordance with overall standards for safety and soundness. Some examples of information that may help to develop an informed estimate are existing appraisals, tax assessed values, comparable sales, and lender estimates. As stated in the interim final rule, the Board expects credit unions to develop an appropriate risk mitigation strategy if the appraisal or written estimate of market value ultimately determines a market value for a property that is significantly lower than expected when the loan is made. Appropriate risk mitigation strategies may vary based on circumstances and borrower. The *Joint Statement* clarifies that a reasonable accommodation may not necessarily result in an adverse risk rating solely because of a decline in the value of underlying collateral, provided that the borrower has the ability to perform according to the terms of the loan. However, credit unions should recognize a heightened degree of risk if the subsequently obtained appraisal or written estimate of market value ultimately reveals a market value significantly lower than the expected market value and take appropriate action to mitigate the risk.

*Effective Date*

The temporary provision permitting credit unions to defer an appraisal or written estimate of market value for eligible transactions will expire on December 31, 2020 (a transaction closed on or before December 31, 2020 is eligible for a deferral), unless extended by the Board. The Board believes that the limited timeframe for the deferral strikes the appropriate balance between safety and soundness and the need for immediate relief due to the COVID event. Two commenters requested an extension of the deferral period. One commenter specifically requested that the deferral period be extended through the first quarter of 2021. The commenter noted that states are in various phases of re-opening and credit unions may not have the ability to get an appraisal within the grace period based on local restrictions continuing until after the December expiration date. The commenter also noted that many credit unions were experiencing difficulties in obtaining an appraisal before the COVID event. The Board has no plans to extend the effective date of the interim final rule at this time but will continue to consider flexibilities as needed while supporting safe and sound collateral valuation practices during and after the COVID event.

*Other Comments*

One commenter asked the NCUA to work closely with the Federal Housing Finance Agency to align real estate appraisal standards with those of the government-sponsored enterprises, Fannie Mae and Freddie Mac, and do so in a timely fashion. The Board agrees it is important to work closely with other agencies involved in the mortgage industry and align industry standards when appropriate. However, the Board notes that real estate loans that qualify for sale to Fannie Mae, Freddie Mac, and other federal agencies are exempt from the NCUA's appraisal regulations. Credit unions that originate real estate loans that qualify for this exemption should follow applicable appraisal requirements set forth by Fannie Mae, Freddie Mac, or other government agencies as appropriate.[24]

## IV. Final Rule

For the reasons discussed above, the Board is adopting the interim final rule as a final rule with no changes. Accordingly, under the final rule, credit unions may defer required appraisals and written estimates of market value for up to 120 days for all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate. The temporary provision allowing credit unions to defer appraisals or written estimates of market value for covered transactions will expire on December 31, 2020, unless extended by the Board. As with the interim final rule, this final rule does not revise any of the existing appraisal exceptions or any other requirements with respect to the performance of written estimates of market value. The Board expects all appraisals, including deferred appraisals, to comply with USPAP.

## V. Administrative Law Matters

*A. Administrative Procedure Act*

The Administrative Procedure Act (APA) generally requires that a final rule be published in the **Federal Register** no less than 30 days before its effective date except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[25] Because the final rule relieves a restriction, the final rule is exempt from the APA's delayed effective date requirement.[26] Additionally, as an independent basis, the NCUA finds good cause to publish the final rule with an immediate effective date. The NCUA believes that the public interest is best served by implementing the final rule as soon as possible. As discussed above, recent events have suddenly and significantly affected global economic activity, increasing the needs of businesses and individuals for timely access to liquidity from equity in real estate. In addition, the spread of COVID–19 has greatly increased the difficulty of performing real estate appraisals and evaluations in a timely manner. The relief provided by

[24] 12 CFR 722.3(a), Real estate related financial transactions not requiring an appraisal under this part.

[25] 5 U.S.C. 553(d).

[26] 5 U.S.C. 553(d)(1).

the final rule will continue to allow credit unions to better focus on supporting lending to creditworthy individuals and businesses in light of recent strains on the U.S. economy as a result of the COVID event, while reaffirming the safety and soundness principle that valuation of collateral is an essential part of the lending decision. Finally, the Board believes that implementing the final rule as soon as possible is consistent with its intent to grant expedited relief. Therefore, the final rule will become effective October 14, 2020, through December 31, 2020.

*B. Congressional Review Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of agency rules.[27] A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the APA.[28] As required by SBREFA, the NCUA submitted the April 2020 interim final rule to OMB for it to determine if it was a ''major rule'' for purposes of SBREFA. OMB determined the interim final rule was not a major rule. The NCUA also filed the appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed. This final rule makes no changes to the interim final rule.

*C. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[29] For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or a third-party disclosure requirement, referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

The information collection requirements of this part are approved under OMB control number 3133–0125, which requires that a federally insured credit union retain a record of either the appraisal or estimate, which ever applies. The deferral to obtain an appraisal or estimate will not result in a change in burden; therefore, no submission will be made to OMB for review.

[27] 5 U.S.C. 801–804.

[28] 5 U.S.C. 551.

[29] 44 U.S.C. 3507(d).

*D. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA)[30] generally requires an agency to consider whether the rule it proposes will have a significant economic impact on a substantial number of small entities. For purposes of the RFA, the Board considers credit unions with assets less than $100 million to be small entities.[31]

The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).[32] Since the NCUA was not required to issue a general notice of proposed rulemaking associated with the interim final rule or this final rule, no RFA is required. Accordingly, the Board has concluded that the RFA's requirements relating to a final regulatory flexibility analysis do not apply.

*E. Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles.

This final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has therefore determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

*F. Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

**List of Subjects in 12 CFR Part 722**

Appraisal, Appraiser, Credit unions, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

[30] 5 U.S.C. 601 *et seq.*

[31] NCUA Interpretive Ruling and Policy Statement 15–1. 80 FR 57512 (Sept. 24, 2015).

[32] 5 U.S.C. 604(a).

By the National Credit Union Administration Board on September 17, 2020.

**Gerard Poliquin,**

*Secretary of the Board.*

■ For the reasons set forth in the preamble, the Board adopts the interim rule amending 12 CFR part 722, which was published at 85 FR 22014 on April 21, 2020, as final without change.

[FR Doc. 2020–20928 Filed 10–13–20; 8:45 am]

BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0336; Product Identifier 2020–NM–032–AD; Amendment 39–21280; AD 2020–21–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. This AD requires replacement of affected passenger oxygen masks, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 2020.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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.

**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–2020–0336; 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:** Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email: *kathleen.arrigotti@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0031, dated February 18, 2020 (''EASA AD 2020–0031'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on April 27, 2020 (85 FR 23257). The NPRM was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. The NPRM proposed to require replacement of affected passenger oxygen masks, as specified in an EASA AD.

The FAA is issuing this AD to address sticking of the breathing bag on certain passenger oxygen masks, which could prevent the breathing bag from fully inflating, and possibly injure cabin occupants following a depressurization event. 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 comments received on the NPRM and the FAA's response to each comment.

**Request To Allow Records Review or Visual Inspection**

Delta Air Lines, Inc. (DAL) requested that the FAA include a provision in the NPRM to allow a records review or visual inspection in lieu of a detailed inspection of the affected parts. DAL pointed out that the Airbus service information associated with EASA AD 2020–0031 specifies doing a detailed inspection of the affected parts for the affected serial numbers. DAL mentioned that previous Airbus service information for similar unsafe conditions have allowed alternative means to determine whether parts were affected by the unsafe condition.

The FAA agrees that clarification is necessary. The FAA has determined that a review of airplane maintenance records or visual inspection is acceptable in lieu of a detailed inspection if the part number, amendment number, and serial number of the passenger oxygen mask can be conclusively determined from that review. EASA AD 2020–0031, does not specify any inspection, but instead specifies replacement of affected parts with affected serial numbers. Because EASA AD 2020–0031 does not specify doing an inspection, it is not necessary to specify alternative inspection methods in this AD. However, to be clear, paragraph (h) of this AD has been revised to include an exception to EASA AD 2020–0031, stating that this AD only requires the replacement and does not require the inspection for the part number and serial number.

**Request for Exception To Limit Service Information**

DAL requested that the FAA add an exception in paragraph (h) of the proposed AD to specify doing the assembly/installation and re-identification of parts using paragraphs 3.C. and 3.D. of the Accomplishment Instructions of the B/E Aerospace Systems service information where paragraph (1) of EASA AD 2020–0031 specifies doing the actions ''. . . in accordance with the instructions of the SB.'' DAL pointed out that the Airbus service information specified by EASA AD 2020–0031 refers to B/E Aerospace Systems service information, which specifies non-explicit instructions for removal/disassembly and appears to conflict with the Airbus service information that specifies ''modification.'' DAL expressed its opinion that the modification specified in the Airbus service information should actually be the replacement of the E75000–00 series mask assemblies in affected container assemblies with re-identification of the container assemblies.

The FAA disagrees with the commenter's request. The FAA has considered the potential for conflicts introduced from other referenced service information. However, this AD requires using EASA AD 2020–0031 as the appropriate source of service information, which overrides any conflicting information specified in other referenced service information. Further, while the terminology in the Airbus service information differs from that in the B/E Aerospace Systems service information, it is clear that the Airbus service information specifies accomplishing the B/E Aerospace Systems service information, so restating that information in this AD is unnecessary. This AD has not been revised in this regard.

**Request To Add an Exception To Clarify That Checking for Date of Manufacture Is Not Required**

DAL requested that the FAA add an exception in paragraph (h) of the proposed AD to clarify that checking for the date of manufacture is not required. DAL mentioned that the Accomplishment Instructions of the B/E Aerospace Systems service information include an additional inspection for the date of manufacture of the affected part that neither EASA AD 2020–0031 nor the Airbus service information specify. DAL expressed concern that inspection for the date of manufacture was not considered as part of the NPRM. Delta contended that the date of manufacture inspection specified in the Accomplishment Instructions of the B/E Aerospace Systems service information is not required by EASA AD 2020–0031.

The FAA infers that the commenter requests an exception in the proposed AD to specify that the date of manufacture inspection specified in the Accomplishment Instructions of the B/E Aerospace Systems service information is not required. The FAA agrees for the reasons provided and has added an exception in paragraph (h)(4) of this AD to specify that the date of manufacture inspection specified in the Accomplishment Instructions of the B/E Aerospace Systems service information is not required.

**Conclusion**

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

The FAA has determined that these minor changes:

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

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

## Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0031 describes procedures for replacement of affected passenger oxygen masks. 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 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 6 work-hours × $85 per hour = $510 | $0 * | $510 | $6,630 |

* The FAA has received no definitive data that would enable the FAA to provide cost estimates of the parts cost for the replacement specified in this AD.

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

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2020–21–07 Airbus SAS:** Amendment 39–21280; Docket No. FAA–2020–0336; Product Identifier 2020–NM–032–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 35, Oxygen.

**(e) Reason**

This AD was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. The FAA is issuing this AD to address sticking of the breathing bag on certain passenger oxygen masks, which could prevent the breathing bag from fully inflating, and possibly injure cabin occupants following a depressurization event.

**(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, European Union Aviation Safety Agency (EASA) AD 2020–0031, dated February 18, 2020 (''EASA AD 2020–0031'').

**(h) Exceptions to EASA AD 2020–0031**

(1) Where EASA AD 2020–0031 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0031 does not apply to this AD.

(3) Where EASA AD 2020–0031 specifies to do the replacement specified in Airbus Service Bulletin A350–35–P013, Revision 00, dated July 2, 2019, which specifies to inspect for the part number and serial number and then do a replacement; this AD only requires the replacement.

(4) Where paragraphs 3.B. and 3.C. of the Accomplishment Instructions of B/E Aerospace Systems Service Bulletin E75000–35–001, Revision 00, dated November 25, 2016, state to do an inspection for the date of manufacture of the affected part, this AD does not require that inspection.

**(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*. 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.

(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, Large Aircraft Section, International Validation 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 2020–0031 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 Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email: *kathleen.arrigotti@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.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0031, dated February 18, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0031, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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*.

(4) 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–2020–0336.

(5) 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 October 1, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22628 Filed 10–13–20; 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–2020–0339; Product Identifier 2020–NM–046–AD; Amendment 39–21281; AD 2020–21–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 airplanes. This AD was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. This AD requires modification and re-identification of the affected thrust reversers (TRs) and latch access doors (LADs), as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020. The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 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–2020–0339.

**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–2020–0339; 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:** Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0060, dated March 16, 2020 (''EASA AD 2020–0060'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350–941 airplanes. The NPRM published in the **Federal Register** on April 27, 2020 (85 FR 23252). The NPRM was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. The NPRM proposed to require modification and re-identification of the affected thrust TRs and LADs, as specified in EASA AD 2020–0060. The FAA is issuing this AD to address a possible breach in the engine core firewall. This condition, if not corrected, could lead to an uncontained engine fire, possibly resulting in reduced control of the airplane. 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 comments received on the NPRM and the FAA's response to each comment.

**Support for the NPRM**

Air Line Pilots Association, International (ALPA), stated its support for the NPRM.

**Request To Clarify Marking Requirement**

Delta Air Lines (DAL) requested that the word ''it'' in paragraph (h)(2) of the proposed AD be replaced with ''the LAD'' to indicate the latch access door. The commenter asserted that the meaning of the word ''it'' in that paragraph is vague and should be clarified.

The FAA partially agrees with the request to modify paragraph (h)(2) of this AD. The agency agrees that the word ''it'' in that paragraph can be interpreted in more than one way, and not only as a reference to the LAD. Since paragraph (h)(2) references the TR and the LAD, to avoid confusion over the meaning, the FAA has removed the word ''it'' from paragraph (h)(2) of this AD.

**Request To Allow Alternative Marking Method**

Delta requested that an exception be added to the proposed AD stating that operators may apply markings to the LAD composite substrate by any convenient means, as long as the markings remain within 1 inch of the identification decal. The commenter expressed concern that the use of the term ''stamp,'' as specified in the service information referenced in EASA AD 2020–0060, could suggest that a stamping tool is required.

The FAA partially agrees with the request. The FAA agrees to clarify the use of the word ''stamp'' in this AD. The terms ''marked'' and ''stamped'' as used in this AD refer to any method of permanent marking, including stamping or ink marking as acceptable. The FAA has revised paragraph (h)(2) of this AD to clarify that any permanent marking method is acceptable.

**Request To Explain Why an AD Is Appropriate**

Delta requested a change to the wording of paragraph (e) of the proposed AD. Delta argued that the current paragraph is not descriptive enough to fully explain airworthiness shortcomings and why an AD is appropriate. Delta provided suggested additional wording for paragraph (e) of the proposed AD.

The FAA disagrees with this request. Based on the risk assessment performed by EASA and Airbus, the FAA determined that an unsafe condition exists, and provided relevant background information in the NPRM. The wording of paragraph (e) has not been changed with regard to this request.

**Request To Eliminate Adhesive Cure Time Requirement**

Delta requested that the cure time of the placard adhesive not be required for compliance because it has nothing to do with the unsafe condition being addressed by the proposed AD. Delta noted that the service information referenced in EASA AD 2020–0060 includes a requirement to allow curing the adhesive, and requested that the FAA add an exception to exclude this requirement.

The FAA does not agree with this request. Because placards contain vital information, proper adhesive curing times are essential and should not be removed from the requirements of this AD, although requests for alternative methods of compliance (AMOCs) remain an option for all operators. This AD has not been changed in this regard.

**Request To Change Compliance Time**

The FAA infers a request by DAL to extend the compliance time indicated in the proposed AD. The commenter asserted that the 3-month compliance time is too short and that no evidence has been given for this urgency.

The FAA disagrees with the request to increase the compliance time of this AD. Prior to publication of EASA AD 2020–0060, the manufacturer offered 2 years to address the unsafe condition as part of a monitored retrofit campaign. In developing an appropriate compliance time for this action, EASA considered the urgency associated with the subject unsafe condition, and the encouraged voluntarily compliance through the monitored retrofit campaign as that would be most convenient for the operator's normal scheduled maintenance. The FAA's NPRM provided additional time for U.S. operators to plan and execute corrective actions beyond EASA's compliance time. The FAA believes the 2-year campaign, followed by publication of the EASA AD, followed by the intervening time for the FAA to publish the NPRM and this AD, has allowed sufficient notice and planning opportunities for the U.S. fleet. This AD has not been changed with regard to this request.

**Conclusion**

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

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

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

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

EASA AD 2020–0060 describes procedures for modification and re-identification of the affected TRs and LADs. 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 3 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 18 work-hours × $85 per hour = $1,530 | * $0 | $1,530 | $4,590 |

* The FAA has received no definitive data that would enable the agency to provide a parts cost estimate for the required actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2020–21–08 Airbus SAS:** Amendment 39–21281; Docket No. FAA–2020–0339; Product Identifier 2020–NM–046–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus SAS Model A350–941 airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 78, Exhaust.

**(e) Reason**

This AD was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. The FAA is issuing this AD to address this condition, which if not corrected, could lead to an uncontained engine fire, possibly resulting in reduced control of the airplane.

**(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, European Union Aviation Safety Agency (EASA) AD 2020–0060, dated March 16, 2020 (''EASA AD 2020–0060'').

**(h) Exceptions to EASA AD 2020–0060**

(1) Where EASA AD 2020–0060 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1.3) of EASA AD 2020–0060 requires marking the service bulletin reference on the identification plate of the affected thrust reverser (TR) or latch access door (LAD), this AD allows marking on or within an inch of the identification plate or decal. For this AD, any method of permanent marking, including stamping or ink marking, is acceptable.

(3) The ''Remarks'' section of EASA AD 2020–0060 does not apply to this AD.

**(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*. 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.

(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, Large Aircraft Section, International Validation 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 2020–0060 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 Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@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.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0060, dated March 16, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0060, 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*.

(4) 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–2020–0339.

(5) 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 October 1, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22623 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0347; Product Identifier 2020–NM–042–AD; Amendment 39–21277; AD 2020–21–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A300 F4–600R series airplanes. This AD was prompted by a report of damaged main deck cargo crossbeams on the right-hand side, between certain frame locations. This AD requires repetitive detailed inspections of the affected main deck cargo crossbeams for any damage, and depending on findings, accomplishment of applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 2020.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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–2020–0347.

### 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–2020–0347; 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:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3225; email: *dan.rodina@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0050, dated March 9, 2020; corrected March 11, 2020 (''EASA AD 2020–0050'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A300 F4–600R series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A300 F4–600R series airplanes. The NPRM published in the **Federal Register** on May 1, 2020 (85 FR 25356). The NPRM was prompted by a report of damaged main deck cargo crossbeams on the right-hand side, between certain frame locations. The NPRM proposed to require repetitive detailed inspections of the affected main deck cargo crossbeams for any damage, and depending on findings, accomplishment of applicable corrective actions, as specified in an EASA AD.

The FAA is issuing this AD to address damaged main deck cargo crossbeams, which could adversely affect the structural integrity of the airplane. 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 comments received on the NPRM and the FAA's response to each comment.

### Request To Withdraw the NPRM

United Parcel Service Co. (UPS) requested that the FAA withdraw the NPRM. UPS pointed out that the NPRM duplicates multiple tasks and the associated task intervals specified in the Airbus A300–600 Maintenance Planning Document (MPD) that inspect the same area and structure. UPS also stated that those specific tasks are part of its approved Maintenance Specification Manual (MSM). UPS mentioned that the unsafe condition was discovered as a direct result of the tasks specified in the Airbus A300–600 MPD. UPS insisted that the existing tasks in the A300–600 MPD and UPS's MSM meet or exceed the requirements of the NPRM.

The FAA disagrees with the commenter's request. Although the tasks and the associated task intervals specified in the A300–600 MPD may be duplicated in the requirements of this AD, those tasks and intervals specified in the A300–600 MPD are not necessarily mandatory for all affected U.S. registered airplanes. However, this FAA AD mitigates the identified unsafe condition with mandatory tasks and intervals for all affected airplanes. Because this unsafe condition could exist or develop on Model A300 F4–600R series airplanes, mandatory repetitive inspections of the affected area are necessary to ensure the safety of the fleet. Issuance of an AD is the appropriate method to correct an unsafe condition. This AD has not been changed in this regard.

### Request To Remove the Reporting Requirement

UPS requested that the FAA remove the reporting requirement in the NPRM. UPS mentioned that the reporting requirement does not add value or help in resolving the unsafe condition. UPS pointed out that Airbus has a ten year history of service evaluation for this item, including multiple parts removed from service and returned to Airbus for evaluation. UPS stated that repetitive reporting of which crossbeams are identified as discrepant would not provide any further technical information that would result in a different resolution to the unsafe condition.

The FAA disagrees with the commenter's request. Reporting allows the manufacturer to collect airworthiness information from all operators in order to fully understand the extent of the unsafe condition,

especially in cases where that data might not be available through other means. This information will be used to determine that the unsafe condition is adequately addressed. Based on the results of these reports, we might determine that further corrective action is warranted. This AD has not been changed in this regard.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for 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.

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

EASA AD 2020–0050 describes procedures for repetitive detailed inspections of the affected main deck cargo crossbeams from frame (FR) 48 to FR54 for any damage (including bent, curved, and cracked crossbeams), corrective actions, and terminating actions. Corrective actions include detailed inspections of the right-hand and left-hand crossbeams and lugs for damage (including buckling and cracking) and correct diameter of the lug/crossbeam holes, repair, and replacement of damaged crossbeams. Optional terminating actions include replacement of crossbeams with reinforced machined crossbeams. 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 52 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 6 work-hours × $85 per hour = $510 | $0 | $510 | $26,520 |

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $4,420, or $85 per product.

The FAA estimates the following costs to do any necessary on-condition repairs that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION REPAIRS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 6 work-hours × $85 per hour = $510 | $10,000 | $10,510 |

The FAA has received no definitive data that would enable the FAA to provide cost estimates for the on-condition inspections and replacements specified in this AD.

The FAA estimates the following costs to do the optional terminating actions specified in this AD.

ESTIMATED COSTS FOR OPTIONAL TERMINATING ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 18 work-hours × $85 per hour = $1,530 | $10,000 | $11,530 |

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## Regulatory Findings

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2020–21–04 Airbus SAS:** Amendment 39–21277; Docket No. FAA–2020–0347; Product Identifier 2020–NM–042–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A300 F4–605R and F4–622R airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0050, dated March 9, 2020; corrected March 11, 2020 (''EASA AD 2020–0050'').

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report of damaged main deck cargo crossbeams on the right-hand side, between certain frame locations. The FAA is issuing this AD to address damaged main deck cargo crossbeams, which could adversely affect the structural integrity of the airplane.

**(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 2020–0050.

**(h) Exceptions to EASA AD 2020–0050**

(1) Where EASA AD 2020–0050 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0050 does not apply to this AD.

(3) Paragraph (4) of EASA AD 2020–0050 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(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*. 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.

(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, Large Aircraft Section, International Validation 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 2020–0050 that contains RC procedures and tests: Except as required by paragraphs (h)(3) and (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.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour 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. All responses to this collection of information are mandatory as required by this AD. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

**(j) Related Information**

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3225; email: *dan.rodina@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.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0050, dated March 9, 2020; corrected March 11, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0050, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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*.

(4) 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–2020–0347.

(5) 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 October 1, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–22622 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0200; Product Identifier 2019–NM–185–AD; Amendment 39–21276; AD 2020–21–03]**

**RIN 2120–AA64**

## Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2015–14–01, which applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2015–14–01 required a detailed inspection for loose bolts on the aft translating door crank assembly, and removal and reinstallation of the bolts. This AD retains the inspections of AD 2015–14–01 and adds airplanes to the applicability. For all airplanes, this AD also requires a modification of the door crank handle, which will terminate the inspection requirements. This AD was prompted by reports of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft, and of sealant missing from these bolts on another translating door. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 11, 2015 (80 FR 38615, July 7, 2015).

**ADDRESSES:** For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com*; internet *https://dehavilland.com.* You may view this referenced service information 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 on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0200.

### 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–2020–0200; 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:** Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2014–08R1, dated July 30, 2019 (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400 series airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0200.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–14–01, Amendment 39–18199 (80 FR 38615, July 7, 2015) (''AD 2015–14–01''). AD 2015–14–01 applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on March 20, 2020 (85 FR 16008). The NPRM was prompted by reports of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft, and of sealant missing from these bolts on another translating door. The NPRM proposed to retain the requirements of AD 2015–14–01 and add airplanes to the applicability. The NPRM also proposed to require, for all airplanes, a modification of the door crank handle, which would terminate the inspection. The FAA is issuing this AD to address the potential for both bolts to become loose or fall out after the door is closed and locked, which would prevent the door from being opened from inside or outside and impede evacuation in the event of an emergency. 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 comments received on the NPRM and the FAA's response to each comment.

### Request To Use the Latest Service Information

Horizon Air requested that the FAA use the latest service information for the actions proposed in the NPRM.

The FAA agrees with the comment. The FAA has revised paragraphs (i), (j) and (l) of this AD accordingly.

### Request To Require Only Certain Sections of the Service Information

Horizon Air requested that the proposed AD specifically require paragraph 3.B., ''Procedure,'' of the applicable service information specified in paragraphs (i)(1) through (3) of the proposed AD instead of the entire section of the Accomplishment Instructions. Horizon Air stated that the job set-up and close out sections of the Accomplishment Instructions do not directly correct the unsafe condition, and that incorporating the job set-up and close out sections restricts an operator's ability to perform other maintenance in conjunction with incorporating the service information.

The FAA agrees with the commenter's request. Paragraphs 3.A., ''Job Set-Up,'' and 3.C., ''Close Out,'' of the

Accomplishment Instructions of the applicable service information specified in this AD are recommended steps that can be used at the operator's discretion. The FAA has revised this AD to specify that the actions in paragraph (i) of this AD be accomplished in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of the applicable service information specified in paragraphs (i)(1) through (3) of this AD.

**Changes to the Final Rule Since the NPRM Was Issued**

The FAA inadvertently referred to certain service information as ''Bombardier Service Bulletin.'' The FAA has revised this AD to refer to certain service information as ''De Havilland Aircraft of Canada Limited Service Bulletin.''

In addition, the FAA has removed Bombardier Service Bulletin 84–52–75, dated July 27, 2012, from paragraph (g)(1) of this AD, as it was inadvertently cited and is not needed for the actions required in paragraph (g)(1) of this AD.

**Conclusion**

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

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

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

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

De Havilland Aircraft of Canada Limited has issued the following service information.

- De Havilland Aircraft of Canada Limited Service Bulletin 84–52–89, Revision B, dated February 26, 2020.
- De Havilland Aircraft of Canada Limited Service Bulletin 84–52–92, Revision B, dated February 27, 2020.
- De Havilland Aircraft of Canada Limited Service Bulletin 84–52–94, Revision B, dated February 26, 2020.

This service information describes procedures for modifying the door crank handle with an improved bolt retention design on the type 1 emergency door, the aft entry door, and the aft service door, as necessary. These documents are distinct since they apply to different airplane configurations.

De Havilland Aircraft of Canada Limited has also issued Bombardier Service Bulletin 84–52–96, dated February 26, 2019, which describes procedures for a detailed visual inspection of the translating door crank assembly for any loose bolts.

De Havilland Aircraft of Canada Limited has also issued Modification Summary Package IS4Q5200101, Revision A, dated July 5, 2019, which describes a deviation to the actions specified in certain service information.

This AD would also require Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013, which the Director of the Federal Register approved for incorporation by reference as of August 11, 2015 (80 FR 38615, July 7, 2015).

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

**Costs of Compliance**

The FAA estimates that this AD affects 59 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| Up to 13 work-hours × $85 per hour = $1,105 | Up to $677 | Up to $1,782 | Up to $105,138. |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

**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) 2015–14–01, Amendment 39–18199 (80 FR 38615, July7, 2015); and

■ b. Adding the following new AD:

**2020–21–03 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes:** Amendment 39–21276; Docket No. FAA–2020–0200; Product Identifier 2019–NM–185–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

This AD replaces AD 2015–14–01, Amendment 39–18199 (80 FR 38615, July 7, 2015) (''AD 2015–14–01'').

**(c) Applicability**

This AD applies to De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers (S/Ns) 4001 through 4530 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 52, Doors.

**(e) Reason**

This AD was prompted by reports of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft, and of sealant missing from these bolts on another translating door. The FAA is issuing this AD to address the potential for both bolts to become loose or fall out after the door is closed and locked, which would prevent the door from being opened from inside or outside and impede evacuation in the event of an emergency.

**(f) Compliance**

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

**(g) Inspection and Corrective Actions for S/Ns 4001 Through 4411 Inclusive**

For airplane S/Ns 4001 through 4411 inclusive: Within 600 flight hours or 100 days, whichever occurs first after August 11, 2015 (the effective date of AD 2015–14–01): Perform a detailed inspection for loose bolts of the aft translating door crank assembly, in accordance with paragraph 3.B., ''Procedure,'' of Part A—INSPECTION of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013.

(1) If the detailed inspection was done before the effective date of this AD and the corrective action was done in accordance with 3.B., ''Procedure,'' and steps 3.C.(4) and 3.C.(5) of paragraph 3.C., ''Close Out,'' of Part B—RECTIFICATION, of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013: No further work is required by paragraph (g) of this AD.

(2) If the detailed inspection is done on or after the effective date of this AD, and any loose bolt is found: Before further flight, do the modification in paragraph (i) of this AD.

**(h) Inspection and Modification for S/Ns 4412 Through 4491 Inclusive**

For airplane S/Ns 4412 through 4491 inclusive: Within 800 flight hours or 120 days, whichever occurs first after the effective date of this AD, perform a detailed inspection for loose bolts of the translating door crank assembly, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–96, dated February 26, 2019.

(1) If any loose bolt is found, before further flight do the modification specified in paragraph (i) of this AD.

(2) If no loose bolt is found, at the compliance time specified in paragraph (i) of this AD, do the modification specified in paragraph (i) of this AD.

**(i) Modification for S/Ns 4001 Through 4530 Inclusive**

For airplane S/Ns 4001 through 4530 inclusive: Except as required by paragraphs (g)(2) and (h)(1) of this AD, within 8,000 flight hours or 48 months, whichever occurs first after the effective date of this AD, modify the door crank handle with an improved bolt retention design on the type 1 emergency door, the aft entry door, and the aft service door, as applicable, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of the applicable service information specified in paragraphs (i)(1) through (3) of this AD.

(1) For the aft entry door: De Havilland Aircraft of Canada Limited Service Bulletin 84–52–89, Revision B, dated February 26, 2020.

(2) For the aft service door: De Havilland Aircraft of Canada Limited Service Bulletin 84–52–92, Revision B, dated February 27, 2020.

(3) For the type 1 emergency door: De Havilland Aircraft of Canada Limited Service Bulletin 84–52–94, Revision B, dated February 26, 2020.

**(j) Alternative Modification**

For airplanes with de Havilland Modification Summary Package 4Q459324 incorporated for the cargo combi configuration: Accomplishing the modification in paragraph (i) of this AD using De Havilland Aircraft of Canada Limited Service Bulletin 84–52–89, Revision B, dated February 26, 2020; and De Havilland Aircraft of Canada Limited Service Bulletin 84–52–92, Revision B, dated February 27, 2020; as applicable; in combination with de Havilland Modification Summary Package IS4Q5200101, Revision A, dated July 5, 2019, also meets the requirement specified in paragraph (i) of this AD for the aft entry and aft service doors.

**(k) Terminating Actions**

Accomplishing the action required by paragraph (i) of this AD terminates the requirements of paragraphs (g) and (h) of this AD.

**(l) Credit for Previous Actions**

(1) This paragraph provides credit for actions required by the introductory text to paragraph (g) of this AD, if those actions were performed before August 11, 2015 (the effective date of AD 2015–14–01) using Bombardier Service Bulletin 84–52–75, dated July 27, 2012, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the modification of the applicable doors in paragraphs (i) and (j) of this AD, if the modification was performed before the effective date of this AD using the applicable service information specified in paragraphs (l)(2)(i) through (vi) of this AD.

(i) Bombardier Service Bulletin 84–52–89, dated April 13, 2017.

(ii) Bombardier Service Bulletin 84–52–89, Revision A, dated January 29, 2018.

(iii) Bombardier Service Bulletin 84–52–92, dated April 18, 2017.

(iv) Bombardier Service Bulletin 84–52–92, Revision A, dated January 24, 2018.

(v) Bombardier Service Bulletin 84–52–94, dated April 13, 2017.

(vi) Bombardier Service Bulletin 84–52–94, Revision A, dated January 24, 2018.

**(m) Other FAA AD Provisions**

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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.

(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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(n) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2014–08R1, dated July 30, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0200.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(5) and (6) of this AD.

**(o) 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 November 18, 2020.

(i) De Havilland Aircraft of Canada Limited Service Bulletin 84–52–89, Revision B, dated February 26, 2020.

(ii) De Havilland Aircraft of Canada Limited Service Bulletin 84–52–92, Revision B, dated February 27, 2020.

(iii) De Havilland Aircraft of Canada Limited Service Bulletin 84–52–94, Revision B, dated February 26, 2020.

(iv) Bombardier Service Bulletin 84–52–96, dated February 26, 2019.

(v) De Havilland Aircraft of Canada Limited Modification Summary Package IS4Q5200101, Revision A, dated July 5, 2019.

(4) The following service information was approved for IBR on August 11, 2015 (80 FR 38615, July7, 2015).

(i) Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013.

(ii) [Reserved]

(5) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com*; internet *https://dehavilland.com*.

(6) You may view this service information 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.

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

Issued on October 1, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–22627 Filed 10–13–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0576; Product Identifier 2020–NM–068–AD; Amendment 39–21279; AD 2020–21–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 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–2020–0576.

### 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–2020–0576; 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:** Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0091, dated April 22, 2020 (''EASA AD 2020–0091''). (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after June 7, 2019, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on July 1, 2020 (85 FR 39503). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in an EASA AD. The FAA is issuing this AD to address potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

### Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

### Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for 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.

### Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0091 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits. 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 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2020–21–06 Airbus SAS:** Amendment 39–21279; Docket No. FAA–2020–0576; Product Identifier 2020–NM–068–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 7, 2019.

**(d) Subject**

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

**(e) Reason**

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

**(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, European Union Aviation Safety Agency (EASA) AD 2020–0091, dated April 22, 2020 (''EASA AD 2020–0091'').

**(h) Exceptions to EASA AD 2020–0091**

(1) The requirements specified in paragraph (1) of EASA AD 2020–0091 do not apply to this AD.

(2) Paragraph (2) of EASA AD 2020–0091 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations'' specified in paragraph (2) of EASA 2020–0091 within 90 days after the effective date of this AD.

(3) The initial compliance time for complying with the limitations specified in paragraph (2) of EASA AD 2020–0091 is at the applicable ''limitations'' specified in paragraph (2) of EASA AD 2020–0091, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (3) and (4) of EASA AD 2020–0091 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0091 does not apply to this AD.

**(i) Provisions for Alternative Actions and Intervals**

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0091.

**(j) 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 (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. 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.

(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, Large Aircraft Section, International Validation 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 2020–0091 that contains RC procedures and tests: Except as required by paragraph (j)(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.

**(k) Related Information**

For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*.

**(l) 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.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0091, dated April 22, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0091, 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*.

(4) 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–2020–0576.

(5) 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 October 1, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22624 Filed 10–13–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0197; Product Identifier 2019–NM–200–AD; Amendment 39–21278; AD 2020–21–05]**

**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) 2017–25–16, which applied to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2017–25–16 required repetitive inspections of certain fuel pumps for cavitation erosion, corrective action if necessary, and revision of the minimum equipment list (MEL). This AD continues to require those actions, and also requires expanding the inspection area, adding certain maintenance actions, and expanding the applicability, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by new findings that suggest the need to expand the inspection area and the applicability. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 18, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 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–2020–0197.

**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–2020–0197; 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:** Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0291R1, dated March 4, 2020 (''EASA AD 2019–0291R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, and A340–300 series airplanes; and Model A340–541, –542, –642, and –643 airplanes. EASA AD 2019–0291R1 supersedes EASA AD 2017–0224, dated November 10, 2017 (which corresponds to FAA AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (''AD 2017–25–16'')). Model A340–542 and –643 airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–25–16. AD 2017–25–16 applied to all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. The NPRM published in the **Federal Register** on March 9, 2020 (85 FR 13578). The NPRM was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by new findings that suggest the need to expand

the inspection area and the applicability. The NPRM proposed to continue to require repetitive inspections of certain fuel pumps for cavitation erosion, corrective action if necessary, and revision of the MEL, as specified in an EASA AD. The NPRM also proposed to require expanding the inspection area, adding certain maintenance actions, and expanding the applicability, as specified in an EASA AD.

The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane. 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 comments received on the NPRM and the FAA's response to each comment.

**Support for the NPRM**

The Air Line Pilots Association, International (ALPA) expressed support for the proposed AD.

**Request To Require Revised EASA AD**

Delta Air Lines (DAL) requested that the FAA revise paragraph (g) of the proposed AD to require compliance with EASA AD 2019–0291R1, dated March 4, 2020, rather than EASA AD 2019–0291, dated November 29, 2019. DAL observed that while the NPRM was being prepared, EASA published the revised AD.

The FAA agrees with the commenter's request. Since the NPRM was issued, EASA issued EASA AD 2019–0291R1, which corrects and clarifies some aspects, particularly repair (not overhaul) of affected parts using the instructions of Eaton Aerospace CMM 28–21–55 (housing replaced). The FAA has determined that no additional work is required for airplanes that have accomplished the actions specified in EASA AD 2019–0291. Therefore, the FAA has revised this final rule to specify EASA AD 2019–0291R1.

**Conclusion**

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

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

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

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

EASA AD 2019–0291R1 describes procedures for repetitive inspections of all affected parts, replacement if necessary, updating the applicable Master Minimum Equipment List (MMEL), and certain maintenance actions related to defueling and ground fuel transfer operations 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.

**Interim Action**

The FAA considers this AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

**Costs of Compliance**

The FAA estimates that this AD affects 107 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 2017–25–16. | Up to 4 work-hours × $85 per hour = Up to $340. | $0 | Up to $340 | Up to $36,380. |
| New actions | Up to 68 work-hours × $85 per hour = Up to $5,780. | 0 | Up to $5,780 | Up to $618,460. |
| MEL revision | 1 workhour × $85 = $85 | 0 | $85 | $9,095. |

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| Up to 126 work-hours × $85 per hour = Up to $10,710 | Up to $173,680 | Up to $184,390. |

**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:

■ a. Removing Airworthiness Directive (AD) 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017); and

■ b. Adding the following new AD:

**2020–21–05 Airbus SAS:** Amendment 39–21278; Docket No. FAA–2020–0197; Product Identifier 2019–NM–200–AD.

**(a) Effective Date**

This AD is effective November 18, 2020.

**(b) Affected ADs**

This AD replaces AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (''AD 2017–25–16'').

**(c) Applicability**

This AD applies to all Airbus SAS airplanes, certificated in any category, as identified in paragraphs (c)(1) through (8) of this AD.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–941 airplanes.

(4) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(5) Model A340–211, –212, and –213 airplanes.

(6) Model A340–311, –312, and –313 airplanes.

(7) Model A340–541 airplanes.

(8) Model A340–642 airplanes.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by new findings that suggest the need to expand the inspection area and the applicability. The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0291R1, dated March 4, 2020 (''EASA AD 2019–0291R1'').

**(h) Exceptions to EASA AD 2019–0291R1**

(1) Where EASA AD 2019–0291R1 refers to ''the effective date of the original issue of this AD,'' this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0291R1 does not apply to this AD.

(3) Where EASA AD 2019–0291R1 refers to the master minimum equipment list (MMEL), this AD refers to the operator's minimum equipment list (MEL).

(4) Where paragraph (1) of EASA AD 2019–0291R1 specifies a compliance time of ''Before an affected part exceeds 10,000 flight hours (FH) since first installation on an aeroplane, or since Eaton Aerospace CMM 28–21–55 repair (housing replaced),'' for this AD the compliance time is ''Before an affected pump exceeds 10,000 flight hours since first installation on an airplane, or the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD, whichever occurs later.''

(i) For a center tank, rear center tank, or aft transfer fuel pump: Within 30 days after December 29, 2017 (the effective date of AD 2017–25–16).

(ii) For a stand-by fuel pump: Within 40 days after December 29, 2017 (the effective date of AD 2017–25–16).

(5) Where EASA AD 2019–0291R1 refers to the ''effective date of EASA AD 2017–0224,'' this AD requires using ''December 29, 2017 (the effective date of AD 2017–25–16).''

(6) Where EASA AD 2019–0291R1 specifies a compliance time of ''after 13 December 2019 [the effective date of the original issue of this AD],'' this AD requires using the effective date of this AD.

**(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-ANM-116-AMOC-REQUESTS@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 2017–25–16 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0291R1 that is 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, Large Aircraft Section, International Validation 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 2019–0291R1 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 Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@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 November 18, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0291R1, dated March 4, 2020.

(ii) [Reserved]

(4) For EASA AD 2019–0291R1, 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–2020–0197.

(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 October 1, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–22625 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### 32 CFR Part 589

**[Docket ID: USA–2020–HQ–0009]**

**RIN 0702–AB10**

### Compliance With Court Orders by Personnel and Command Sponsored Family Members

**AGENCY:** Department of the Army, DoD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes DoD's regulation concerning policies on compliance with court orders by DoD employees and DoD Members. The purpose of the DoD Instruction on which this rule is based is to provide internal guidance to DoD Components on cooperation with law enforcement agencies. Although civil authorities, who may be considered the public for rule-making purposes, may request support from DoD, this rule neither confers a benefit not otherwise provided for in statute nor imposes a burden on civil authorities. Further, the rule does not limit DoD assistance to qualifying entities in a way that is inconsistent with the statutory framework. Therefore, this part can be removed from the CFR.

**DATES:** This rule is effective on October 14, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Sturm, 703–697–5290, email: *mary.a.sturm.civ@mail.mil*.

**SUPPLEMENTARY INFORMATION:** It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publicly available on the Department's issuance website. The rule was published November 8, 1990 (55 FR 47042). This rule contained internal policy included in DoD Directive 5525.09 concerning DoD cooperation with courts and federal, state, and local officials in enforcing court orders pertaining to military personnel and DoD employees serving outside the United States, as well as their command sponsored family members. The current rule conveys internal Army policy and implementation in Army Regulation (AR) 190–9, where it is the policy of the Department of the Army to cooperate with civilian authorities unless the best interest of the Army will be prejudiced. AR 630–10 provides the personnel management policies and procedures on the surrender of soldiers to civilian authorities.

DoD internal guidance will continue to be published in AR 190–9, ''Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies''; and AR 630–10, ''Absence without Leave, Desertion and Administration of Personnel Involved in Civilian Court Proceedings,'' which are available at *https://www.armypubs.army.mil*.

The rule does not place a burden on the public and therefore does not provide a burden reduction or cost savings by its repeal.

This rule is not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review.'' Therefore, E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' does not apply.

**List of Subjects in 32 CFR Part 589**

Courts, Government employees.

## PART 589—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 589 is removed.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2020–21793 Filed 10–13–20; 8:45 am]

**BILLING CODE 5061–AP–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2020–0159; FRL–10014–57–Region 6]**

### Air Plan Approval; Texas; Construction Prior to Permit Amendment Issuance

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving one revision to the Texas (TX) State Implementation Plan (SIP) submitted on August, 2020, as adopted on July 15, 2020, that revised the State's New Source Review (NSR) permitting rules contained in Title 30 of the Texas Administrative Code (TAC) Chapter 116 *Control of Air Pollution by Air Permits for New Construction or Modification* by amending the criteria for air pollution control permits for new construction or modification, as well as make other non-substantive revisions.

**DATES:** This rule is effective on November 13, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2020–0159. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through *https://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Layton, EPA Region 6 Office, Air Permits Section, 214–665–2136, *layton.elizabeth@epa.gov*. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

### I. Background

The background for this action is discussed in depth in our April 23, 2020, proposal (85 FR 22700). We preliminarily determined that the

proposed revisions to the State's New Source Review permitting rules were consistent with the CAA and the EPA's regulations and guidance. Under the EPA's ''parallel processing'' procedure, the EPA proposes a rulemaking action on a proposed SIP revision concurrently with the State's public review process. If the State's proposed SIP revision is not significantly changed, the EPA will finalize the rulemaking on the SIP revision as proposed after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the final SIP revision has been fully adopted by the TCEQ and submitted formally to the EPA for approval as a revision to the Texas SIP. See 40 CFR part 51, Appendix V.

The TCEQ completed their state rulemaking process and adopted revisions on July 15, 2020. The TCEQ submitted these adopted changes to the EPA as a revision to the Texas SIP on August 21, 2020. The EPA has evaluated the State's final SIP revision for any changes made from the time of proposal. The EPA's evaluation of the adopted revisions including the completeness determination for the final SIP submission is included in the ''Addendum to the Technical Support Document'' for EPA–R06–OAR–2020–0159, available in the rulemaking docket.

The EPA is proceeding with our final approval of the August 21, 2020, revisions to the Texas SIP, consistent with the parallel processing provisions in in 40 CFR part 51, Appendix V. The TCEQ adopted the revisions as they were proposed, *i.e.,* no changes were made. We received four supportive comments regarding our proposal. Therefore, we are proceeding with our final approval because the submitted final regulations adopted by the state do not alter our rationale for proposal presented in our April 23, 2020, proposed rulemaking. The comments received on our proposed rulemaking are outlined in the section below.

## II. Response to Comments

We received four public comments on the proposal. All four comments supported our proposed approval. One commenter supported the approval but requested additional flexibility to allow construction to commence at an earlier stage in the permitting process. All public comments submitted are in the public docket to this rulemaking. Our responses to the comments are discussed below.

*Comment:* The State of Texas (TCEQ), the Texas Industry Project (TIP), and the Texas Oil and Gas Association (TXOGA) submitted comments supporting the proposed approval.

*Response:* The EPA appreciates the supportive comments from the TCEQ, TIP, and TXOGA. No changes will be made to the proposed rule as a result of these comments.

*Comment:* Kohler Co. supports the TCEQ's proposed rulemaking but requested that the language be revised in the final action to allow construction to commence when the permit application is deemed administratively complete, rather than when a draft permit is issued.

*Response:* The EPA appreciates the supportive comment. In reviewing SIP submissions, the EPA's role is strictly to approve state choices, provided those choices meet the criteria of the CAA; we refer Kohler Co. to the State for comments regarding revisions to the rule.

## III. Final Action

The EPA has determined that the August 21, 2020, revisions to the Texas SIP are consistent with the CAA and EPA's policy and guidance on minor NSR air permitting rules. Therefore, under section 110 of the Act, the EPA approves the following revisions to the Texas SIP, submitted August 21, 2020, as adopted on July 15, 2020, in the following Sections of 30 TAC Chapter 116:

- Revisions to 30 TAC Section 116.110 (except for Sections 116.110(a)(5), (c) and (d) that are not part of the Texas SIP);
- Revisions to 30 TAC Section 116.116;
- Addition of 30 TAC Section 116.118;
- Revisions to 30 TAC Section 116.710;
- Revisions to 30 TAC Section 116.721.

Additionally, the EPA approves a ministerial change to 40 CFR 52.2270(c) to clarify that 30 TAC Section 116.110 Subsections (d) change in ownership, (e) submittal under PE seal, and (f) responsibility for permit application were approved on November 14, 2003, and include their appropriate re-lettering to 30 TAC Subsections 116.110(e), (f), and (g), respectively, from the January 30, 2020, proposed approval by parallel processing request.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* a (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: September 10, 2020.

**Kenley McQueen,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart SS—Texas

■ 2. In § 52.2270 (c), the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by:

■ a. Revising the entries for Sections 116.110, 116.116, 116.710 and 116.721, and;

■ b. Adding a new entry for Section 116.118.

The amendments read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State approval/ submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification** | | | | |
| * | * | * | * | * |
| **Subchapter B—New Source Review Permits** | | | | |
| **Division 1—Permit Application** | | | | |
| Section 116.110 | Applicability | 7/15/2020 | 10/14/2020, [Insert **Federal Register** citation]. | SIP does not include 116.110(a)(5), 116.110(c), or 116.110(d). |
| * | * | * | * | * |
| Section 116.116 | Changes to Facilities | 7/15/2020 | 10/14/2020, [Insert **Federal Register** citation]. | SIP does not include 30 TAC Section 116.116(b)(3). |
| * | * | * | * | * |
| Section 116.118 | Construction While Permit Amendment Application Pending. | 7/15/2020 | 10/14/2020, [Insert **Federal Register** citation]. | |
| * | * | * | * | * |
| **Subchapter G—Flexible Permits** | | | | |
| 116.710 | Applicability | July 15, 2020 | 10/14/2020, [Insert **Federal Register** citation]. | |

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

| State citation | Title/subject | State approval/ submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 116.721 | Amendments and Alterations | July 15, 2020 | 10/14/2020, [Insert **Federal Register** citation]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2020–20391 Filed 10–13–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R01–OAR–2020–0284; FRL–10014–81–Region 1]**

## Air Plan Approval; Maine; Midcoast Area and Portland Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maine. On February 18, 2020, the State submitted its 1997 ozone national ambient air quality standards (NAAQS) Limited Maintenance Plans (LMPs) for the Portland and Midcoast areas. EPA is approving the Portland and Midcoast LMPs because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year portion of the maintenance period. The effect of this action will be to make certain commitments related to maintenance of the 1997 ozone NAAQS in the Portland and Midcoast maintenance areas part of the Maine SIP and therefore federally enforceable.

**DATES:** This rule is effective on November 13, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2020–0284. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

**FOR FURTHER INFORMATION CONTACT:** Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. 617–918–1628, email *rackauskas.eric@epa.gov*.

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

### Table of Contents

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

### I. Background and Purpose

Under the CAA, EPA is approving Limited Maintenance Plans (LMPs) for the Portland and Midcoast maintenance areas for the 1997 ozone NAAQS submitted as a revision to the Maine State Implementation Plan (SIP) on February 18, 2020. The Portland area under the 1997 ozone NAAQS is comprised of 57 cities and towns in York, Cumberland and Sagadahoc Counties along with Durham, Maine in Androscoggin County. The Midcoast area is made up of 55 coastal towns and islands in Hancock, Knox, Lincoln and Waldo counties. On June 15, 2004, the Portland and Midcoast areas were designated as nonattainment areas under the 1997 ozone NAAQS. On January 10, 2007, the areas were redesignated to attainment under that standard.

The Portland and Midcoast areas' LMPs for the 1997 ozone NAAQS submitted by Maine are designed to maintain the 1997 ozone NAAQS within these areas through the end of the second ten-year period of the maintenance period. We are approving the plans because they meet all applicable requirements under CAA sections 110 and 175A.

Other specific requirements of the LMPs and the rationale for EPA's proposed action are explained in the notice of proposed rulemaking and will not be restated here. EPA received two public comments during the comment period for the notice of proposed rulemaking. One comment supported the action. The second comment was not germane to the rulemaking notice, did not indicate any technical or legal reason why EPA should not approve the SIP revision, and did not propose any changes to the SIP revision.

### II. Final Action

EPA is approving, and incorporating into the Maine SIP, the 1997 ozone national ambient air quality standards LMPs for the Portland and Midcoast areas. EPA is approving the LMPs because the plans are consistent with the requirements of the CAA.

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: September 14, 2020.

**Dennis Deziel,**

*Regional Administrator, EPA Region 1.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart U—Maine

■ 2. In § 52.1020(e), amend the table by adding the entries ''Portland Area Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS'' and ''Midcoast Area Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS'', at the end of the table, to read as follows:

**§ 52.1020 Identification of plan.**

* * * * *

(e) * * *

MAINE NON REGULATORY

| Name of non regulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approved date [3] | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| Portland Area Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS. | Portland Area ..... | 2/18/2020 | 10/14/2020 [Insert **Federal Register** citation]. | 2nd maintenance plan for 1997 ozone standard. |
| Midcoast Area Second 10-Year Limited Maintenance Plans for 1997 Ozone NAAQS. | Midcoast area ..... | 2/18/2020 | 10/14/2020 [Insert **Federal Register** citation]. | 2nd maintenance plan for 1997 ozone standard. |

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2020–20831 Filed 10–13–20; 8:45 am]
BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CG Docket Nos. 03–123, 13–24, 10–51; FCC 20–132; FRS 17133]**

## internet Protocol Captioned Telephone Service Compensation

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) adopts a compensation methodology and determines a per-minute compensation rate for providers of internet Protocol Captioned Telephone Service (IP CTS) supported by the Telecommunications Relay Services (TRS) Fund.

**DATES:** *Effective Date:* This compensation methodology and per-minute rate of compensation applicable to IP CTS providers is effective December 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418–1264, or email *Michael.Scott@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order and Order on Reconsideration, document FCC 20–132, adopted on September 30, 2020, released on October 2, 2020, in CG Docket Nos. 13–24 and 03–123. The Commission previously sought comment on the issue addressed in the Report and Order in a Further Notice of Proposed Rulemaking (*2018 Further Notice*), published at 83 FR 33899, July 18, 2018. The full text of this document will be available for public inspection and copying at *https://docs.fcc.gov/public/attachments/FCC-20-132A1.pdf* and via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov,* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

### Congressional Review Act

The Commission sent a copy of document FCC 20–132 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

### Final Paperwork Reduction Act of 1995 Analysis

Document FCC 20–132 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

### Synopsis

1. Under section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, the Commission must ensure that telecommunications telay services (TRS) are ''functionally equivalent'' to voice service and are made available to eligible users to the extent possible and in the most efficient manner. One form of TRS, internet Protocol Captioned Telephone Service (IP CTS), delivers captions for ongoing telephone conversations to individuals with hearing loss, so that they can use the captions and their residual hearing to understand what the other party is saying. Like other forms of TRS, IP CTS is paid for by telecommunications and voice over internet Protocol (VoIP) service providers' contributions to the Commission-administered TRS Fund.

2. In its June 2018 Report and Order (*2018 Order*), document 18–79, 83 FR 30082, June 27, 2018, the Commission determined that TRS Fund payments to the companies providing IP CTS were greatly in excess of actual costs and that the gap between TRS Fund payments and provider costs was becoming wider. The Commission terminated use of the Multistate Average Rate Structure (MARS) methodology, which set the TRS Fund IP CTS per minute compensation rate based on non-internet captioned telephone service provided through state TRS programs. The Commission also set interim compensation rates for IP CTS providers for the 2018–19 and 2019–20 TRS Fund Years, pending adoption of a replacement compensation methodology. In the *2018 Further Notice,* the Commission sought comment on establishing a new TRS Fund compensation methodology for IP CTS and setting provider compensation for the period after June 30, 2020. On May 29, 2020, after the onset of the COVID–19 pandemic, the Consumer and Governmental Affairs Bureau (Bureau) granted a *sua sponte* waiver of the June 30, 2020, expiration of the 2019–20 TRS Fund Year $1.58 per minute rate, extending its application through September 30, 2020.

3. In document FCC 20–132, the Commission sets IP CTS compensation through June 30, 2022, completing the adjustment of IP CTS compensation to the level of current reasonable costs. Continuing the approximately 10% annual rate reductions initiated in 2018, the Commission reduces the rate from $1.58 to $1.42 per minute for the remainder of the 2020–21 Fund Year and reaches the average cost plus operating margin, $1.30 per minute, in the 2021–22 Fund Year.

4. The Commission applies these compensation rates on a technologically neutral basis to all forms of IP CTS and all IP CTS providers. The Commission concludes that a tiered rate structure is unsuited to the current IP CTS environment, and the Commission defers consideration of whether and how to set a separate compensation rate for fully automatic IP CTS. The Commission also defers consideration of alternatives to cost-based compensation rates, such as a reverse-auction approach, until it becomes clearer how the introduction of fully automatic captioning methods will affect provider cost structures. For similar reasons, the Commission defers consideration of whether to apply price-cap-like adjustments to the compensation rate (other than for reimbursement of exogenous costs).

5. *Average Cost Methodology.* The Commission has broad discretion in choosing compensation methodologies and setting compensation rates within the parameters established by section 225 of the Communications Act. To determine a cost-based level of IP CTS compensation for the next rate period, the Commission employs the same methodology used in 2018 to set interim IP CTS rates—setting a rate based on the weighted average of all providers' projected and historical costs, as reported for the current and immediately preceding calendar years, respectively. Continued use of this cost-based methodology in the near term will advance the efficiency mandate of section 225 and permit service quality improvements in functionally equivalent service to users without unduly burdening providers.

6. *First,* through more than 25 years of experience using an average-cost methodology to set TRS compensation, the Commission has developed a consistent approach to determining the reasonable costs for TRS, which can be applied without imposing undue administrative burdens on either providers or the Commission. Although any ratemaking method is subject to

imprecision, provider cost data, which is subject to audit, has been reasonably reliable and consistent. Further, at this time the record does not indicate a reliable alternative that the Commission is confident would produce more accurate results. And, as discussed in more detail below, the Commission's determinations regarding allowability of costs are solidly reasoned and have been upheld on judicial review.

7. *Second,* average-cost-based compensation, especially when applied for more than one year, provides substantial incentives and opportunities for individual TRS providers to increase their efficiency and capture the resulting profits. Such incentives and opportunities are especially strong in the current circumstances. According to the TRS Fund administrator's analysis of average costs over the last six years, IP CTS costs have continuously declined—as one would expect in an industry characterized by significant technological innovation, steady accumulation of management experience and expertise, and progress in realizing economies of scale. And the declining cost trend is likely to continue or accelerate with the introduction of fully automatic IP CTS as an option for consumers.

8. *Third,* maintaining the same compensation methodology employed two years ago provides a measure of transitional stability at a time of technological change. The Commission does not yet have sufficient experience with fully automatic IP CTS to be able to take account of this potentially game-changing technology in the design of a new compensation methodology. Further, given the likelihood that established approaches to the provision of IP CTS may be replaced over time with less costly technology, it is possible that some providers, facing uncertainty about the scale and stability of future demand for their services, could exit before comparable services that maximize the advantages of newer technology are readily available to all segments of the telephone captioning market. By providing a relatively predictable path, the Commission can enable legacy services to remain available until the advantages of the newer technology are more fully realized.

9. With the introduction of fully automatic IP CTS using advanced automatic speech recognition (ASR), IP CTS cost structures may change substantially by the end of the next rate period. As more providers begin to offer this alternative, and data becomes available on the actual costs of providing fully automatic IP CTS, the Commission will be able to make future compensation decisions that address the impact of this new technology, including the selection of a new methodology if such is warranted.

10. *Allowable cost categories.* The Commission applies to IP CTS, with only one exception, the same allowable-cost rules used to determine TRS Fund support of other forms of internet-based TRS. For well over a decade, the Commission has consistently defined allowable TRS costs as a provider's reasonable costs directly attributable to the provision of TRS. In document FCC 20–132, the Commission adheres to well-settled rulings on the allowability of specific categories of TRS costs, including, *e.g.,* disallowance of costs attributable to allocated overhead and the provision and maintenance of end-user devices. The record provides no support for treating IP CTS differently from other forms of TRS with respect to these cost categories.

11. *Marketing Expenses.* Although the use of TRS Fund resources to support marketing of IP CTS may raise legitimate concerns, at this time the Commission will continue to allow recovery of IP CTS marketing expenses (which are also recoverable for other forms of TRS). The nature and extent of the marketing conducted by IP CTS providers, as well as the associated costs, may change significantly as more providers offer fully automatic IP CTS. The Commission directs the Bureau, in consultation with the Office of Managing Director (OMD), to prepare and submit a request to the Fund administrator to conduct an analysis and report to Bureau on the trend of TRS Fund expenditures in support of IP CTS marketing, the specific activities for which they are used, and the impact of such activities on registration for and usage of IP CTS, to enable the Commission to revisit the allowability of such costs, if appropriate, at a later time.

12. *Outreach Expenses.* Similarly, as responsible stewardship requires continued monitoring of TRS Fund expenditures for provider-led outreach, the Commission directs the Bureau, in consultation with OMD, to prepare and submit a request to the Fund administrator to analyze and report to the Bureau on the trend, activities, and impact of provider-led IP CTS outreach. However, the Commission does not prohibit or cap TRS Fund recovery of IP CTS outreach costs at this time. Provider outreach for IP CTS likely serves a reasonable purpose, by educating potential IP CTS users and their families about the nature of the service. Further, this differs from general outreach intended to raise public awareness about how TRS works and why members of the public should accept TRS calls, which the Commission in 2013 found was better conducted by a national TRS Fund contractor than by individual providers (and for which video relay service (VRS) and internet Protocol Relay Service (IP Relay) providers are no longer compensated by the TRS Fund). The Commission recognizes that such outreach to potential users is not always easy to distinguish from branded marketing and, as a result, may raise some of the same issues as marketing costs, regarding the appropriateness of supporting such activities with TRS Fund resources. Accordingly, as noted above, the Commission will continue to monitor the trend of IP CTS outreach as well as marketing costs, to enable the Commission to revisit their allowability, if appropriate, at a later time.

13. *Subcontractor Expenses.* The Commission defers action on the alternatives proposed in the *2018 Further Notice* for enabling the Commission to ascertain the reasonableness of providers' payments to subcontractors. The Commission sought comment on whether to require a subcontractor whose fees exceed a certain percentage of a provider's expenses to file its own cost report breaking down the fees into appropriate cost categories, and alternatively whether to require any subcontractor offering what amounts to a ''turnkey'' relay service to apply for certification as an IP CTS provider on its own account. At this time, the record is limited on these issues and thus insufficient to support adopting either of these remedies. The Commission notes, however, that the amended rule requiring IP CTS providers to report and, if necessary, break down their contract payments under the TRS Fund administrator's substantive cost categories—*i.e., not* as undifferentiated ''subcontractor payments'' reported as part of the ''Other'' category—became effective February 4, 2019. The Commission reminds providers of their obligations under this amended rule.

14. *R&D Costs and Licensing Fees.* To the extent that a TRS provider incurs costs to develop or acquire intellectual property that is needed to provide TRS in accordance with the Commission's minimum standards, the Commission has long permitted the inclusion of such expenses in the costs subject to TRS Fund recovery. Thus, a provider's reasonable research and development (R&D) costs may be recovered from the TRS Fund, but only to the extent of the actual expenses incurred, and only if

such expenditures are necessary to develop technology that enables the provider to offer service meeting the Commission's minimum TRS standards. Subject to the same limitations, reasonable licensing fees paid to a supplier of externally developed technology are allowable. The Commission recognizes that potentially excessive costs could be imposed on TRS Fund contributors if a single company possessed a monopoly of essential intellectual property rights and was also permitted to ''hold all others hostage to its fee demands.'' However, neither of these conditions appears to be present at this time. Further, the current record does not provide a basis for the Commission to find that any of the amounts currently paid by TRS providers to an unaffiliated entity for technology licensing are in excess of a reasonable amount. However, the Commission will continue to monitor such expenses and may revisit the question of intellectual property payments to unaffiliated entities at a later time.

15. The Commission is unpersuaded by CaptionCall's elaboration of its 2018 argument that license fees representing the imputed *value* of the intellectual property developed by CaptionCall should be recoverable from the TRS Fund. The Commission's cost-of-service methodologies, whether applied to TRS or to tariffed common carrier services, have been designed to allow service providers to recover reasonable *costs* incurred to provide service, but a TRS provider is not entitled to treat as a *cost* the imputed *value* of technology it develops. Such value-based recovery is inconsistent with the entire history of cost-of-service regulation as conducted by the Commission, and the Commission finds no reason to depart from precedent in order to permit such value-based recovery in this case. The value of such investments may be recovered as profit, to the extent permitted by the allowed operating margin, but treating such value as a cost is simply inconsistent with cost-based compensation.

16. Similarly straightforward application of longstanding Commission rules to the record in this proceeding precludes TRS Fund recovery of the ''license fees'' that CaptionCall allegedly has paid to an affiliate, Sorenson IP Holdings, LLC, for technology now owned by the affiliate. Of fundamental importance is the fact that, according to CaptionCall, the technology at issue was developed *by CaptionCall itself* over a period of years, and ownership of the technology was transferred to the affiliate in 2017 for reasons of ''security, monetization, efficiency, and tax.'' Because the ''license fee'' represented as paid to this affiliate is in essence a payment by CaptionCall *for the use of its own technology*—rather than for use of technology developed by the affiliate or anyone else—the Commission must conclude that the transaction created by CaptionCall's accountants is not a genuine transfer of anything of value. Accordingly, such a ''license fee payment,'' regardless of the amount, cannot be allowed as a compensable cost. Further, even if the Commission was to consider the ''license fee'' as part of a genuine transaction between affiliates, application of the Commission's affiliate transaction rule would not result in any allowable ''license fee'' in these circumstances. Under the affiliate transaction rule, adopted to prevent inappropriate accounting practices and limit the potential for self-dealing by carriers under rate regulation, a payment by CaptionCall to its affiliate for licensing CaptionCall's technology back to itself must be booked at the lower of fair market value and the affiliate's net book cost, unless the affiliate sells at least 25% of the asset to third parties. To determine the affiliate's net book cost, the Commission would need to know the amount, if any, that the affiliate originally paid CaptionCall for transferring ownership of CaptionCall's technology to the affiliate. CaptionCall seems to acknowledge, however, that no such payment was made, or even booked for accounting reasons.

17. The Commission's application of longstanding cost-recovery rules and policies treats similarly situated providers alike, and avoids creating artificial incentives for the purchase of technology from external sources over the internal development of technology. Subject to the overall limitation that technology must be directed at the provision of service that meets minimum TRS standards, providers that purchase technology externally are entitled to recover their reasonable costs of purchasing such technology, and providers that develop TRS technology internally are entitled to recover their reasonable R&D costs incurred in developing such technology. Allowing additional, value-based recovery by a provider choosing internal development would result in double recovery of the same investment. Moreover, while encouraging the development of IP CTS technology by multiple sources may well advance the goals of section 225, the compensation methodology the Commission adopts does exactly that. A provider that can reduce its costs by developing technology internally (or by purchasing technology externally, if that turns out to be a more efficient choice) is not penalized but rewarded, by incurring lower costs while collecting compensation at the same rate as its rivals.

18. *Operating Margin.* Because IP CTS remains at present a labor-intensive industry in which communications assistants (CAs) play a major role, the Commission adopts its proposal that the compensation rate for IP CTS, like the rates for VRS and IP Relay, include an allowed operating margin, in lieu of the return on plant investment previously allowed. By allowing providers a reasonable margin over expenses, which is not tied to the relatively low capital investment in physical plant that is needed for the provision of IP CTS, this will help ensure sufficient investment in the provision of this service. The Commission finds it reasonable to set a percentage operating margin within the same ''zone of reasonableness'' that applies to VRS providers. In the *2017 VRS Compensation Order,* after reviewing operating margins for companies in various analogous service sectors, the Commission found a zone of reasonableness for VRS between 7.6% and 12.35%. Given the similarities between VRS and IP CTS, including that the bulk of costs for both are attributable to labor rather than capital, the Commission concludes that this zone of reasonableness is also appropriate at this time for setting IP CTS rates.

19. For purposes of establishing a cost-based IP CTS rate for the next rate period, the Commission sets the operating margin at 10%—the approximate midpoint of the zone of reasonableness. The Commission concludes that assigning an operating margin at the midpoint of the zone is warranted and is ample to ensure providers a reasonable profit, for three reasons. First, there are material differences between IP CTS and IP Relay—to which the Bureau assigned an allowed operating margin at the high end of the same zone of reasonableness. Unlike IP Relay, which has not recently experienced significant growth, IP CTS demand has grown at a substantial rate for many years, suggesting that the risks associated with investing in this service may be lower overall than for IP Relay. Second, in extending the ''glide path'' for bringing IP CTS compensation to the level of costs, the Commission is necessarily extending the opportunity, which has been available to providers for several years, to collect profits in excess of whatever margin is allowed. Third, the introduction of fully automatic IP CTS with advanced ASR

technology, either as a complete substitute or a complement for CA-assisted IP CTS, is providing an unusually large opportunity for providers to reduce their costs and thereby increase further their opportunities for profit at relatively lower risk. These considerations could justify setting an operating margin for IP CTS in the lower portion of the zone of reasonableness. At this time, however, the Commission conservatively concludes that an operating margin of 10%, in the middle of the zone of reasonableness, is appropriate for IP CTS, while recognizing that the Commission may choose to revisit the issue of operating margin at the end of the two-year rate period that the Commission adopts in this Report and Order.

20. *Averaging of Historical and Projected Costs.* The Commission continues the practice of averaging historical and projected costs to arrive at a cost-based rate. Although projected costs can more accurately reflect current conditions, provider cost projections often have proved unreliable, and the current record provides no evidence to indicate that exclusive reliance on such projections would produce better results in the future. Further, in the current circumstances, with continuously declining IP CTS costs, setting compensation rates based on the average of the costs incurred in the previous year and those projected for the current year allows even providers who have higher than average costs a reasonable opportunity to recover their current allowable expenses plus an operating margin.

21. *Calculation of a Cost-Based Rate.* Based on the above determinations, calculation of a cost-based rate is straightforward. The weighted average of provider per-minute expenses for 2019 (historical) is $1.1350, and for 2020 (projected) is $1.2375. Adding a 10% operating margin to each of these numbers produces a per-minute cost-plus-operating-margin of $1.2485 for 2019 and $1.3612 for 2020. The average of these two numbers is $1.3048, which the Commission rounds down to $1.30.

22. *COVID–19 Costs.* After the outbreak of the coronavirus (COVID–19) pandemic, IP CTS providers experienced an unanticipated increase in IP CTS traffic levels and incurred additional costs in order to enable numerous communications assistants to work at home rather than at call centers. To provide an opportunity to determine the impact of these developments on per-minute provider costs before the Commission set a new IP CTS compensation rate, the Bureau extended the expiration date of the current compensation rate and directed the TRS Fund administrator to request additional cost and demand data for January to June 2020 from CA-assisted IP CTS providers and file an update to the IP CTS data contained in the 2020 TRS Rate Report. Based on the information submitted by the four active providers who provided the additional data requested for all periods, the TRS Fund administrator reports that increased expenditures during the pandemic have been offset by increased call volumes, resulting in no net increase in per-minute costs for the reporting providers, as a group or even individually. Therefore, the Commission concludes that no adjustment is warranted to the weighted average cost data on which the Commission relies to set compensation rates for the next two years. For the same reasons, the Commission declines to freeze the current rate for an additional period, beyond November 30, 2020. In the absence of *any* concrete evidence of a net cost increase, the Commission declines to defer long-needed rate corrections based on abstract concerns about the unpredictable nature of the pandemic.

23. *Compensation period.* The Commission adopts a two-year compensation cycle for IP CTS (which includes the five-month extension of the current $1.58 rate past its original expiration date). The Commission's balancing of the factors relevant to the duration of the compensation period is different than in 2017, when the Commission set a four-year rate period for VRS. In this instance, the Commission concludes that, due to the introduction of ASR-based technology, industry cost structures are likely to change substantially in the near term, necessitating that the Commission revisit the IP CTS compensation rate at an earlier stage in order to avoid recreating another major gap between TRS Fund expenditures and actual IP CTS costs. Accordingly, the Commission limits the rate period to two years. As the Commission found in setting interim IP CTS compensation rates for the previous two years, setting compensation for a two-year period provides some measure of rate certainty for providers and mitigates the risk of rewarding inefficiency, discouraging innovation, and incentivizing providers to incur unnecessary costs, all of which would be proportionally greater were the Commission to engage in annual cost-of-service rate setting.

24. *Glide Path.* Under the MARS methodology, the IP CTS compensation rate had reached a level that exceeded average per-minute provider expenses by some $0.72, or almost 60%. To decrease this gap, and the resulting waste of the TRS Fund, while providing an opportunity for less efficient providers to improve their efficiency and continue serving their customers, the Commission reduced the compensation rate by 10% in two successive years, bringing it to the current level of $1.58 per minute. However, this rate is still $.28 higher than current average cost of $1.30 per minute.

25. Therefore, the Commission will extend for somewhat less than a year the ''glide path'' initiated by the 2018 order, reducing the compensation rate by 10% in the current year and deferring to 2021–22 the further reduction necessary to reach the average-cost-based $1.30 rate. A modest extension of the ''glide path'' will afford higher-cost providers an additional opportunity to adopt more efficient technologies and business methods before their compensation is reduced all the way to the average-cost level. The Commission recognizes that extending the glide path in this manner allows IP CTS providers as a group to continue earning operating margins in excess of the zone of reasonableness for the remainder of the current Fund Year. However, the alternative—a flash-cut $0.28 reduction of the rate—could place significant immediate financial pressure on those providers whose operating costs are higher than average, possibly causing them to exit the IP CTS market, with the potential for at least temporary disruption of service to customers. While the Commission does not seek to encourage inefficient competitors to remain in the market, in a period of rapidly declining costs, the Commission also seeks to permit experienced providers of this service a fair opportunity to adjust their operations so as to successfully provide this service in the most efficient manner. In addition, allowing higher-cost providers an additional period to adjust to reduced compensation will help ensure that IP CTS users continue to have a choice among multiple competitors—and such quality-of-service competition in turn helps maintain all providers' incentives to continue offering functionally equivalent service. Given that there is no single correct answer in designing a glide path, and that the exercise of administrative judgment is required, the Commission concludes that continuing the 10% reductions strikes a reasonable balance between the need to eliminate waste and ensure the efficient expenditure of TRS funds, on the one hand, and the benefits of continuity of

service and competition, on the other. Accordingly, the Commission sets the compensation rate for the remainder of the 2020–21 Fund Year at $1.42, approximately 10% lower than $1.58.

26. The Commission declines to subject providers to a ''true-up,'' *i.e.,* the Commission declines to decrease further the compensation rate for the remainder of year in order to offset the five-month deferral of the new rate and ensure that their overall compensation for the Fund Year averages $1.42. Instead, to avoid the administrative burdens and potential disruption associated with a true-up, the Commission allows providers to retain the benefit of the five-month extension of the $1.58, thereby mitigating further any potential adverse impact from the Commission's necessary progression to a more efficient, cost-based compensation rate.

27. In summary, to complete the glide path to the current cost-based rate, beginning with minutes of service provided on or after December 1, 2020, the current $1.58 rate will be reduced by approximately 10%, to $1.42, and effective July 1, 2021, that rate will be reduced to $1.30.

28. *Price cap approach.* The Commission concludes that it would not be beneficial to make price-cap-like adjustments to the above rates based on inflation and productivity factors. While the Commission is confident that there will be major productivity improvements in IP CTS over the next two years, causing actual IP CTS costs to continue to decline as they have for the last seven years (even without adjusting for inflation)—and which would thereby lead to downward price-cap adjustments were the Commission to require such adjustments—a formal price-cap-like approach would be premature until the Commission is better able to assess the impact of ASR technology on IP CTS costs Accordingly, the Commission defers consideration of the appropriateness of a price-cap methodology for IP CTS.

29. *Exogenous costs.* During this rate period, the Commission adopts the same exogenous-cost policy that is already in place for VRS. IP CTS providers may seek compensation for well-documented exogenous costs that (1) belong to a category of costs that the Commission has deemed allowable, (2) result from new TRS requirements or other causes beyond the provider's control, (3) are new costs that were not factored into the applicable compensation rates, and (4) if unrecovered, would cause a provider's individual allowable-expenses-plus-operating-margin for the current year to exceed its IP CTS revenues. Allowing recovery of exogenous costs subject to these conditions will ensure that providers are able to receive compensation for unforeseeable cost increases, without increasing the disparity between Fund expenditures and individual provider costs.

30. *Effective Date.* The Commission finds good cause to set December 1, 2020, as the effective date for the $1.42 per-minute compensation rate. The current rate was originally scheduled to expire June 30, 2020. Providers have been aware of this pending expiration and Commission proposals to adopt a new compensation methodology since 2018. In partial response to provider requests, to avoid unnecessary disruption to IP CTS providers' operations, and to ensure the ability of consumers to continue to place and receive IP CTS calls pending an assessment of the impact of the COVID–19 pandemic on provider costs, the Bureau waived the June 30, 2020 expiration of the existing compensation rate and directed Rolka Loube to continue compensating IP CTS providers at that rate until September 30, 2020. Relatively quick implementation of the new compensation rate is necessary to expeditiously promote the goals of the statute as laid out in the order, including ensuring the availability of IP CTS in the most efficient manner without imposing burdensome costs on TRS Fund contributors. To ensure that there is no lapse in payment of compensation to providers, the Commission extends the Bureau's waiver of the June 30, 2020 expiration of the existing compensation rate and direct Rolka Loube to continue compensating IP CTS providers at the current $1.58 rate for two additional months, through November 30, 2020. The Commission also directs the Bureau to provide actual notice to known IP CTS providers by sending them a copy of this Order, which may be accomplished electronically.

31. *ASR-only IP CTS compensation.* During this two-year compensation period, the Commission adopts a single compensation rate applicable to all forms of IP CTS, including fully automatic IP CTS. Although the *2018 Further Notice* requested comment on whether and how to establish a separate compensation rate, at this time the Commission does not have sufficient experience with fully automatic IP CTS to accurately estimate the relevant costs. Without sufficient cost information, setting a new separate rate for ASR-only would be arbitrary and inconsistent with the Commission's current, technology-neutral approach of granting all providers the same compensation rate derived from average weighted costs. Moreover, setting a lower compensation rate for fully automatic IP CTS in the absence of sufficient cost information regarding this form of the service would run the risk of creating a disincentive for providers to adopt this highly promising technology.

32. Further, based on current information, it may not be necessary or appropriate to have a separate compensation rate for fully automatic IP CTS in order to advance the objectives of section 225. Recent testing of the fully automatic captioning engines proposed by applicants for IP CTS certification indicates that fully automatic IP CTS can deliver captions far more quickly than IP CTS provided with communications assistants, and with comparable or greater accuracy, suggesting that fully automatic IP CTS has become a reasonably close economic substitute for traditional CA-assisted service. By setting a single rate for IP CTS for the next rate period, the Commission recognizes fully automatic IP CTS as providing the same type of TRS as CA-assisted IP CTS and ensures that all providers have sufficient incentive to try out various approaches to integrating fully automatic captioning into their service offerings. Maintaining a single rate is also administratively efficient for compensating providers that offer a hybrid service that sometimes provides fully automatic IP CTS and sometimes employs communications assistants in the delivery of captions. For example, providers will be able to receive compensation for calls that involve switching between the two captioning methods, pending implementation of more fine-grained reporting of such calls.

33. *Tiered and emergent-provider rate structures.* The Commission declines to adopt a tiered rate or emergent-provider rate structure for IP CTS compensation at this time. In setting TRS Fund compensation, the Commission's traditional approach is to establish a single, generally applicable compensation rate based on average provider costs. This approach greatly simplifies the rate-setting process and creates an incentive for providers to increase their efficiency. In setting compensation for VRS, the Commission has deviated from this principle due to a number of specific circumstances that the Commission found were threatening the viability of competition among VRS providers, including long-term dominance of the VRS market by a single provider, major and growing disparities in [individual] providers' per-minute costs, and a history of

chronic interoperability problems and related structural issues, all of which have been found to hinder smaller VRS providers' ability to compete effectively with the largest provider. The Commission is not persuaded that similar or equally compelling factors are present in the IP CTS market to an extent that would justify introducing the complexities and potential inefficiencies of a tiered rate structure or an emergent provider rate. While there may be some economies of scale in IP CTS, the Commission finds little evidence that such economies of scale are preventing the emergence of efficient competitors.

34. *First,* the market share of the largest provider in IP CTS is not comparable to that of the largest provider in the VRS market.

35. *Second,* the record shows relatively low correlation between each IP CTS provider's compensable minutes and per-minute costs, at best suggesting that some providers have not realized efficiencies in their business models that would enable them to realize inherent economies of scale. Indeed, the record suggests that, unlike in the VRS context, this may be a case where the higher costs for some IP CTS providers are attributable to business decisions concerning use of contractors as turnkey service providers, prior investments in technology and business processes, and differences in business models, rather than issues of scale.

36. *Third,* IP CTS's continuous record of rapid growth suggests that there are substantially greater opportunities than in the VRS context for a provider to reach efficient scale within a relatively short period of time. This is especially the case in light of the new opportunities for small providers and new entrants to use advanced ASR technology to offer fully automatic IP CTS at greatly reduced operating cost.

37. *Fourth,* unlike VRS, IP CTS is not dependent on interoperability and does not have other network effects that make it difficult for new entities to enter or obtain eligible IP CTS users as customers.

38. *Reverse auction.* The Commission defers consideration of whether a reverse auction would be an efficient and effective method of setting IP CTS compensation. The Commission recognizes that a properly structured reverse auction could be an effective mechanism to ensure that compensation reflects market forces. The record to date, however, does not enable us to determine whether an auction mechanism can effectively support the provision of IP CTS by multiple competitors. As the Commission found with VRS, holding an auction to establish a compensation rate for the provision of service by multiple competitors runs the risk of producing a rate well above the average cost of providing service, or so low as to keep currently higher cost providers from continuing or new entrants from joining the market.

39. It may be that a carefully developed reverse auction could resolve some of these concerns or could be modified to do so. However, the development and implementation of a reverse auction would take substantial time, money, and effort, with no assurance that the benefits would exceed the costs. Implementation of such an auction in the current environment also raises questions for which informed answers are not yet available. Specifically, the type of auction proposed by CaptionCall would accommodate only a limited number of post-auction competitors, and thus would require the Commission to weigh carefully the costs and benefits of imposing such limits on IP CTS competition and consumer choice. For example, what is the minimum number of post-auction IP CTS competitors that would be necessary to maintain adequate service quality and innovation incentives consistent with the functional equivalence, efficiency, availability, and other goals of section 225?

40. These challenges are compounded by the recent introduction of fully automated IP CTS, with major consequences for IP CTS cost structure, the details of which are not yet well understood. The Commission believes it would be a waste of Commission resources to undertake a major change in methodology at this time, before the Commission is in a position to assess the impact of those changes. The Commission does not yet have sufficient experience with fully automatic IP CTS to be able to predict accurately the extent to which it will be adopted by consumers in the near term, to assess the likely effect of such adoption on average IP CTS costs, and to design an alternative compensation methodology that can take this potentially game-changing technology into account. The Commission concludes that there is a need for further development of data on the costs and performance of fully automatic IP CTS, before the Commission can make an informed determination whether, how, and when to adopt a reverse auction methodology.

41. *Proposals to maintain a higher rate.* The Commission rejects proposals by some IP CTS providers to set the IP CTS rate at higher levels than the average of providers' allowable costs. CaptionCall's proposed initial rate of $1.75 is based on an incorrect cost analysis that includes non-allowable licensing costs, as explained above. CaptionCall's alternative argument, that setting a higher rate is necessary to ensure all IP CTS providers are able to stay in the market and continue to make capital investments in innovation and efficiency, is likewise unpersuasive. Especially with the emergence of fully automatic technology as a service option, there are reasonable opportunities for higher-than-average-cost providers to reduce costs by adopting more efficient captioning technologies and business practices without reducing the consumers' opportunities to receive functionally equivalent service. Further, the Commission is charged with ensuring the availability of a high-quality captioning service, not ensuring that all existing providers remain in the market.

42. Hamilton's proposal for an initial rate no lower than $1.7630 reflects the IP CTS rate for the 2011–12 TRS Fund year (which Hamilton asserts was the last year in which neither the Commission nor any party challenged the MARS rate for IP CTS as unreasonable) and thus disregards the record evidence of current IP CTS costs. Whatever rate may have been reasonable almost a decade ago, Rolka Loube's data analysis shows that average IP CTS provider costs have dropped by some 37% since then. While current provider cost reports may be subject to imprecision, they are certainly more accurate than a 10-year old compensation rate based on a proxy that is no longer applicable.

43. *IP CTS provider cost transparency.* The Commission declines to require public disclosure of IP CTS providers' costs, as requested by Consumer Groups and Academic Researchers. Such a step would require a rule amendment that is beyond the scope of this proceeding.

**Order on Reconsideration**

44. The Commission denies Sprint's petition to reconsider the adoption of interim IP CTS rates for Fund years 2018–19 and 2019–20. Sprint's petition relies on arguments that were previously raised with and fully addressed by the Commission, and none of its arguments identifies any material error, omission, or reason warranting reconsideration.

45. First, in contending that the Commission impermissibly adopted interim rates based on a stale record, without seeking additional comment to update the record, Sprint expressly acknowledges that parties raised this

concern and that the Commission responded to their arguments. Sprint also fails to show material error, omission, or reason warranting reconsideration. Mere disagreement with the Commission's procedural or substantive decisions is not sufficient, and Sprint does not dispute that the interim rates were set based on current, publicly available cost data, on which the parties had an opportunity to comment. Sprint does not point to any specific flaw, other than its alleged staleness, in the record on which the Commission based its compensation decision. Further, the Commission sought and received numerous additional comments and submissions from interested parties on the compensation issue in the years following the Commission's 2013 Further Notice of Proposed Rulemaking, and relied on up-to-date provider cost data in determining that the MARS methodology was no longer useful and in setting interim cost-based rates.

46. Sprint's second argument, that the interim rates cause unwarranted economic harm to IP CTS providers by failing to reflect the reasonable cost of providing IP CTS, was also previously raised with and addressed by the Commission. Sprint presents no new evidence of economic harm, instead repeating arguments that the Commission considered and rejected in the *2018 Order,* regarding the allowability of various cost categories. The Commission discussed in detail the factors bearing on the reasonableness of provider costs, including the allowability of various kinds of expenses and the allowable operating margin. In addition, the Commission set the interim rates substantially *higher* than average cost in order to limit the initial impact of necessary rate reductions on IP CTS providers. While Sprint may believe the Commission should have analyzed the cost data differently than it did, Sprint's contrary opinion is not a material error, omission, or reason for reconsideration.

47. Sprint's third argument, that the Commission should have delayed action on rates pending the outcome of the *2018 Notice of Inquiry* on service quality standards, also fails to identify a material error, omission, or reason warranting reconsideration. Rather, Sprint's argument rests on pure speculation about the possibility that the *2018 Notice of Inquiry* could eventually lead to the imposition of new, more onerous standards that providers would be unable to meet without incurring higher costs. In any event, no new service quality standards became effective—or were even proposed by the Commission—during the period covered by the interim rates.

48. Finally, in arguing that the interim rates will preclude IP CTS providers from offering high-quality service, investing in innovation, or competing effectively, Sprint again fails to explain what aspect of these issues the Commission did not fully consider or to otherwise identify a material error, omission, or reason for reconsideration. The Commission fully considered the potential impact of reducing the compensation rate on service quality, investment in innovation, the ability of providers to obtain funding, and competition, and the Commission implemented steps to mitigate these potential effects. The Commission provided a glide path to reduce the rates over a two-year period and set both interim rates well above the average cost-based rate, which it calculated with the inclusion of a reasonable operating margin for providing IP CTS. The Commission also took action to allow all providers the opportunity to implement ASR-only IP CTS, a far less costly alternative to CA-assisted IP CTS. Sprint does not present any new arguments that explain why providers would be unable to offer high quality service, invest, or compete while receiving a rate well above the average cost to provide IP CTS. In addition, during the last two years, the potential adverse consequences alleged by Sprint have not come to pass. No provider has left the IP CTS market or indicated it is failing to provide functionally equivalent service; the record does not indicate a general reduction in service quality; current providers continue to invest in new technologies, such as ASR; and the Commission recently certified two new IP CTS providers who use ASR technology, thereby increasing competition and consumer choice.

## Final Regulatory Flexibility Analysis

49. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *2018 Further Notice*. The Commission sought written public comment on the proposals in the *2018 Further Notice,* including comment on the IRFA. No comments were received in response to the IRFA.

### *A. Need For, and Objectives of, the Rules*

50. Document FCC 20–132 adopts TRS Fund compensation rates to support the provision of IP CTS for the remainder of Fund Year 2020–21 (December 1, 2020, through June 30, 2021) and for Fund Year 2021–22 (July 1, 2021, through June 30, 2022). These rates are applicable to all forms of IP CTS, including fully automatic IP CTS, and to all providers that are or may become certified by the Commission to offer IP CTS in accordance with its rules. The compensation rates are set using a cost-of-service methodology based on an average of providers' actual and projected costs and are designed to continue the reduction of the IP CTS compensation rate by approximately 10% each year, so that by the second year, compensation is at the level of average cost ($1.30 per minute). Thus, the compensation rate for Fund Year 2020–21 is $1.42 per minute (10% below the current $1.58 rate) and the compensation rate for Fund Year 2021–22 is $1.30 per minute (8.5% below the first year $1.42 rate).

51. This approach is needed to continue the reduction of IP CTS provider compensation along a glide path to where it is more closely aligned with the actual costs of providing this service, as determined based on historical and projected cost data reported to the TRS Fund administrator by IP CTS providers. Maintaining this cost-based approach ensures that providers are compensated for the average reasonable cost of providing service, reduces unnecessary burdens on TRS Fund contributors and indirectly on their subscribers, and increases the assurance that IP CTS is made available in the most efficient manner. To permit a further opportunity for less efficient providers to improve their efficiency and to ensure that functionally equivalent IP CTS remains available to all eligible consumers, the Commission continues for a short period the phased reduction of the compensation rate on a ''glide path'' by approximately 10% annually, so that compensation is reduced to the level of average cost by the second year.

### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

52. No comments were filed in response to the IRFA.

### *C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

53. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

### *D. Small Entities Impacted*

54. The rules adopted in document FCC 20–132 will affect obligations of IP CTS providers. These services can be included within the broad economic

category of All Other Telecommunications.

*E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

55. In maintaining cost-based rates, the Commission will continue to require IP CTS providers to file annual cost and demand data reports with the TRS Fund administrator. There is no additional burden on IP CTS providers to file these reports. The Commission does not make any changes to the cost categories reported by providers. The Commission has received approval to require the collection of such information pursuant to the Paperwork Reduction Act of 1995 (PRA).

*F. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

56. The rates set by the Commission compensate providers for the average reasonable cost of providing service, reduce unnecessary burdens on TRS Fund contributors—and, indirectly, on their subscribers—and ensure that IP CTS is available to all eligible users to the extent possible and in the most efficient manner. Adopting a single, generally applicable compensation rate for each rate period treats all providers equally while minimizing significant impact on small entities. Under this technology-neutral approach, small-business providers of IP CTS are afforded wide flexibility to reduce costs and increase efficiency during the rate period, *e.g.,* by making greater use of ASR technology, while continuing to obtain TRS Fund support at the same rate. In addition, the phased, ''glide path'' reduction of compensation to the average cost level provides additional flexibility for small-business providers to make efficiency adjustments over time. The Commission considered various alternative compensation methodologies, including an auction and a tiered structure of varying compensation rates, and finds that, at this time, to reduce the burden on TRS Fund contributors (which affects rates charged to all telephone users) and to fairly compensate the IP CTS providers, a cost-based rate best fulfills the statutory obligation to ensure the availability of functionally equivalent service in the most efficient manner.

57. The Commission sent a copy of document FCC 20–132, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**Ordering Clauses**

58. Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225, document FCC 20–132 *is adopted.*

59. The application of the pre-existing $1.58 compensation rate for IP CTS is extended through November 30, 2020.

60. Sprint's Petition for Reconsideration of the interim rates adopted in the *2018 Order is denied.*

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2020–22530 Filed 10–13–20; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 200916–0245]**

**RIN 0648–BJ55**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 33

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement a management measure described in Regulatory Amendment 33 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule removes the 4-day minimum season length requirement for South Atlantic red snapper (commercial or recreational). The purpose of this final rule is to improve access to South Atlantic red snapper, particularly for the recreational sector.

**DATES:** This final rule is effective November 13, 2020.

**ADDRESSES:** Electronic copies of Regulatory Amendment 33 to the Snapper Grouper FMP (Regulatory Amendment 33) may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/regulatory-amendment-33-red-snapper-fishing-seasons.* Regulatory Amendment 33 includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Analysis (RFA).

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *frank.helies@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the snapper-grouper fishery under the Snapper-Grouper FMP, which includes red snapper. The Snapper-Grouper FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On May 14, 2020, NMFS published the proposed rule for Regulatory Amendment 33 and requested public comment (85 FR 28924). The proposed rule and the Regulatory Amendment 33 outline the rationale for the actions contained in this final rule. A summary of the management measure described in the Regulatory Amendment 33 and implemented by this final rule is described below.

**Background**

The harvest of red snapper from South Atlantic Federal waters was prohibited in 2010 through Amendment 17A to the Snapper Grouper FMP when the stock was determined to be overfished and undergoing overfishing (75 FR 76874; December 9, 2010). The Council developed a process for allowing limited harvest of red snapper through Amendment 28 to the Snapper-Grouper FMP (78 FR 44461; July 24, 2013). In 2018, the Council revised that process and revised the commercial and recreational annual catch limits (ACLs) through Amendment 43 to the Snapper-Grouper FMP (83 FR 35428; July 26, 2018).

The commercial ACL is 124,815 lb (56,615 kg) round weight, and the commercial season begins on the second Monday in July each year. The commercial ACL is monitored during the season and the sector is closed when the ACL is reached or projected to be reached. The commercial fishing season was open for 60 days in 2017, 116 days in 2018, and 54 days in 2019.

The recreational ACL is 29,656 fish, and the recreational season begins on the second Friday in July and consists of weekends only (Friday, Saturday, and Sunday). The length of the recreational red snapper season is projected based on catch rate estimates from previous years, and the length of the projected fishing season is announced each year

in the **Federal Register** before the start of the season.

For South Atlantic red snapper, NMFS annually projects the number of days that it would take for the commercial and recreational sectors to reach their respective ACL. If NMFS projects the South Atlantic red snapper season (commercial or recreational) would be 3 days or less, the respective season would not open for that fishing year. Under both the current regulations and the regulations in this final rule, the red snapper commercial and recreational seasons are projected and managed independently of each other; that is, harvest for one sector can occur without the other. However, NMFS notes that to date, there has not been a fishing year where one sector was allowed to harvest red snapper and the other was not. NMFS initially implemented the 3-day minimum season length provision in 2013 because the Council determined that a season of less than 4 days would not provide sufficient fishing opportunity to the public (78 FR 44461, July 24, 2013).

Recreational fishermen have expressed concern to the Council and NMFS that as the South Atlantic red snapper population recovers and catch rates increase, access to the red snapper resource could decline. Specifically, as the red snapper population rebuilds, more fish are available for harvest and effort has generally increased during the South Atlantic red snapper recreational fishing season, particularly off the east coast of Florida. Therefore, with no change in the recreational red snapper ACL, fishing seasons in future years could get shorter despite the population rebuilding. The length of the red snapper recreational season has declined from 10 days in 2017, to 6 days in 2018, 5 days in 2019, and 4 days in 2020, as a result of the recreational ACL being projected to be reached sooner in each year. To better ensure recreational access to red snapper, this final rule removes the 4-day minimum season length requirement. In addition, because the commercial season for red snapper has remained open for several months each year in recent years when the harvest of red snapper was allowed, NMFS expects that the duration of the commercial season will not be impacted by this action.

## Management Measures Contained in This Final Rule

This final rule removes the requirement that if NMFS projects a red snapper season (commercial or recreational) would be 3 days or less, the respective fishing season will not open for that fishing year. Therefore, red snapper harvest could be open for either commercial or recreational harvest for less than 4 days. For the recreational sector particularly, this measure could allow for a fishing season to occur that otherwise would not be allowed. NMFS expects this measure to increase the flexibility for recreational sector access to red snapper and enhance recreational fishing opportunities. NMFS notes that the recreational ACL and accountability measures are not changing in this final rule, and thus, no negative impacts to the stock are expected.

## Comments and Responses

NMFS received 42 comments from individuals, commercial and recreational fishermen, and fishing organizations during the public comment period on the proposed rule for Regulatory Amendment 33. Most comments were in support of allowing red snapper commercial and recreational fishing seasons, regardless of length. NMFS acknowledges the comments in favor of the action in the proposed rule and agrees with them. Some comments were outside the scope of the proposed rule and are not responded to in this final rule. Comments that opposed the action contained in Regulatory Amendment 33 and the proposed rule are summarized below, along with NMFS' responses.

*Comment 1:* If the commercial or recreational season is projected to be 3 days or less, it is better for the stock in the long term to not open the season.

*Response:* NMFS acknowledges that allowing harvest of South Atlantic red snapper during a 3 day or less fishing season as described in this final rule could result in higher fishing mortality than would occur if harvest were prohibited. However, allowing harvest for 3 days or less is not expected to negatively impact the red snapper stock because the overall harvest would continue to be limited to the commercial and recreational ACLs, and accountability measures and other existing red snapper regulations will remain in place.

*Comment 2:* If either sector's fishing season is projected to be 3 days or less, only the recreational season should be opened under those conditions because the commercial sector has the greater potential to negatively affect the red snapper population, and the recreational sector generates more revenue to the economy.

*Response:* NMFS acknowledges the importance of red snapper for the recreational sector but disagrees that the commercial season should be limited if the recreational season is projected to be less than 4 days. As explained previously, under the Snapper-Grouper FMP, the commercial and recreational sectors are managed independently to constrain their harvest to the respective ACLs. The red snapper recreational and commercial ACLs are determined based upon the current sector allocation ratio developed by the Council of 71.93 percent for the recreational sector and 28.07 percent for the commercial sector. The commercial harvest, restricted by a trip limit of 75 lb (34 kg), gutted weight, is monitored via commercial logbooks and dealer reports and is closed when the commercial ACL is met or projected to be met. Therefore, allowing harvest by the commercial sector is not expected to negatively impact the status of the red snapper stock.

One of the primary objectives of this action is to increase the likelihood that the recreational sector will continue to have a fishing season. NMFS expects that this final rule will increase fishing opportunities for the recreational sector that would otherwise be foregone, thereby allowing future economic benefits coming from the recreational harvest of red snapper that would not have been realized.

*Comment 3:* If NMFS projects that a commercial season is allowed, then it is only fair to also have a recreational season. If no recreational season is projected, you should close the commercial season as well.

*Response:* NMFS disagrees. As discussed in the response to *Comment 2,* the red snapper commercial and recreational seasons are projected and managed independently of each other and harvest of one sector can occur without the other. NMFS notes that to date, there has not been a fishing year where one sector was open to the harvest of red snapper and the other sector was closed. However, because the commercial season for red snapper has remained open for a period significantly longer than 3 days during recent years, NMFS expects that the commercial season would continue to open regardless of this rule.

NMFS projects when recreational landings will reach the recreational ACL for each fishing season. Without this final rule being implemented, a recreational season would not occur if NMFS projects a recreational season of 3 days or less. Allowing a recreational season to occur contrary to season projections would increase the likelihood of exceeding the recreational and total ACLs, which could negatively affect stock rebuilding. It could also increase the risk that a fishing season the next year would not be allowed to open because of the increased landings the previous year.

**Classification**

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Regulatory Amendment 33, the Snapper-Grouper FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is considered an Executive Order 13771 deregulatory action.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Red snapper, Seasons, South Atlantic.

Dated: September 16, 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 part 622 is amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

### § 622.183 [Amended]

■ 2. In § 622.183, remove paragraph (b)(5)(iii).

[FR Doc. 2020–20882 Filed 10–13–20; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 85, No. 199
Wednesday, October 14, 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 ENERGY

### 10 CFR Part 430

**[EERE–2019–BT–STD–0039]**

**RIN 1904–AE32**

## Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Dishwashers

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

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Energy (''DOE'') is undertaking an early assessment review to determine whether to amend energy conservation standards for dishwashers. Specifically, through this request for information (''RFI''), DOE seeks data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: Would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of foregoing. DOE also seeks comment on the consideration of standards for a ''short cycle'' product class, as well as on any subject within the scope of this document (including those not topics not specifically raised in this RFI). DOE also requests submission of data and other relevant information concerning this early assessment review.

**DATES:** Written comments and information will be accepted on or before December 28, 2020.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0039, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

2. *Email: Dishwashers2019STD0039@ee.doe.gov*. Include the docket number EERE–2019–BT–STD–0039 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

4. *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 telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

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

The docket web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2019-BT-STD-0039*. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this document for information on how to submit comments through *http://www.regulations.gov*.

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

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

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

**SUPPLEMENTARY INFORMATION:**

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A. Authority
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### I. Introduction

DOE established an early assessment review process to conduct a more focused analysis of a specific set of facts or circumstances that would allow DOE to determine that, based on one or more statutory criteria, a new or amended energy conservation standard is not warranted. The purpose of this review is to limit the resources, from both DOE and stakeholders, committed to rulemakings that will not satisfy the requirements in EPCA that a new or amended energy conservation standard save a significant amount of energy, and be economically justified and technologically feasible. *See* 85 FR 8626, 8653–8654 (Feb. 14, 2020).

As part of the early assessment, DOE publishes an RFI in the **Federal Register**, announcing that DOE is considering initiating a rulemaking proceeding and soliciting comments, data, and information on whether a new or amended energy conservation standard would save a significant amount of energy and be technologically feasible and economically justified. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard.

If DOE makes an initial determination based upon available evidence that a

new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted. Conversely, if DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. Beginning such a rulemaking, however, would not preclude DOE from later making a determination that a new or amended energy conservation standard cannot satisfy the requirements in EPCA, based upon the full suite of DOE's analyses. *See* 85 FR 8626, 8654 (Feb. 14, 2020).

DOE is also considering the establishment of standards for a ''short cycle'' product class, if DOE were to finalize a ''short cycle'' product class in a separate rulemaking. *See* 84 FR 33869 (July 16, 2019). Additional background on DOE's ''short cycle'' product class rulemaking is provided in section I.B of this document.

*A. Authority*

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include residential dishwashers, the subject of this document. (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 specifically 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).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (See 42 U.S.C. 6297(d))

EPCA requires that, not later than three years after the issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2)) DOE is issuing this early assessment review pursuant to the requirements of 42 U.S.C. 6295(m)(3)(B).

*B. Rulemaking History*

In a direct final rule published on May 30, 2012 (''May 2012 direct final rule''), DOE prescribed energy conservation standards and water use standards consistent with the levels submitted in a petition by groups representing manufacturers, energy and environmental advocates, and consumer groups. 77 FR 31918. Compliance with the standards established in the May 2012 direct final rule was required beginning May 30, 2013. *Id.*

DOE subsequently published a NOPR on December 19, 2014, proposing amended standards. 79 FR 76141. In a final determination published on December 13, 2016 (''December 2016 final determination''), DOE concluded that the amended energy conservation standards would not be economically justified at any level above the standards established in the May 2012 direct final rule, and therefore determined not to amend the standards. 81 FR 90072. The current energy and water conservation standards are located in title 10 of the Code of Federal Regulations (''CFR'') part 430, section 430.32(f). The current applicable DOE test procedure for dishwashers appears at 10 CFR part 430 subpart B, appendix C1 (''Appendix C1'').

On July 16, 2019, in response to a petition for rulemaking submitted by the Competitive Enterprise Institute (''CEI''), DOE published a proposal (''July 2019 NOPR'') to establish a separate product class for dishwashers with a cycle time of less than one hour for the normal cycle (from washing through drying) (*i.e.,* a ''short cycle'' product class) . 84 FR 33869.

## II. Request for Information and Comments

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether amended standards for dishwashers would not save a significant amount of energy or be technologically feasible or economically justified. In particular, DOE is interested in any information indicating that there has not been sufficient technological or market changes since DOE last conducted an energy conservation standards rulemaking analysis for dishwashers to suggest more-stringent standards could satisfy these criteria. DOE also seeks data on the consideration of standards for a ''short cycle'' product class, if DOE were to finalize the proposed ''short cycle'' product class. DOE welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

*A. Significant Savings on Energy*

On December 13, 2016, DOE published a final determination that the standards established for dishwashers in 2012 did not need to be amended. 81 FR 90072. If DOE determines that more-stringent energy conservation standards would not result in an additional 0.3 quads of site energy savings or an additional 10-percent reduction in site energy use over a 30-year period, DOE would propose to make a no-new-standards determination. DOE seeks comment on energy savings that could be expected from more-stringent standards for existing product classes of dishwashers. DOE also seeks comments on energy savings that could be expected with regard to the establishment of standards for a ''short cycle'' product class, if DOE were to finalize the proposed ''short cycle'' product class.

*B. Technological Feasibility*

During the most recent dishwasher rulemaking, which resulted in issuance of a ''no-new standards'' determination, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in dishwashers. DOE seeks comment on

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

any changes to these technology options that could affect whether DOE could again propose a ''no-new-standards'' determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technology options. DOE also seeks comment on whether there are any other technology options that DOE should consider in its analysis, including technology options that may be unique to a new ''short cycle'' product class. DOE also requests comment on whether any of these technologies may impact product features or consumer utility.

*C. Economic Justification*

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent trial standard levels for dishwashers. DOE also seeks comment and data on any other aspects of its economic justification analysis from the December 2016 ''no-new-standards'' determination that may indicate whether a more-stringent energy conservation standard would not be economically justified or cost effective. DOE also seeks comments and information on economic justification with regard to the establishment of standards for a ''short cycle'' product class, if DOE were to finalize the proposed ''short cycle'' product class.

## III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified previously in the **DATES** section of this document, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended energy conservations standards and water use standards for dishwashers. After the close of the comment period, DOE will review the public comments received and may begin collecting data and conducting the analyses discussed in this document.

*Submitting comments via http://www.regulations.gov.* The *http://www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office 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 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. 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. It is not necessary to submit printed copies. No telefacsimiles (''faxes'') will 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 to *Dishwashers2019STD0039@ee.doe.gov* 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).

DOE considers public participation to be a very important part of the process for developing energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process or would like to request a public meeting should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at

*ApplianceStandardsQuestions@ee.doe.gov*.

**Signing Authority**

This document of the Department of Energy was signed on September 22, 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 September 22, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2020–21280 Filed 10–13–20; 8:45 am]

**BILLING CODE 6450–01–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0914; Product Identifier 2020–NM–058–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

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

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2018–16–02, which applies to all Airbus SAS Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, –214, and –216 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. AD 2018–16–02 requires modifying and re-identifying the aft engine mount assemblies. Since the FAA issued AD 2018–16–02, a modification has been developed for 4-lug engines that the FAA has determined is necessary. This proposed AD would retain the requirement to modify and re-identify the 3-lug aft engine mount assemblies and would include a new requirement to modify and re-identify the 4-lug aft engine mount assemblies, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 30, 2020.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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–2020–0914.

**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–2020–0914; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0914; Product Identifier 2020–NM–058–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

**Discussion**

The FAA issued AD 2018–16–02, Amendment 39–19342 (83 FR 39326, August 9, 2018) (''AD 2018–16–02''), which applies to all Airbus SAS Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, –214, and –216 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. AD 2018–16–02 requires modifying and re-identifying the aft engine mount assemblies. The FAA issued AD 2018–16–02 to address non-conforming retainers of the aft engine mount. This condition could result in loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount, possibly resulting in damage to the airplane.

**Actions Since AD 2018–16–02 Was Issued**

Since the FAA issued AD 2018–16–02, a modification has been developed for 4-lug engines that the FAA has determined is necessary to address the unsafe condition. The proposed AD would retain the requirement to modify and re-identify the (3-lug) aft engine mount assemblies and would include a new requirement to modify and re-identify the (4-lug) aft engine mount assemblies

The EASA, which is the Technical Agent for the Member States of the

European Union, has issued EASA AD 2020–0085, dated April 6, 2020 (''EASA AD 2020–0085'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, –214, –215, and –216 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. EASA AD 2020–0085 supersedes EASA AD 2017–0251, dated December 15, 2017 (''EASA AD 2017–0251'') (which corresponds to FAA AD 2018–16–02). Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a report of a production quality deficiency on the inner retainer installed on link assemblies of the aft engine mount, which could result in failure of the retainer. The FAA is proposing this AD to address non-conforming retainers of the aft engine mount. This condition could result in loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount, possibly resulting in damage to the airplane. See the MCAI for additional background information.

## Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2018–16–02, this proposed AD would retain certain of the requirements of AD 2018–16–02. Those requirements are referenced in paragraphs (3), (4), (7), and (12) of EASA AD 2020–0085, which, in turn, is referenced in paragraph (g) of this proposed AD.

Paragraph (h) of AD 2018–16–02 excluded 4-lug engines from the modification (which corresponded with the previous EASA AD). This proposed AD includes 4-lug engines in the modification as specified in paragraph (3) of EASA AD 2020–0085. EASA determined the compliance time for the modification of the 4-lug engines is the same as the compliance time for the 3-lug engines. For this NPRM, the proposed compliance times for both 3-lug and 4-lug engines is within 48 months after September 13, 2018 (the effective date of AD 2018–16–02).

The 4-lug engines were originally excluded from AD 2018–16–02 because the installation of the engine mount retainer that was developed to address the unsafe condition can lead to interference on 4-lug engines. However, since AD 2018–16–02 was issued, a new mount retainer was developed for 4-lug engines. As the unsafe condition is the same for 3-lug and 4-lug engines, it was determined that the modification for the 4-lug engines should be accomplished within the compliance time given for the 3-lug engines.

EASA provided their regulated community approximately 15 months for accomplishing the modification on the 4-lug engines. The FAA expects to provide at least the same amount of time, if not longer, for affected U.S. operators to accomplish the modification on the 4-lug engines (based on the anticipated time needed to issue a final rule). The FAA has determined this compliance time is necessary to adequately address the unsafe condition for the 4-lug engines.

## Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0085 describes procedures for procedures for modifying and re-identifying the aft engine mount retainer assembly. 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.

## FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

## Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0085 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

## Differences Between This Proposed AD and the MCAI

This proposed AD does not include the actions specified in paragraphs (1) and (2) of EASA AD 2020–0085. Those actions are required by paragraphs (l) and (m) of AD 2016–14–09, Amendment 39–18590 (81 FR 44989, July 12, 2016) (''AD 2016–14–09'').

This proposed AD does not include the parts installation prohibition specified in paragraph (10) of EASA AD 2020–0085. That prohibition is included in paragraph (j) of AD 2017–04–10, Amendment 39–18805 (82 FR 11791, February 27, 2017) (''AD 2017–04–10'').

This proposed AD does not supersede AD 2016–14–09 and AD 2017–04–10. However, paragraph (i) of this proposed AD provides terminating action for certain requirements of AD 2016–14–09 and a method of compliance for certain requirements of AD 2017–04–10.

## Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0085 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0085 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0085 that is required for compliance with EASA AD 2020–0085 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0914 after the FAA final rule is published.

## Costs of Compliance

The FAA estimates that this proposed AD affects 119 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2018–16–02 | 20 work-hours × $85 per hour = $1,700 | $3,152 | $4,852 | $577,388 |
| New proposed actions | 16 work-hours × $85 per hour = $1,360 | 4,362 | 5,722 | 680,918 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed regulation:

(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.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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) 2018–16–02, Amendment 39–19342 (83 FR 39326, August 9, 2018); and

■ b. Adding the following new AD:

**Airbus SAS:** Docket No. FAA–2020–0914; Product Identifier 2020–NM–058–AD.

**(a) Comments Due Date**

The FAA must receive comments by November 30, 2020.

**(b) Affected ADs**

(1) This AD replaces AD 2018–16–02, Amendment 39–19342 (83 FR 39326, August 9, 2018) (''AD 2018–16–02'').

(2) This AD affects AD 2016–14–09, Amendment 39–18590 (81 FR 44989, July 12, 2016) (''AD 2016–14–09'').

(3) This AD affects AD 2017–04–10, Amendment 39–18805 (82 FR 11791, February 27, 2017) (''AD 2017–04–10'').

**(c) Applicability**

This AD applies to all the Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Model A318–111 and –112 airplanes.

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

(3) Model A320–211, –212, –214, and –216 airplanes

(4) Model A321–111, –112, –211, –212, and –213 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 71, Powerplant.

**(e) Reason**

This AD was prompted by a report of a production quality deficiency on the inner retainer installed on link assemblies of the aft engine mount, which could result in failure of the retainer. The FAA is issuing this AD to address non-conforming retainers of the aft engine mount. This condition could result in loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount, possibly resulting in damage to the airplane.

**(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, paragraphs (3) through (6), (8), (9), (11), and (12) of European Union Aviation Safety Agency (EASA) AD 2020–0085, dated April 6, 2020 (''EASA AD 2020–0085'').

**(h) Exceptions to EASA AD 2020–0085**

(1) Where EASA AD 2020–0085 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–0085 refers to August 16, 2017 (the effective date of EASA AD 2017–0138, dated August 2, 2017), this AD requires using September 13, 2018 (the effective date of AD 2018–16–02).

(3) Where EASA AD 2020–0085 refers to December 15, 2017 (the issued date of EASA AD 2017–0251), this AD requires using September 13, 2018 (the effective date of AD 2018–16–02).

(4) The ''Remarks'' section of EASA AD 2020–0085 does not apply to this AD.

(5) Where paragraph (8) of EASA AD 2020–0085 specifies ''do not operate any airplane having installed a, and do not install on any airplane a 'dull' finish aft engine mount inner retainer,'' for this AD, do not operate any airplane having installed any inner retainers affected by the production quality deficiency, and do not install on any airplane a 'dull' finish aft engine mount inner retainer.

(6) Where paragraph (9.3) of EASA AD 2020–0085 refers to January 27, 2016 (the effective date of EASA AD 2016–0010, dated January 13, 2016), this AD requires using April 3, 2017 (the effective date of AD 2017–04–10).

(7) Where paragraph (12) of EASA AD 2020–0085 specifies a compliance time of ''before next flight after December 15, 2017,'' for this AD, that compliance time is ''within 30 days after September 13, 2018'' (the effective date of AD 2018–16–12.)

**(i) Terminating Action for AD 2016–14–09 and AD 2017–04–10**

(1) Modification of an airplane as required by paragraph (g) of this AD (*i.e.,* accomplishing the modification required by paragraph (3) of EASA AD 2020–0085, the replacement specified in paragraph (4) of EASA AD 2020–0085, or the modification specified in paragraph (5) of EASA AD 2020–0085), constitutes terminating action for the repetitive detailed inspections required by paragraph (l) of AD 2016–14–09 for that airplane.

(2) Modification of an airplane as required by paragraph (g) of this AD (*i.e.,* accomplishing the modification required by paragraph (3) of EASA AD 2020–0085, the replacement specified in paragraph (4) of EASA AD 2020–0085, or the modification specified in paragraph (5) of EASA AD 2020–0085), is a method of compliance with the requirements of paragraph (g) of AD 2017–04–10 for that airplane.

**(j) 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 (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@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 2018–16–02 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0085 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, Large Aircraft Section, International Validation 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 2020–0085 that contains RC procedures and tests: Except as required by paragraph (j)(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.

**(k) Related Information**

(1) For information about EASA AD 2020–0085, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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*. 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–2020–0914.

(2) 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; phone and fax: 206–231–3223; email: *sanjay.ralhan@faa.gov*.

Issued on October 8, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–22680 Filed 10–13–20; 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–2020–0913; Project Identifier MCAI–2020–00971–T]**

**RIN 2120–AA64**

## Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

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

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2015–05–03, which applies to certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2015–05–03 requires revising the maintenance or inspection program, as applicable, to incorporate new or revised maintenance requirements and airworthiness limitations, and incorporating structural repairs and modifications to preclude widespread fatigue damage (WFD). Since the FAA issued AD 2015–05–03, the FAA has determined that new or more restrictive airworthiness limitations are necessary, as well as the corresponding structural repairs and modifications to preclude WFD. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations and would require incorporating structural repairs and modifications to preclude WFD. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 30, 2020.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free phone: +1–844–272–2720 or direct-dial phone: +1–514–855–8500; fax: +1–514–855–8501; email: *thd.crj@mhirj.com*; internet: *https://mhirj.com*. You may view this service information 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.

### 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–2020–0913; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed

under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0913; Project Identifier MCAI–2020–00971–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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 post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

**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 NPRM 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 NPRM, 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 NPRM. Submissions containing CBI should be sent to Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@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 2015–05–03, Amendment 39–18113 (80 FR 13758, March 17, 2015) (''AD 2015–05–03''), for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2015–05–03 requires revising the maintenance or inspection program, as applicable, to incorporate new or revised maintenance requirements and airworthiness limitations, and incorporating structural repairs and modifications to preclude WFD. AD 2015–05–03 resulted from reports of cracking on the skin panels and skin splice joints and angles at certain stringers at various locations between certain fuselage stations. The FAA issued AD 2015–05–03 to address WFD, which could adversely affect the structural integrity of the airplane.

**Actions Since AD 2015–05–03 Was Issued**

Since the FAA issued AD 2015–05–03, the FAA has determined that new or more restrictive airworthiness limitations are necessary, as well as the corresponding structural repairs and modifications to preclude WFD.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2014–07R1, dated July 13, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0913.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary, as well as the corresponding structural repairs and modifications to preclude WFD. The manufacturer discovered inconsistencies between the Engineering Structure Reports and Maintenance Tasks for the inspection of fuselage skin longitudinal splices along a certain stringer. The FAA is proposing this AD to address WFD, which could adversely affect the structural integrity of the airplane. See the MCAI for additional background information.

**Related Service Information Under 1 CFR Part 51**

MHI RJ Aviation has issued Bombardier Temporary Revision 2B–2280, dated June 12, 2020. This service information, among other actions, describes airworthiness limitation (AWL) task 53–41–207, which specifies airworthiness limitations and inspections for fuselage and longitudinal skin splices at stringer (STR) 6 and 20.

This proposed AD would also require the following service information, which the Director of the Federal Register approved for incorporation by reference as of April 21, 2015 (80 FR 13758, March 17, 2015).

- AWL Task 53–41–110, Longitudinal Str. 6 splice butt strap at Str. 6, FS409.0 to FS617.0, of Appendix B, Airworthiness Limitations, of Part 2, Airworthiness Requirements, Revision 9, dated June 10, 2013, of the Bombardier CL–600–2B19 Maintenance Requirements Manual, CSP A–053.
- AWL Task 53–41–204, Frame splice angles at STR 6 and 20, of Appendix B, Airworthiness Limitations, of Part 2, Airworthiness Requirements, Revision 9, dated June 10, 2013, of the Bombardier CL–600–2B19 Maintenance Requirements Manual, CSP A–053.

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

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

**Proposed Requirements of This NPRM**

This proposed AD would retain certain requirements of AD 2015–05–03. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations and would require incorporating structural repairs and modifications to preclude WFD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (n)(1) of this proposed AD.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 431 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from

AD 2015–05–03 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has received no definitive data that would enable us to provide cost estimates for the repairs and modifications specified in this proposed AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed regulation:

(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.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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) 2015–05–03, Amendment 39–18113 (80 FR 13758, March 17, 2015); and

■ b. Adding the following new AD:

**MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.):** Docket No. FAA–2020–0913; Project Identifier MCAI–2020–00971–T.

**(a) Comments Due Date**

The FAA must receive comments by November 30, 2020.

**(b) Affected ADs**

This AD replaces AD 2015–05–03, Amendment 39–18113 (80 FR 13758, March 17, 2015) (''AD 2015–05–03'').

**(c) Applicability**

This AD applies to MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 7990 inclusive, and 8000 and subsequent.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary, as well as the corresponding structural repairs and modifications to preclude widespread fatigue damage (WFD). The FAA is issuing this AD to address WFD, which could adversely affect the structural integrity of the airplane.

**(f) Compliance**

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

**(g) Retained Revision of Maintenance or Inspection Program, With Certain Requirements Removed**

This paragraph restates the requirements of paragraph (g) of AD 2015–05–03, with certain requirements removed. Within 60 days after April 21, 2015 (the effective date of AD 2015–05–03): Revise the maintenance or inspection program, as applicable, by incorporating the airworthiness limitations (AWL) tasks specified in paragraphs (g)(1) and (2) of this AD. The initial compliance times for the tasks start from the applicable threshold times specified in Part 2 Airworthiness Requirements, Revision 9, dated June 10, 2013, of Appendix B, Airworthiness Limitations, of Bombardier CL–600–2B19, Maintenance Requirements Manual, CSP A–053; except that, for airplanes that have accumulated more than 38,000 total flight cycles as of April 21, 2015, the initial compliance time for the AWL tasks is before the accumulation of 2,000 flight cycles after April 21, 2015.

(1) AWL Task 53–41–110, Longitudinal Str. 6 splice butt strap at Str. 6, FS409.0 to FS617.0, of Appendix B, Airworthiness Limitations, of Part 2, Airworthiness Requirements, Revision 9, dated June 10, 2013, of the Bombardier CL–600–2B19, Maintenance Requirements Manual, CSP A–053.

(2) AWL Task 53–41–204, Frame splice angles at STR 6 and 20, of Appendix B, Airworthiness Limitations, of Part 2, Airworthiness Requirements, Revision 9, dated June 10, 2013, of the Bombardier CL–600–2B19, Maintenance Requirements Manual, CSP A–053.

**(h) Retained No Alternative Actions or Intervals, With No Changes**

This paragraph restates the requirements of paragraph (h) of AD 2015–05–03, with no changes. After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (n)(1) of this AD.

**(i) Retained Repairs and Modifications, With Changed Paragraph References**

This paragraph restates the requirements of paragraph (i) of AD 2015–05–03, with changed paragraph references. Before the accumulation of 60,000 total flight cycles: Install repairs and modifications to preclude widespread fatigue damage (WFD) at locations specified in the tasks identified in paragraphs (g)(1) and (2) of this AD, using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) New Maintenance or Inspection Program Revision**

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in AWL task 53–41–207, as specified in Bombardier Temporary Revision 2B–2280, dated June 12, 2020. The initial compliance time for doing the tasks is at the time specified in AWL task 53–41–207, as

specified in Bombardier Temporary Revision 2B–2280, dated June 12, 2020, or within 60 days after the effective date of this AD, whichever occurs later.

**(k) New No Alternative Actions or Intervals**

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (n)(1) of this AD.

**(l) Credit for Previous Actions**

This paragraph provides credit for the initial inspections required by the service information specified in paragraph (j) of this AD, if those actions were performed before the effective date of this AD using the Bombardier Repair Engineering Orders (REOs) specified in Figure 1 to paragraph (l) of this AD.

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**Figure 1 to paragraph (l)** – *REOs Equivalent to Initial Inspection*

| Airplane Serial Number - | Bombardier REO - |
|---|---|
| 7168 | 601R-53-00-714, Revision --, dated January 30, 2019 |
| 7437 | 601R-53-00-722, Revision --, dated March 28, 2019 |
| 7574 | 601R-53-00-725, Revision --, dated June 4, 2019 |
| 7667 | 601R-53-00-726, Revision --, dated June 4, 2019 |
| 7640 | 601R-53-00-727, Revision --, dated June 25, 2019 |
| 7636 | 601R-53-00-728, Revision --, dated June 15, 2019 |
| 7400 | 601R-53-00-730, Revision --, dated June 20, 2019 |
| 7660 | 601R-53-00-731, Revision --, dated June 20, 2019 |
| 7638 | 601R-53-00-732, Revision --, dated June 24, 2019 |
| 7523 | 601R-53-00-734, Revision --, dated June 25, 2019 |
| 7425 | 601R-53-00-735, Revision --, dated June 25, 2019 |
| 7568 | 601R-53-00-737, Revision --, dated July 15, 2019 |
| 7873 | 601R-53-00-739, Revision --, dated July 15, 2019 |
| 7536 | 601R-53-00-741, Revision – A, dated July 23, 2019 |
| 7657 | 601R-53-00-742, Revision --, dated July 23, 2019 |
| 7682 | 601R-53-00-752, Revision --, dated August 22, 2019 |
| 7656 | 601R-53-00-753, Revision --, dated August 22, 2019 |
| 7904 | 601R-53-00-754, Revision --, dated August 26, 2019 |
| 7687 | 601R-53-00-758, Revision --, dated September 9, 2019 |

| Airplane Serial Number - | Bombardier REO - |
|---|---|
| 7879 | 601R-53-00-762, Revision --, dated November 4, 2019 |
| 7447 | 601R-53-00-763, Revision --, dated October 30, 2019 |
| 7256 | 601R-53-00-765, Revision --, dated October 21, 2019 |
| 7663 | 601R-53-00-767, Revision --, dated November 1, 2019 |
| 7457 | 601R-53-00-769, Revision --, dated October 29, 2019 |
| 7257 | 601R-53-00-772, Revision --, dated November 20, 2019 |
| 7569 | 601R-53-00-777, Revision --, dated December 11, 2019 |
| 7695 | 601R-53-00-780, Revision --, dated January 6, 2020 |
| 7880 | 601R-53-00-785, Revision --, dated February 1, 2020 |
| 7490 | 601R-53-00-787, Revision --, dated February 27, 2020 |
| 7366 | 601R-53-00-790, Revision --, dated February 26, 2020 |
| 7306 | 601R-53-00-795, Revision --, dated April 16, 2020 |
| 7479 | 601R-53-00-797, Revision --, dated June 17, 2020 |
| 7487 | 601R-53-00-798, Revision --, dated June 17, 2020 |

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**(m) New Repairs and Modifications**

Before the accumulation of 60,000 total flight cycles: Install repairs and modifications to preclude WFD at locations specified in the tasks identified in paragraph (j) of this AD, using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or MHI RJ Aviation ULC 's TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

**(n) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531.

(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 2015–05–03, are approved as AMOCs for the corresponding provisions of 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, New York ACO Branch, FAA; or TCCA; or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(o) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2014–07R1, dated July 13, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0913.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov*.

(3) For service information identified in this AD, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free phone: +1–844–272–2720 or direct-dial phone: +1–514–855–8500; fax: +1–514–855–8501; email: *thd.crj@mhirj.com*; internet: *https://mhirj.com*. You may view this service information 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.

Issued on October 7, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22665 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0910; Project Identifier 2018–CE–044–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; M7 Aerospace LLC Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for M7 Aerospace LLC Model SA26–AT and SA26–T airplanes. This proposed AD was prompted by reports of the airplane power lever linkage detaching from the TPE331 engine propeller pitch control (PPC) shaft. This proposed AD would require repetitively inspecting the PPC for proper torque and making any necessary corrections until the replacement of the PPC assembly and the installation of a secondary retention feature (safety wire) are done. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 30, 2020.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Honeywell International Inc., 111 S 34th Street, Phoenix, Arizona 85034–2802; phone: 855–808–6500; email: *AeroTechSupport@honeywell.com*; internet: *https://aerospace.honeywell.com/en/services/maintenance-and-monitoring*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

### 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–2020–0910; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Jonas Perez, Aerospace Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Parkway, Fort Worth, Texas 76177–1524; phone: 817–222–5145; fax: 817–222–5960; email: *jonas.perez@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0910; Project Identifier 2018–CE–044–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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 post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

### 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 NPRM 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 NPRM, 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 NPRM. Submissions containing CBI should be sent to Jonas Perez, Aerospace Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Parkway, Fort Worth, Texas 76177–1524; phone: 817–222–5145; fax: 817–222–5960; email: *jonas.perez@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 has received reports of the airplane power lever linkage detaching from the TPE331 engine PPC shaft. In flight operations, detachment may result in fuel flow to the engine remaining constant regardless of the power lever movement by the pilot. The orientation of the engine on certain M7 Aerospace LLC airplanes increases the vulnerability of detachment. The PPC lever is an airplane part and its detachment from the TPE331 has been the subject of previous ADs on other airplane type designs. This condition, if not addressed, could result in uncommanded change to the engine power settings with consequent loss of control.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed Honeywell International Inc. Service Bulletin TPE331–72–2190, dated December 21, 2011, which contains procedures for replacing or reworking the propeller pitch control assembly, incorporating a threaded hole in the splined end of the shouldered shaft, and reassembling the propeller pitch control assembly.

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

### Other Related Service Information

The FAA also reviewed paragraph j. of M7 Aerospace SA26 Series Maintenance Manual Temporary

Revision 4–02, dated July 22, 2020, which contains information related to the installation of the secondary retention feature (safety wire) on the airplane PPC lever and the PPC assembly.

**FAA's Determination**

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

The FAA estimates that this proposed AD would affect 55 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Install secondary retention feature (safety wire). | 1 work-hour × $85 per hour = $85 | $10 | $95 | $5,225. |
| Inspect PPC lever | 1 work-hour × $85 per hour = $85 per inspection cycle. | 0 | 85 | $4,675 per inspection cycle. |
| Repair, replace, and/or rework PPC lever input shaft. | 19 work-hours × $85 per hour = $1,615. | 1,000 | 2,615 | $143,825. |

The FAA estimates the following costs to do any adjustment that would be required based on the results of the proposed inspection. The FAA has no way of determining the number of aircraft that might need the adjustment:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Correct attachment of the PPC lever | 1 work-hour × $85 per hour = $85 | $0 | $85 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed regulation:

(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.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**M7 Aerospace LLC:** Docket No. FAA–2020–0910; Project Identifier 2018–CE–044–AD.

**(a) Comments Due Date**

The FAA must receive comments by November 30, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to M7 Aerospace LLC Model SA26–AT and SA26–T airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 61, Propellers/propulsors.

**(e) Unsafe Condition**

This AD was prompted by reports of the airplane power lever linkage detaching from the TPE331 engine propeller pitch control (PPC) shaft. The FAA is issuing this AD to address detachment of the power lever linkage to the TPE331 engine PPC shaft, which could result in uncommanded change to the engine power settings with consequent loss of control.

**(f) Compliance**

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

**(g) PPC Lever Inspection**

(1) Within 100 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals not to exceed 100 hours

TIS, inspect the security of the PPC lever by pulling the PPC lever upward by hand to ensure it does not detach from the PPC input shaft. If the PPC lever detaches during any inspection, before further flight, comply with paragraphs (h) and (i) of this AD.

(2) The replacement/re-identification required by paragraph (h) of this AD and the installation of the secondary retention feature (safety wire) required by paragraph (i) of this AD terminate the repetitive inspections of the PPC lever attachment required by paragraph (g)(1) of this AD.

**(h) Replace and Inspect the PPC Assembly**

Within 600 hours TIS after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, unless required before further flight by paragraph (g)(1) of this AD, do the actions in either paragraph (h)(1) or (2) of this AD in accordance with the Accomplishment Instructions in Honeywell International Inc. Service Bulletin TPE331–72–2190, dated December 21, 2011, except you are not required to report information to the manufacturer.

(1) Replace the PPC assembly with the applicable new design PPC assembly.

(2) Inspect the splined end of the shouldered shaft for the presence and condition of a threaded hole and, before further flight, repair or replace the cam assembly or rework the PPC assembly, as necessary, and re-identify the shouldered shaft.

**(i) Secondary Retention Feature (Safety Wire)**

Before further flight after completing the actions required by paragraph (h) of this AD, install the secondary retention feature (safety wire) on the airplane PPC lever and the PPC assembly.

**Note 1 to paragraph (i):** Paragraph j. of M7 Aerospace SA26 Series Maintenance Manual Temporary Revision 4–02, dated July 22, 2020, contains information related to installation of the secondary retention feature (safety wire).

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

(1) The Manager, Safety Management Section, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD.

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

**(k) Related Information**

(1) For more information about this AD, contact Jonas Perez, Aerospace Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Parkway, Fort Worth, Texas 76177–1524; phone: 817–222–5145; fax: 817–222–5960; email: *jonas.perez@faa.gov*.

(2) For Honeywell International Inc., service information identified in this AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, Arizona 85034–2802; phone: 855–808–6500; email: *AeroTechSupport@honeywell.com*; internet: *https://aerospace.honeywell.com/en/services/maintenance-and-monitoring*.

(3) You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued on October 2, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22225 Filed 10–13–20; 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–2020–0912; Product Identifier 2015–SW–071–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

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

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

**SUMMARY:** The FAA proposes to supersede airworthiness directive (AD) 82–20–05 for Societe Nationale Industrielle Aerospatiale (now Airbus Helicopters) Model AS–350 and AS–355 series helicopters. AD 82–20–05 requires inspecting and establishing a life limit for the tail rotor (TR) drive shaft bearing (bearing). Since the FAA issued AD 82–20–05, inconsistencies have been identified between inspections and maintenance actions required by ADs and inspections and maintenance actions specified in the applicable maintenance manual. This proposed AD would require replacing certain part-numbered TR bearings with one part-numbered bearing and repetitively inspecting one part-numbered bearing. The actions of this proposed AD are intended to address an unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 30, 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–2020–0912; 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 proposed 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. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*. 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:** David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5116; email *david.hatfield@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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 proposal, 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 only one time.

Except for Confidential Business Information 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 proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

**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 NPRM 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 NPRM, 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 NPRM. Submissions containing CBI should be sent to David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone: 817–222–5116; email *david.hatfield@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 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982) (''AD 82–20–05'') for Societe Nationale Industrielle Aerospatiale (now Airbus Helicopters) Model AS–350 and AS–355 series helicopters. AD 82–20–05 requires repetitively inspecting bearing part number (P/N) SKF 6007–2RS1MT47CA and P/N AS704A33.651.010 to determine if the perpendicularity of the bearing relative to the shaft is within certain limits. AD 82–20–05 also establishes a life limit of 1,200 hours time-in-service (TIS) for the bearing and rubber sleeve.

AD 82–20–05 was prompted by reports of four accidents due to failure of the drive shaft on Aerospatiale (now Airbus Helicopters) AS–350 helicopters, and the resulting corrective actions required through ADs issued by the French Airworthiness Authority. The actions in AD 82–20–05 are intended to prevent failure or seizure of a bearing.

**Actions Since AD 82–20–05 Was Issued**

Since the FAA issued AD 82–20–05, EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2015–0195, dated September 23, 2015 (EASA AD 2015–0195), to correct an unsafe condition for Airbus Helicopters Model AS 350 B, BA, BB, B1, B2, B3, and D, and AS 355 E, F, F1, F2, N, and NP helicopters with certain part-numbered bearings installed. EASA advises that after inconsistencies were identified between inspections and maintenance actions required by French Civil Aviation Authority ADs and EASA ADs, Airbus Helicopters issued service information to specify replacing four different part-numbered bearings with one bearing P/N 593404 (also listed as manufacturer part number (MP/N) 704A33–651–181) and to provide inspection procedures for the new bearing. Accordingly, EASA AD 2015–0195 retains the inspections for the older design bearings, requires replacing the bearings with the new bearings, and requires repetitive inspections for the new bearings.

**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 proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other products of the same type designs.

**Related Service Information**

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS355–01.00.57, Revision 2, dated January 19, 2016, for Model AS355 helicopters, and ASB AS350–01.00.70, Revision 1, dated September 21, 2015, for Model AS350 helicopters. The service information describes procedures for inspecting bearing P/N 593404 or MP/N 704A33–651–181 for position, condition, and wear. This service information also advises customers that older designed bearings are not fit for flight, and specifies replacing the older designed bearings with new bearing P/N 593404 or MP/N 704A33–651–181. This service information also references procedures for repetitively inspecting the newer bearings.

**Proposed AD Requirements**

This proposed AD would require within 100 hours TIS, and thereafter at intervals not to exceed 165 hours TIS, for helicopters with bearing P/N 593404 or MP/N 704A33–651–181 installed, inspecting each bearing holder damper bushing for wear, a crack, tears, and play between each bushing and support plate. This proposed AD would require inspecting each bearing holder for a crack, fretting, and corrosion around the attachment holes. This proposed AD would also require inspecting each rubber sleeve for rotation, crazing, play between the inner races and the rubber sleeve, and lack of integrity of the elastomer. Depending on the inspection results, this proposed AD would require removing certain parts from service. This proposed AD would also require, within 100 hours TIS, making a mark with white paint on the rubber sleeves and on the shaft, and for helicopters with affected TR drive shaft bearings P/N 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 installed, removing the affected bearings from service and replacing with bearing P/N 593404 or MP/N 704A33–651–181. This proposed AD would prohibit installing certain bearings on any helicopter.

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

The EASA AD requires replacing the older design bearings within 10 months, while this proposed AD would require replacing the bearings within 100 hours TIS. The EASA AD applies to Model AS350BB helicopters; this proposed AD would not as this model helicopter is not FAA type-certificated. Finally, this proposed AD would apply to Model AS350C and AS350D1 helicopters as they have the same bearings installed, and the EASA AD does not.

**Costs of Compliance**

The FAA estimates that this proposed AD would affect 915 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

For Model AS350 B, BA, B1, B2, B3, and C helicopters, inspecting the bearings would take about 2.5 work-

hours, for an estimated cost of $213 per helicopter per inspection cycle.

Replacing each bearing with a single part-numbered bearing would take about 2.5 work-hours and parts would cost about $1,225, for a cost of $1,438 per helicopter.

For Model AS350 D, D1, and AS355-series helicopters, inspecting the bearings would take about 3 work-hours, for a cost of $255 per helicopter per inspection cycle.

Replacing each bearing with a single part-numbered bearing would take about 3 work-hours and parts would cost about $1,470, for a cost of $1,725 per helicopter.

Making a mark with white paint on the rubber sleeves and shaft would take a minimal amount of time and have a nominal parts cost.

## Authority for This Rulemaking

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

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

## Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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, I certify this proposed regulation:

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.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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) 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982); and

■ b. Adding the following new AD:

**Airbus Helicopters:** Docket No. FAA–2020–0912; Product Identifier 2015–SW–071–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category, with a tail rotor (TR) drive shaft bearing (bearing) part number (P/N) 593404, 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or manufacturer part number (MP/N) 704A33–651–010, 704A33–651–111, 704A33–651–143, or 704A33–651–181, installed.

**(b) Unsafe Condition**

This AD defines the unsafe condition as failure or seizure of a TR bearing, which if not corrected could result in loss of the TR drive and subsequent loss of control of the helicopter.

**(c) Affected ADs**

This AD supersedes AD 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982).

**(d) Comments Due Date**

The FAA must receive comments by November 30, 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) For helicopters with TR bearing P/N 593404 or MP/N 704A33–651–181 installed, within 100 hours time-in-service (TIS) and thereafter at intervals not to exceed 165 hours TIS:

(i) Inspect each bearing holder damper bushing for wear, a crack, tears, and play between each bushing and support plate. If there is any wear, a crack, tears, or play between the bushing and support plate, remove the bearing holder damper bushing from service.

(ii) Inspect each bearing holder for a crack, fretting, and corrosion around the attachment holes. If there is a crack, fretting, or corrosion, remove the bearing holder from service.

(iii) Inspect each rubber sleeve for rotation, crazing, play between the inner races and the rubber sleeve, and lack of integrity of the elastomer. For the purposes of this inspection, lack of integrity may be indicated by brittle or cracked rubber. If there is any rotation, crazing, play between the inner races and the rubber sleeve, or lack of integrity of the elastomer, remove the rubber sleeve from service.

(2) Within 100 hours TIS:

(i) Make a mark with white paint on the rubber sleeves and on the shaft.

(ii) For helicopters with affected TR drive shaft bearings P/N 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 installed, remove the affected bearings from service and replace with bearing P/N 593404 or MP/N 704A33–651–181.

(3) After the effective date of this AD, do not install bearing P/N 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 on any helicopter.

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

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5116; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

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

**(h) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2015–0195, dated September 23, 2015. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

Issued on October 6, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–22504 Filed 10–13–20; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Docket No. FAA–2020–0868; Airspace Docket No. 20–AAL–26]**

**RIN 2120–AA66**

# Proposed Amendment to Alaskan VOR Federal Airway V–319, United States Air Navigation (RNAV) Routes, T–219 and T–269, and Revocation of Federal Colored Airway R–50; Alaska

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

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

**SUMMARY:** This action proposes to remove Colored Federal airway, R–50, and amend Alaskan VOR Federal airway, V–319, and United States Air Navigation (RNAV) Routes T–219 and T–269 in Alaska. The modifications are necessary due to the planned decommissioning of the Nanwak Non-Directional Beacon (NDB) and Distance Measuring Equipment (DME) in Mekoryuk, AK, which provides navigation guidance for portions of the affected routes. The Nanwak NDB/DME (AIX) is to be decommissioned effective June 17, 2021 due to the high cost of maintenance.

**DATES:** Comments must be received on or before November 30, 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–2020–0868; Airspace Docket No. 20–AAL–26 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov*.

FAA Order 7400.11E, 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 7400.11E 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–2020–0868; Airspace Docket No. 20–AAL–26) 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–2020–0868; Airspace Docket No. 20–AAL–26.'' 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 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

## Background

The Nanwak (AIX) NDB/DME has been out of service for more than six years. Due to the high cost of maintenance, the FAA has determined it necessary to decommission the Navigational Aid (NAVAID) and establish a new waypoint (WP), the MKLUK, AK, WP, in its place. The upcoming decommissioning of the AIX NDB/DME will require removal of Federal Colored airway R–50, and amendment of Alaskan VOR Federal Airway V–319 and RNAV routes T–219 and T–269 to remove and add associated airway segments.

Due to the pending decommissioning of AIX and Oscarville NDB (OSE), the NAVAIDS that support R–50 will be nullified. The segment of R–50 to be revoked from AIX to OSE will be mitigated by an extension of T–269 from the Bethel VHF Omnidirectional Radar and Tactical Air Navigation System (VORTAC) to a newly established waypoint, the MKLUK, AK, WP. The additional segment of the route being deleted from OSE to the Anvik, AK, NDB can be mitigated by utilizing V–453 and V–510.

Alaskan VOR Federal airway V–319 will require an amendment deleting the segment from the Hooper Bay VOR/DME to AIX. The loss of this segment will be mitigated by an extension of T–219.

RNAV route T–219 will be amended to extend the airway from its current termination point at Nanwak NDB to Hooper Bay via the MKLUK, AK, WP to mitigate the loss of V–319 in this area. T–219 will also have two additional turn points added to the legal description between the Dillingham, AK, VOR/DME and the RUFVY, AK, WP. The FAA JO 7400.2M section 20–5–3 requires that points where a route changes direction be included in the legal description. The waypoints NACIP and ACATE are established reporting points, therefore, in order to comply with the published guidance, they will be included in the proposed amended legal description. Finally, the 7400.2M section 20–1–5 specifies that odd routes in the description be oriented south to north. The current legal description does not follow that guidance and requires correction.

RNAV route T–269 will be amended to extend its current termination point at the Bethel, AK, VORTAC to the MKLUK, AK, WP. This change would mitigate the loss of the R–50 segment from Nanwak NDB to Bethel VORTAC. Additionally, there are several waypoints and fixes that are missing from the current legal description. As stated earlier, FAA JO 7400.2M requires that any turn point be included in the legal description. There are eight waypoints (WP) and fixes along this route that meet that criteria. The points include: TURTY, AK, WP, and FLIPS, AK, FIX between Annette Island, AK (ANN) and Biorka Island, AK (BKA); HAPIT, AK, WP, and CENTA, AK, WP between BKA and Yakutat, AK (YAK); KATAT, AK, WP between YAK and Johnstone Point, AK (JOH); YONEK, AK, WP, VEILL, AK, WP between Anchorage, AK (TED) and Sparrevohn, AK (SQA); VIDDA, AK between SQA and Bethel, AK (BET). The Part 71 legal description requires amendment to include these points.

## The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to remove Colored Federal airway R–50, amend Alaskan VOR Federal Airway V–319, and amend RNAV routes T–219 and T–269. The proposed actions are described below.

*R–50:* R–50 currently extends between the Nanwak, AK, NDB and the Anvik, AK, NDB. The FAA proposes to remove the entire route.

*V–319:* V–319 currently extends between the Yakutat, AK and the Nanwak, AK, NDB. The FAA proposes to remove the segment from the Hooper Bay, AK, VOR/DME to the Nanwak, AK, NDB.

*T–219:* T–219 currently extends between the Nanwak, AK, NDB and the Dillingham, AK, VOR/DME. The FAA proposes to extend the airway from the MKLUK, AK, WP to the Hooper Bay, AK, VOR/DME. Additionally, the proposal would correct the legal description, to include the NACIP, AK, WP and the ACATE, AK WP. Finally, the proposal would correct the legal description so that it denotes south to north track as it states in the FAA JO 7400.2M paragraph 20–1–5 e2.

*T–269:* T–269 currently extends between the Annette Island, AK, VOR/DME and the Bethel, AK, VORTAC. The FAA proposes to extend the airway from the Bethel, AK, VORTAC to the MKLUK, AK, WP. Additionally, the FAA proposes to incorporate eight additional waypoints and fixes that were not included in the legal description. These reporting points include TURTY, AK, WP; FLIPS, AK, FIX; HAPIT, AK, FIX; CENTRA, AK, WP; KATAT, AK, WP; YONEK, AK, WP; VEILL, AK, WP, and VIDDA, AK, WP that contain a turn and are required to be included in the legal description as per the FAA JO 7400.2M paragraph 20–1–5 h2.

Colored Federal airways are published in paragraph 6009, Alaskan VOR Federal Airways are published in paragraph 6010 (b), and United States Area Navigation Routes are published in paragraph 6011 of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR part 71.1. The Colored Federal Airways 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 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

*Paragraph 6009—Colored Federal Airways.*

* * * * *

**R–50 [Removed]**

* * * * *

*Paragraph 6010(b)—Alaskan VOR Federal airways*

* * * * *

**V–319 [Amended]**

From Yakutat, AK, via Johnstone Point, AK, INT Johnstone Point 291° and Anchorage, AK, 125° radials; Anchorage, AK; Sparrevohn, AK; Bethel, AK; Hooper Bay, AK.

* * * * *

*Paragraph 6011—United States Area Navigation Routes*

* * * * * * *

**T–219 DLG TO HPB [AMENDED]**

| | | |
|---|---|---|
| DILLINGHAM, AK (DLG) | VOR/DME | (Lat. 58°59′39.24″ N, long. 158°33′07.99″ W) |
| NACIP, AK | WP | (Lat. 59°23′17.51″ N, long. 160°38′06.01″ W) |
| ACATE, AK | WP | (Lat. 59°42′50.93″ N, long. 162°33′09.70″ W) |
| RUFVY, AK | WP | (Lat. 59°56′34.16″ N, long. 164°02′03.72″ W) |
| MKLUK, AK | WP | (Lat. 60°26′40.04″ N, long. 165°55′17.28″ W) |
| HOOPER BAY, AK (HPB) | VOR/DME | (Lat. 61°30′51.65″ N, long. 166°08′04.13″ W) |

* * * * * * *

**T–269 ANN TO MKLUK [AMENDED]**

| | | |
|---|---|---|
| ANNETTE ISLAND, AK (ANN) | VOR/DME | (Lat. 55°03′37.47″ N, long. 131°34′42.24″ W) |
| TURTY, AK | WP | (Lat. 55°48′26.84″ N, long. 133°08′58.14″ W) |
| FLIPS, AK | FIX | (Lat. 56°34′32.58″ N, long. 134°52′46.97″ W) |
| BIORKA ISLAND, AK (BKA) | VORTAC | (Lat. 56°51′33.87″ N, long. 135°33′04.72″ W) |
| HAPIT, AK | WP | (Lat. 58°11′57.57″ N, long. 137°31′12.45″ W) |
| CENTA, AK | WP | (Lat. 59°00′21.35″ N, long. 138°48′10.27″ W) |
| YAKUTAT, AK (YAK) | VOR/DME | (Lat. 59°30′38.99″ N, long. 139°38′53.26″ W) |
| KATAT, AK | WP | (Lat. 60°15′29.17″ N, long. 144°42′18.77″ W) |
| JOHNSTONE POINT, AK (JOH) | VOR/DME | (Lat. 60°28′51.43″ N, long. 146°35′57.61″ W) |
| ANCHORAGE, AK (TED) | VOR/DME | (Lat. 61°10′04.32″ N, long. 149°57′36.51″ W) |
| YONEK, AK | WP | (Lat. 61°10′22.97″ N, long. 151°14′08.30″ W) |
| VEILL, AK | WP | (Lat. 61°08′13.91″ N, long. 154°15′45.68″ W) |
| SPARREVOH N, AK (SQA) | VOR/DME | (Lat. 61°05′54.89″ N, long. 155°38′04.49″ W) |
| VIDDA, AK | WP | (Lat. 60°52′41.05″ N, long. 160°28′33.09″ W) |
| BETHEL, AK (BET) | VORTAC | (Lat. 60°47′05.41″ N, long. 161°49′27.59″ W) |
| MKLUK, AK | WP | (Lat. 60°26′40.04″ N, long. 165°55′17.28″ W) |

* * * * *

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

**Scott M. Rosenbloom,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2020–22582 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## 25 CFR Part 48

**[201A2100DD; AAKC001030; A0A501010.999900]**

**RIN 1076–AF55**

## Use of Bureau-Operated Schools by Third Parties Under Lease Agreements and Fundraising Activity by Bureau-Operated School Personnel

**AGENCY:** Bureau of Indian Education, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** Congress authorized the Director of the Bureau of Indian Education (BIE or Bureau) to enter into agreements with third parties to lease the land or facilities of a Bureau-operated school in exchange for funding that benefits the school. This proposed rule establishes standards for the appropriate use of lands and facilities under a lease agreement, provisions for establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a school, accountability standards to ensure ethical conduct, and provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use. This proposed rule also establishes standards to implement authority provided by Congress for BIE personnel to fundraise on behalf of Bureau-funded schools.

**DATES:** Please submit written comments by December 14, 2020. If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by November 13, 2020. See the **SUPPLEMENTARY INFORMATION** section of this notice for dates of Tribal consultation sessions.

**ADDRESSES:** You may send comments, identified by RIN number 1076–AF55 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for sending comments.
- *Email: consultation@bia.gov*. Include RIN number 1076–AF55 in the subject line of the message.
- *Mail or Hand-Delivery/Courier:* Office of Regulatory Affairs & Collaborative Action—Indian Affairs (RACA), U.S. Department of the Interior, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240.

All submissions received must include the Regulatory Information Number (RIN) for this rulemaking (RIN 1076–AF55). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Comments on the Paperwork Reduction Act information collections contained in this rule are separate from comments on the substance of the rule. Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to *consultation@bia.gov*. Please reference OMB Control Number 1076–0187 in the subject line of your comments.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above

will not be included in the docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov*.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Summary of Proposed Rule
III. Tribal Consultation
IV. Procedural Requirements
A. Regulatory Planning and Review (E.O. 12866)
B. Regulatory Flexibility Act
C. Small Business Regulatory Enforcement Fairness Act
D. Unfunded Mandates Reform Act
E. Takings (E.O. 12630)
F. Federalism (E.O. 13132)
G. Civil Justice Reform (E.O. 12988)
H. Consultation With Indian Tribes (E.O. 13175)
I. Paperwork Reduction Act
J. National Environmental Policy Act
K. Effects on the Energy Supply (E.O. 13211)
L. Clarity of This Regulation
M. Public Availability of Comments

## I. Background

Public Law 112–74, as amended by Public Law 113–235 and Public Law 114–113, authorizes the Director of BIE, or the Director's designee, to enter into agreements with public and private persons and entities allowing them to lease the land or facilities of a Bureau-operated school in exchange for consideration (in the form of funds) that benefits the school. The head of the school determines the manner in which the consideration will be used to benefit the school, as long as the use is for school purposes otherwise authorized by law. Congress provided that any funds obtained under this authority will not affect or diminish appropriations for the operation and maintenance of Bureau-operated schools, and that no funds will be withheld from distribution to the budget of a school due to receipt of such funds.

This public law also allows personnel of Bureau-operated schools to participate in fundraising activity for the benefit of a Bureau-operated school in their official capacity, as part of their official duties.

To carry out these public law provisions, the Act requires the Secretary of the Interior to promulgate regulations. The Act provides that the regulations must include standards for the appropriate use of Bureau-operated school lands and facilities by third parties under a rental or lease agreement; provisions for the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a school; accountability standards to ensure ethical conduct; and provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

## II. Summary of Proposed Rule

This proposed rule would establish a new Code of Federal Regulations (CFR) part to implement the leasing and fundraising authority that Congress granted to BIE under Public Law 112–74, as amended by Public Law 113–235 and Public Law 114–113. The leasing provisions of this rule would apply only to the facilities and land of Bureau-operated schools. This proposed rule would not apply to public schools, Public Law 100–297 Tribally controlled grant schools, or Public Law 93–638 contract schools. This proposed rule would implement statutory leasing authority specific to leasing of Bureau-operated school facilities and land and be separate from the general statutory authority for leasing. To obtain approval of a lease of a Bureau-operated facility or land, one would need to comply with this new regulation, rather than the more generally applicable regulations at 25 CFR part 162. We note that nothing in this rule affects 25 CFR 31.2, which allows for use of Bureau-operated school facilities or land for community activities and adult education activities upon approval by the superintendent or officer-in-charge, where no consideration is received in exchange for the use of the facilities. The fundraising provisions of this proposed rule would apply only to employees of schools operated by the BIE.

Subpart A of the proposed rule would set forth the purpose, definitions, and other general provisions applicable to both leasing and fundraising.

Subpart B would establish the mechanisms and standards by which the Bureau may lease Bureau-operated school facilities and land to third parties. The proposed rule allows only the BIE Director or his or her designee to enter into leases and sets forth the standards the BIE Director (or designee) will use to determine whether to enter into a lease, including that the lease provides a net financial benefit to the school, that it meets certain standards (*e.g.,* complies with the mission of the school, conforms to principles of good order and discipline), and ensures the lease does not compromise the safety and security of students and staff or damage facilities. This subpart also establishes what provisions a lease must include, what actions are necessary if permanent improvements are to be constructed under the lease, and how the Bureau will ensure compliance with the lease. This subpart provides that the Bureau may only accept funds (as opposed to in-kind consideration) as consideration for a lease and may only use the funds for school purposes. It establishes how the Director or his designee will determine what amount is proper for lease consideration, establishes the mechanics for lessees to pay consideration, and how the Bureau will process the funds. Bureau-operated school personnel would be required to report annually on any active lease to the Director and others, including an accounting of all expenditures and supporting documentation showing expenditures were made for school purposes.

Subpart C of the proposed rule addresses fundraising activities by employees of Bureau-operated schools in their official capacity on behalf of those schools. (Nothing in this proposed rule affects fundraising activities by students). This subpart allows authorized personnel to spend a reasonable portion of his or her official duties fundraising. This subpart limits the types of fundraising an employee may conduct to ensure fundraising maintains the school's integrity, the Bureau's impartiality, and public confidence in the school. Certain approvals would be required before personnel may accept a donation on behalf of a school, and each Bureau-operated school that receives donations would be required to report annually to the Director and others, including an accounting of all expenditures and supporting documentation showing expenditures were made for school purposes.

## III. Tribal Consultation

The Department is hosting the following consultation session on this proposed rule:

| Date | Time | Location |
|---|---|---|
| Friday, November 13, 2020 | 2 p.m. Eastern Time | Teleconference number: (888) 972–6716. Participant Passcode (Operator will answer): DOI. |

## IV. Procedural Requirements

### *A. Regulatory Planning and Review (E.O. 12866)*

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant proposed rules. OIRA has determined that this proposed rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

### *B. Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not change current funding requirements and any economic effects on small entities would be fees charged for the use of the facilities, which must be tied to either fair market value or the costs to the Bureau of the lease and would not have a significant economic effect on the small entities.

### *C. Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

(a) Will not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

### *D. Unfunded Mandates Reform Act*

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The proposed rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

### *E. Takings (E.O. 12630)*

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

### *F. Federalism (E.O. 13132)*

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

### *G. Civil Justice Reform (E.O. 12988)*

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

### *H. Consultation With Indian Tribes (E.O. 13175)*

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this proposed rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified substantial direct effects on federally recognized Indian Tribes that will result from this rulemaking. The Department acknowledges that Tribes with children attending Bureau-operated schools have an interest in this proposed rule because it provides for consideration for the leasing of Bureau-operated schools and fundraising standards for employees of Bureau-operated schools. As such, the Department engaged Tribal government representatives by distributing a letter, dated June 19, 2014, with a copy of the draft rule and requesting comment on the draft rule by July 31, 2014. The Department also published a proposed rule on June 21, 2016 (81 FR 40218) and hosted a listening session and two teleconference consultations on the rule, but received no substantive comments. The Department will be hosting a consultation session to discuss this proposed rule (see Section III. Tribal Consultation, of this preamble for details).

### *I. Paperwork Reduction Act*

This proposed rule contains new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The Department is seeking approval of a new information collection, as follows.

*Brief Description of Collection:* The Bureau of Indian Education (BIE) is proposing to establish standards for the appropriate use of lands and facilities by third parties. These standards address the following: The execution of lease agreements; the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a Bureau-operated school; the assurance of ethical conduct; and monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use. The paperwork burden associated with the proposed rule results from lease provisions; lease violations; and assignments, subleases, or mortgages of leases.

*Title:* Use of Bureau-Operated Schools by Third Parties.

*OMB Control Number:* 1076–0187.

*Form Number:* None.

*Type of Review:* New collection.

*Respondents/Affected Public:* Individuals and Private Sector.

*Total Estimated Number of Annual Respondents:* 17.

*Total Estimated Number of Annual Responses:* 22.

*Estimated Completion Time per Response:* One to three hours.

*Total Estimated Number of Annual Burden Hours:* 64 hours.

*Respondents' Obligation:* Required to obtain a benefit.

*Frequency of Response:* Annually.

*Total Estimated Annual Non-Hour Burden Cost:* $0.

| CFR cite | Description | Number respondents | Annual responses | Burden hours per response | Total annual burden hours |
|---|---|---|---|---|---|
| 48.105 | Provisions of leases (businesses) | 10 | 10 | 3 | 30 |
| 48.105 | Provisions of leases (individuals) | 2 | 2 | 3 | 6 |
| 48.105 | Provisions of leases (governments) | 5 | 5 | 3 | 15 |
| 48.106 | Covered improvements under lease (businesses) | 2 (subset) | 2 | 3 | 6 |
| 48.106 | Covered improvements under lease (governments) | 1 (subset) | 1 | 3 | 3 |
| 48.117 | Violations of leases | 1 (subset) | 1 | 1 | 1 |
| 48.119 | Assignments, subleases, and mortgages of leases | 1 (subset) | 1 | 3 | 3 |
| Total | | 17 | 22 | N/A | 64 |

*OMB Control Number:* 1090–0009.

*Title:* Donor Certification Form.

*Brief Description of Collection:* This information will provide Department staff with the basis for beginning the evaluation as to whether the Department will accept the proposed donation. The authorized employee will receive the donor certification form in advance of accepting the proposed donation where the donation is valued at $25,000 or more. The employee will then review the totality of circumstances surrounding the proposed donation to determine whether the Department can accept the donation and maintain its integrity, impartiality, and public confidence. We expect to receive 25 responses to this information collection annually. The burden associated with this information collection is already reflected in the approval of OMB Control Number 1090–0009.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including 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 response.

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. Please provide a copy of your comments to *consultation@bia.gov*. Please reference OMB Control Number 1076–0187 in the subject line of your comments.''

*J. National Environmental Policy Act*

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the environmental effects of this proposed rule are too speculative to lend themselves to meaningful analysis and will later be subject to the NEPA process, unless covered by a categorical exclusion. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

*K. Effects on the Energy Supply (E.O. 13211)*

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

*L. Clarity of This Regulation*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all proposed rules in plain language. This means that each proposed rule we publish must:

a. Be logically organized;

b. Use the active voice to address readers directly;

c. Use clear language rather than jargon;

d. Be divided into short sections and sentences; and

e. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

*M. Public Availability of Comments*

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**List of Subjects in 25 CFR Part 48**

Educational facilities, Indians—education.

■ For the reasons given in the preamble, the Department of the Interior proposes to amend 25 CFR chapter 1, subchapter E, by adding part 48 to read as follows:

## PART 48—LEASES OF LAND OR FACILITIES OF BUREAU-OPERATED SCHOOLS AND FUNDRAISING ACTIVITIES AT BUREAU-OPERATED SCHOOLS

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Sec.

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**Subpart C—Fundraising Activities**

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**Authority:** 5 U.S.C. 301; 25 U.S.C. 2, 9; Pub. L. 112–74; Pub. L. 113–235; Pub. L. 114–113.

## Subpart A—General Provisions

### § 48.1 What is the purpose of this part?

(a) The purpose of this part is to set forth processes and procedures to:

(1) Implement authorization for the Director or his or her designee to lease or rent Bureau-operated school facilities in exchange for consideration in the form of funds;

(2) Establish mechanisms and standards for leasing or renting of Bureau-operated facilities, and management and use of the funds received as consideration;

(3) Describe allowable fundraising activities by the employees of Bureau-operated schools;

(4) Set accountability standards to ensure ethical conduct; and

(5) Establish provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

(b) Nothing in this part affects:

(1) 25 CFR 31.2, allowing for use of Federal Indian school facilities for community activities and adult education activities upon approval by the superintendent or officer-in-charge, where no consideration is received in exchange for the use of the facilities;

(2) 26 CFR 31.7 and 36.43(g), establishing guidelines for student fundraising; or

(3) The implementing regulations for the Federal Employees Quarters Facilities Act, 5 U.S.C. 5911, at 41 CFR part 114–51 and policies at Departmental Manual part 400, chapter 3; or

(4) The use of Bureau-operated school facilities or lands by other Federal agencies so long as the use is memorialized in a written agreement between the Bureau and the other Federal agency.

### § 48.2 What is the scope of this part?

The leasing provisions of this part apply only to facilities of schools operated by the Bureau and the fundraising provisions of this part apply only to employees of schools operated by the Bureau. This part does not apply to public schools, Public Law 100–297 Tribally controlled schools, or Public Law 93–638 contract or grant schools.

### § 48.3 What definitions apply to terms in this part?

*Assistant Secretary* means the Assistant Secretary—Indian Affairs or his or her designee.

*Bureau* means the Bureau of Indian Education.

*Bureau-operated school* means a day or boarding school, a dormitory for students attending a school other than a Bureau school, or an institution of higher learning and associated facilities operated by the Bureau. This term does not include public schools, Public Law 100–297 Tribally controlled schools, or Public Law 93–638 contract or grant schools.

*Construction* means construction of new facilities, modification, or alteration of existing grounds or building structures.

*Days* means calendar days unless otherwise specified.

*Director* means the Director, Bureau of Indian Education.

*Director's designee* or *designee* means the Associate Deputy Director and/or the Education Program Administrator.

*Department* means the Department of the Interior.

*Donation* means something of value (*e.g.,* funds, land, personal property) received from a non-Federal source without consideration or an exchange of value.

*Employee* means an employee of the Bureau working at a Bureau-operated school.

*Facilities* means land or facilities authorized for use by a Bureau-operated school.

*Funds* means money.

*Fundraising* means requesting donations, selling items, or providing a service, activity, or event to raise funds, except that writing a grant proposal to secure resources to support school purposes is not fundraising. Fundraising does not include requests for donated supplies, materials, in-kind services, or funds (*e.g.,* fees for school activities) that schools traditionally require or request parents and guardians of students to provide.

*Head of the School* means the Principal, President, School Supervisor, Residential Life Director, Superintendent of the School, or equivalent head of a Bureau-operated school where facilities are being leased under this Part.

*Lease* means a written contract or rental agreement executed in accordance with this part, granting the possession and use of facilities at a Bureau-operated school to a private or public person or entity in return for funds.

*Private person or entity* means an individual who is not acting on behalf of a public person or entity and includes, but is not limited to, private companies, nonprofit organizations and any other entity not included in the definition of public person or entity.

*Public person or entity* means a State, local, Federal, or Tribal governmental agency or unit thereof.

*School purposes* means lawful activities and purchases for the benefit of students and school operations including, but not limited to: Academic, residential, and extra-curricular programs during or outside of the normal school day and year; books, supplies or equipment for school use; building construction, maintenance and/or operations; landscape construction, modifications, or maintenance on the school grounds.

**§ 48.4 What accounting standards will the Bureau use in monitoring the receipt, holding, and use of funds?**

The Bureau will use applicable Federal financial accounting rules in monitoring the receipt, holding, and use of funds.

**§ 48.5 How does the Paperwork Reduction Act affect this part?**

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–NEW and OMB Control Number 1090–0009. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

## Subpart B—Leasing of Bureau-Operated Facilities

**§ 48.101 Who may enter into a lease on behalf of a Bureau-operated school?**

Only the Director or the Director's designee may enter into leases.

**§ 48.102 With whom may the Director enter into a lease?**

The Director or designee may lease to public or private persons or entities who meet the requirements of this part that are applicable to leasing activities.

**§ 48.103 What facilities may be leased?**

Any portion of a Bureau-operated school facility may be leased as long as the lease does not interfere with the normal operations of the Bureau-operated school, student body, or staff, and otherwise meets applicable requirements of this part.

**§ 48.104 What standards will the Director use in determining whether to enter into a lease?**

(a) The Director or designee will make the final decision regarding approval of a proposed lease. The Director or designee must ensure that the lease provides appropriate consideration that benefits to the school and that the Head of the School has certified, after consultation with the school board or board of regents, that the lease meets the standards in paragraph (b) of this section.

(b) The lease must:

(1) Comply with the mission of the school;

(2) Conform to principles of good order and discipline;

(3) Not interfere with existing or planned school activities or programs;

(4) Not interfere with school board staff and/or community access to the school;

(5) Not allow contact or access to students inconsistent with applicable law;

(6) Not result in any Bureau commitments after the lease expires; and

(7) Not compromise the safety and security of students and staff or damage facilities.

(c) The Director's or designee's decision on a proposed lease is discretionary and is not subject to review or appeal under part 2 of this chapter or otherwise.

**§ 48.105 What provisions must a lease contain?**

(a) All leases of Bureau-operated school facilities must identify at a minimum:

(1) The facility, or portion thereof, being leased;

(2) The purpose of the lease and authorized uses of the leased facility;

(3) The parties to the lease;

(4) The term of the lease, and any renewal term, if applicable;

(5) The ownership of permanent improvements and the responsibility for constructing, operating, maintaining, and managing permanent improvements, and meeting due diligence requirements under § 48.106;

(6) Payment requirements and late payment charges, including interest;

(7) That lessee will maintain insurance sufficient to cover negligence or intentional misconduct occurring on the leasehold; and

(8) Any bonding requirements, as required in the discretion of the Director. If a performance bond is required, the lease must state that the lessee must obtain the consent of the surety for any legal instrument that directly affects their obligations and liabilities.

(b) All leases of Bureau-operated facilities must include, at a minimum, the following provisions:

(1) There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises;

(2) The lessee must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements;

(3) The Bureau has the right, at any reasonable time during the term of the lease and upon reasonable notice to enter the leased premises for inspection and to ensure compliance; and

(4) The Bureau may, at its discretion, treat as a lease violation any failure by the lessee to cooperate with a request to make appropriate records, reports, or information available for inspection and duplication.

(c) Unless the lessee would be prohibited by law from doing so, the lease must also contain the following provisions:

(1) The lessee holds the United States harmless from any loss, liability, or damages resulting from the lessee's, its invitees', and licensees' use or occupation of the leased facility; and

(2) The lessee indemnifies the United States against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault with the exception that the lessee is not required to indemnify the United States for liability or cost arising from the United States' negligence or willful misconduct.

**§ 48.106 May a lessee construct permanent improvements under a lease?**

(a) The lessee may construct permanent improvements under a lease of a Bureau-operated facility only if the lease contains the following provisions:

(1) A description of the type and location of any permanent improvements to be constructed by the lessee and a general schedule for construction of the permanent improvements, including dates for commencement and completion of construction;

(2) Specification of who owns the permanent improvements the lessee constructs during the lease term and specifies whether each specific permanent improvement the lessee constructs will:

(i) Remain on the leased premises, upon the expiration, cancellation, or termination of the lease, in a condition satisfactory to the Director, and become the property of the Bureau-operated school;

(ii) Be removed within a time period specified in the lease, at the lessee's expense, with the leased premises to be restored as closely as possible to their condition before construction of the permanent improvements; or

(iii) Be disposed of by other specified means.

(3) Due diligence requirements that require the lessee to complete construction of any permanent improvements within the schedule specified in the lease or general schedule of construction, and a process for changing the schedule by mutual consent of the parties.

(i) If construction does not occur, or is not expected to be completed, within the time period specified in the lease, the lessee must provide the Director

with an explanation of good cause as to the nature of any delay, the anticipated date of construction of facilities, and evidence of progress toward commencement of construction.

(ii) Failure of the lessee to comply with the due diligence requirements of the lease is a violation of the lease and may lead to cancellation of the lease.

(b) The lessee must prepare the required information and analyses, including information to facilitate the Bureau's analysis under applicable environmental and cultural resource requirements.

(c) The Bureau may take appropriate enforcement action to ensure removal of the permanent improvements and restoration of the premises at the lessee's expense before or after expiration, termination, or cancellation of the lease. The Bureau may collect and hold the performance bond or alternative form of security until removal and restoration are completed.

**§ 48.107 What consideration may a Bureau-operated school accept in exchange for a lease?**

A Bureau-operated school may accept only funds as consideration for a lease.

**§ 48.108 How will the Bureau determine appropriate consideration for a lease?**

The Bureau will determine what consideration is appropriate for a lease by considering, at a minimum, the following factors:

(a) Fair market value or the indirect and direct costs of the lease; and

(b) Whether there will be a net financial benefit to the school.

**§ 48.109 Who may use the funds?**

The Bureau-operated school may use funds, including late payment charges, received as compensation for leasing that school's facilities.

**§ 48.110 For what purposes may a Bureau-operated school use the funds?**

The Bureau-operated school must use the funds for school purposes.

**§ 48.111 How does a lessee pay the Bureau-operated school under a lease?**

A lessee must pay consideration and any late payment charges due under the lease to the Bureau by certified check, money order, or electronic funds transfer made out to the Bureau and containing identifying information as provided for in the lease.

**§ 48.112 How are lease payments processed?**

The Bureau will deposit all funds received as lease consideration or late payment charge into the designated Treasury account. Once the Bureau deposits the funds, the Bureau will work with the Bureau-operated school to make the funds available for school purposes.

**§ 48.113 Will late payment charges or special fees apply to delinquent lease payments?**

(a) Late payment charges will apply as specified in the lease. The failure to pay these amounts will be treated as a lease violation.

(b) The Bureau may assess the following special fees to cover administrative costs incurred by the United States in the collection of the debt, if rent is not paid in the time and manner required, in addition to late payment charges that must be paid under the terms of the lease:

TABLE 1 TO PARAGRAPH (b)

| The lessee will pay . . . | For . . . |
|---|---|
| (1) $50.00 | Any dishonored check. |
| (2) $15.00 | Processing of each notice or demand letter. |
| (3) 18 percent of balance due | Treasury processing following referral for collection of delinquent debt. |

**§ 48.114 How long will the funds be available?**

Funds generated under these regulations remain available to the recipient school until expended, notwithstanding 31 U.S.C. 3302, in accordance with the Bureau-operated school's plan for expending the funds for school purposes.

**§ 48.115 How will the Bureau monitor the results achieved by the use of funds received from leases?**

The Head of the School for each Bureau-operated school that has active leases under this part must submit an annual report to the Director, the designee, and the Office of Facilities Management and Construction. The report must contain the following information:

(a) A list of leases and the facilities covered by each lease;

(b) An accounting of receipts from each lease;

(c) An accounting of all expenditures and the supporting documentation showing that expenditures were made for school purposes;

(d) A report of the benefits provided by the leasing program as a whole;

(e) A certification that the terms of each lease were met or, if the terms of a lease were not met, the actions taken as a result of the noncompliance; and

(f) Any unexpected expenses incurred.

**§ 48.116 Who may investigate compliance with a lease?**

The Head of the School or his designee or any Bureau employee may enter the leased facility at any reasonable time, upon reasonable notice, and consistent with any notice requirements under the lease to determine if the lessee is in compliance with the requirements of the lease.

**§ 48.117 What will the Bureau do about a violation of a lease?**

(a) If the Bureau determines there has been a violation of the conditions of a lease, it will promptly send the lessee and any surety and mortgagee a notice of violation, by certified mail, return receipt requested.

(1) The notice of violation will advise the lessee that, within 10 business days of the receipt of a notice of violation, the lessee must:

(i) Cure the violation and notify the Bureau in writing that the violation has been cured;

(ii) Dispute the determination that a violation has occurred; or

(iii) Request additional time to cure the violation.

(2) The notice of violation may order the lessee to cease operations under the lease.

(b) A lessee's failure to pay compensation in the time and manner required by the lease is a violation of the lease, and the Bureau will issue a notice of violation in accordance with this section requiring the lessee to provide adequate proof of payment.

(c) The lessee and its sureties will continue to be responsible for the obligations in the lease until the lease expires, or is terminated or cancelled.

**§ 48.118 What will the Bureau do if a lessee does not cure a lease violation on time?**

(a) If the lessee does not cure a violation of a lease within the required time period, or provide adequate proof of payment as required in the notice of violation, the Bureau will take one or more of the following actions:

(1) Cancel the lease;

(2) Invoke other remedies available under the lease or applicable law, including collection on any available performance bond or, for failure to pay compensation, referral of the debt to the Department of the Treasury for collection; or

(3) Grant the lessee additional time in which to cure the violation.

(b) The Bureau may take action to recover unpaid compensation and any associated late payment charges, and does not have to cancel the lease or give any further notice to the lessee before taking action to recover unpaid compensation. The Bureau may still take action to recover any unpaid compensation if it cancels the lease.

(c) If the Bureau decides to cancel the lease, it will send the lessee and any surety and mortgagee a cancellation letter by certified mail, return receipt requested, within 5 business days of our decision. The cancellation letter will:

(1) Explain the grounds for cancellation;

(2) If applicable, notify the lessee of the amount of any unpaid compensation or late payment charges due under the lease;

(3) Notify the lessee of the lessee's right to appeal to the Director if the decision is made by the Director's designee, or to the Interior Board of Indian Appeals if the decision is made by the Director, including the possibility that the official to whom the appeal is made may require the lessee to post an appeal bond;

(4) Order the lessee to vacate the property within 31 days of the date of receipt of the cancellation letter, if an appeal is not filed by that time; and

(5) Order the lessee to take any other action the Bureau deems necessary to protect the facility.

(d) The Bureau may invoke any other remedies available under the lease, including collecting on any available performance bond.

**§ 48.119 May a lease be assigned, subleased, or mortgaged?**

A lessee may assign, sublease, or mortgage a lease only with the approval of the Director.

## Subpart C—Fundraising Activities

**§ 48.201 To whom does this subpart apply?**

This subpart applies to employees that fundraise for a Bureau-operated school. This subpart does not apply to students who fundraise.

**§ 48.202 May employees fundraise?**

(a) Employees may fundraise for school purposes as part of their official duties using their official title, position and authority, so long as:

(1) The Director or the Director's designee approves the fundraising in advance and certifies that it complies with this subpart; and

(2) The employees ensure the fundraising conforms to the requirements of this subpart.

(b) Nothing in this part allows participation in political or other activities prohibited by law.

**§ 48.203 How much time may employees spend fundraising?**

Each authorized employee may spend no more than a reasonable portion of his or her official duty time as an employee in any calendar year fundraising.

**§ 48.204 For what school purposes may employees fundraise?**

Employees may fundraise for school purposes as defined in § 48.3.

**§ 48.205 What are the limitations on fundraising?**

(a) Fundraising may not include any gaming or gambling activity.

(b) Fundraising may not violate, or create an appearance of violating, any applicable ethics statutes or regulations.

(c) Donations from fundraising must maintain the integrity of the Bureau-operated school programs and operations, including but not limited to the following considerations:

(1) The donation may not, and may not appear, to be an attempt to influence the exercise of any regulatory or other authority of the Bureau;

(2) The donation may not require commitment of current or future funding that is not planned or available;

(3) The donation must be consistent with, and may not otherwise circumvent, law, regulation, or policy;

(4) The Bureau-operated school must be able to properly utilize or manage any donated real or personal property within policy, programmatic, and management goals;

(5) Any conditions on the donation must be consistent with authorized school purposes and any relevant policy or planning documents;

(6) The donation may not be used by the donor to state or imply endorsement by the Bureau or Bureau-operated school of the donor or the donor's products or services;

(7) The donation, if it consists of personnel or funding to hire personnel, must be structured such that the donated or funded personnel do not inappropriately influence any Bureau regulatory action or other significant decision.

(d) The fundraising and donation must maintain the impartiality, and appearance of impartiality, of the Bureau, Bureau-operated school, and its employees, including but not limited to the following considerations:

(1) The proposed donation may be only in an amount that would not influence or appear to influence any pending Bureau decision or action involving the donor's interests;

(2) There may be no actual or implied commitment to take an action favorable to the donor in exchange for the donation;

(3) The donor may not obtain or appear to obtain special treatment dealing with the Bureau or Bureau-operated school.

(e) The fundraising and donation must maintain public confidence in the Bureau and Bureau-operated school, its programs, and its personnel, including but not limited to the following considerations:

(1) The fundraising and acceptance of the donation would not likely result in public controversy;

(2) Any conditions on donations must be consistent with the Bureau and Bureau-operated school's policy, goals, and programs; and

(3) The fundraising and donation may not involve any inappropriate goods or services.

(f) Participation in fundraising is voluntary. No student, community member, or organization shall be forced, coerced or otherwise unduly pressured to participate in fundraising. No criticism nor any retaliatory action may be taken against, any student, community member, or organization for failure to participate or succeed in fundraising.

**§ 48.206 What approvals are necessary to accept a donation under this subpart?**

Prior to accepting a donation valued at $5,000 or more under this subpart, the Director's designee must approve the acceptance and certify that it complies with this subpart, including the considerations of § 48.205, Departmental policy, and any applicable statute or regulation.

**§ 48.207 How may donations solicited under this subpart be used?**

(a) The Director's designee must deposit all income from the fundraising into the into the designated Treasury account. Once the Bureau deposits the funds, the Bureau will work with the Bureau-operated school to make the funds available.

(b) The Bureau-operated school must first use the funds to pay documented costs of the fundraising activity and must use the remaining funds in accordance with paragraph (c) of this section.

(c) Funds and in-kind donations solicited under this subpart may be used for the school purposes identified in the solicitation. If the solicitation did not identify the school purposes, the funds and in-kind donations may be used for any school purposes defined in § 48.3.

**§ 48.208 How must the Bureau-operated school report donations?**

Each Bureau-operated school that has received donations must submit an annual report to the Director containing the following information:

(a) A list of donors, donation amounts, and estimated values of donated goods and services;

(b) An accounting of all costs of fundraising activities;

(c) Supporting documentation showing the donations were used for school purposes; and

(d) A report of the results achieved by use of donations.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2020–21536 Filed 10–13–20; 8:45 am]

**BILLING CODE 4337–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2020–0317; FRL–10014–78–Region 3]**

## Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the State College Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the ''1997 ozone NAAQS'') in the Centre County, Pennsylvania area (State College Area). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before November 13, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0317 at *https://www.regulations.gov,* or via email to *Spielberger.Susan@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

**FOR FURTHER INFORMATION CONTACT:** Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On March 10, 2020, PADEP submitted a revision to the Pennsylvania SIP to incorporate a plan for maintaining the 1997 ozone NAAQS in the State College Area through December 14, 2027, in accordance with CAA section 175A.

### I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),[1] EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23857), EPA designated the State College Area as nonattainment for the 1997 ozone NAAQS. The State College Area consists solely of Centre County.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),[2] the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as ''maintenance areas.'' One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well as contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On November 14, 2007 (72 FR 63990, effective December 14, 2007), EPA approved a redesignation request (and maintenance plan) from PADEP for the State College Area. In accordance with

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

[2] The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e,* maintenance areas) for the 1997 ozone NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[3] However, in *South Coast Air Quality Management District* v. *EPA*[4] (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for ''orphan maintenance areas,'' (*i.e.,* areas like the State College Area) that had been redesignated to attainment for the 1997 ozone NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these ''orphan maintenance areas'' under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The 1992 Calcagni Memo[5] provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). See 1992 Calcagni Memo at p. 9. EPA further clarified in three subsequent guidance memos describing ''limited maintenance plans'' (LMPs)[6] that the requirements of CAA section 175A could be met by demonstrating that the area's design value[7] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on March 10, 2020, PADEP submitted an LMP for the State College Area, following EPA's LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through December 14, 2027, *i.e.,* through the entire 20-year maintenance period.

## II. Summary of SIP Revision and EPA Analysis

PADEP's March 10, 2020 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the 1992 Calcagni Memo as follows.

### *A. Attainment Emissions Inventory*

For maintenance plans, a state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on typical summer day's emissions of nitrogen oxides ($NO_X$) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the State College Area, PADEP used 2004 for the attainment year inventory, because 2004 was one of the years in the 2002–2004 three-year period and accounts for reductions attributable to implementation of the Clean Air Act requirements to date.[8] The State College Area continued to monitor attainment of the 1997 ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.,* maintenance) of the NAAQS. Thus, PADEP is using 2014 as representing attainment level emissions for its second maintenance plan. Pennsylvania used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.[9]

TABLE 1—2014 TYPICAL SUMMER DAY $NO_X$ AND VOC EMISSIONS FOR THE STATE COLLEGE AREA IN TONS/DAY

| Source category | $NO_X$ emissions | VOC emissions |
|---|---|---|
| Point | 0.07 | 3.44 |
| Nonpoint | 6.97 | 1.39 |
| Onroad | 2.86 | 9.00 |
| Nonroad | 2.06 | 1.97 |

The data shown in Table 1 is based on the 2014 National Emissions Inventory (NEI) version 2.[10] The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and onroad mobile sources. Point sources are stationary sources that have the potential to emit more than 100 tons per year (tpy) of VOC, or more than 50 tpy of $NO_X$, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to PADEP. Examples of point sources include kraft mills, electrical generating units, and pharmaceutical factories. Nonpoint sources include emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The onroad emissions sector includes emissions from engines used primarily to propel equipment on highways and other roads, including passenger

[3] See 80 FR 12315 (March 6, 2015).

[4] 882 F.3d 1138 (D.C. Cir. 2018).

[5] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (1992 Calcagni Memo).

[6] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate $PM_{10}$ Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

[7] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[8] For more information, see EPA's September 11, 2007 document proposing to redesignate the State College Area to attainment for the 1997 ozone NAAQS (72 FR 51747).

[9] For more information, visit *https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx.*

[10] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The NEI is released every three years based primarily upon data provided by State, Local, and Tribal air agencies for sources in their jurisdictions and supplemented by data developed by EPA.

vehicles, motorcycles, and heavy-duty diesel trucks. The nonroad emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. EPA reviewed the emissions inventory submitted by PADEP and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

*B. Maintenance Demonstration*

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, or ''DV'') at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 ppm or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document as well as EPA's November 20, 2018 ''Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans'' (2018 Resource Document),[11] EPA believes that if the most recent DV for the area is well below the NAAQS (*e.g.,* below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that prevention of significant deterioration requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating continued maintenance with the 1997 ozone NAAQS, PADEP provided 3-year DVs at monitors located in the State College Area from 2007 to 2018. This includes DVs at monitors for 2005–2007, 2006–2008, 2007–2009, 2008–2010, 2009–2011, 2010–2012, 2011–2013, 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018, which are shown in Table 2 of this document.[12] In addition, EPA has reviewed the most recent ambient air quality monitoring data for ozone in the State College Area, as submitted by Pennsylvania and recorded in EPA's Air Quality System. The most recent DVs (*i.e.,* 2017–2019) at monitors located in the State College Area are also shown in Table 2.[13]

TABLE 2—1997 OZONE NAAQS DESIGN VALUES IN PARTS PER MILLION FOR THE STATE COLLEGE AREA

| County | AQS Site ID | 2005–2007 | 2006–2008 | 2007–2009 | 2008–2010 | 2009–2011 | 2010–2012 | 2011–2013 | 2012–2014 | 2013–2015 | 2014–2016 | 2015–2017 | 2016–2018 | 2017–2019 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Centre | 42–027–0100 | .078 | .075 | .070 | .070 | .070 | .073 | .070 | .067 | .063 | .063 | .062 | .062 | 0.061 |
| Centre | 42–027–9991* | ..... | ..... | ..... | ..... | ..... | ..... | .071 | .068 | .065 | .065 | .065 | .064 | 0.062 |

*This monitor (AQS Site ID 42–027–9991) began operation in April 1, 2011, so 2013 is the first valid design value.

As can be seen in Table 2, DVs at all monitors located in the State College Area have been well below 85% of the 1997 ozone NAAQS (*i.e.,* 0.071 ppm) since the 2012–2014 period. The highest DV for the 2017–2019 period at a monitor in the State College Area is 0.062 ppm, which is well below 85% of the 1997 ozone NAAQS.

Additionally, states can support the demonstration of continued maintenance by showing stable or improving air quality trends. According to EPA's 2018 Resource Document, several kinds of analyses can be performed by states wishing to make such a showing. One approach is to take the most recent DV at a monitor located in the area and add the maximum design value increase (over one or more consecutive years) that has been observed in the area over the past several years. For an area with multiple monitors, the highest of the most recent DVs should be used. A sum that does not exceed the level of the 1997 ozone NAAQS may be a good indicator of expected continued attainment. As shown in Table 2 of this document, the largest increase in DVs at a monitor located in the State College Area was 0.003 ppm, which occurred between the 2009–2011 (0.070 ppm) and 2010–2012 (0.073 ppm) DVs at monitoring site 42–027–0100. Adding 0.003 ppm to the highest DV for the 2017–2019 period (0.062 ppm) results in 0.065 ppm, a sum that is still below the 1997 ozone NAAQS.

The State College Area has maintained air quality levels well below the 1997 ozone NAAQS since the area first attained the NAAQS in 2006.[14] Additional supporting information that the area is expected to continue to maintain the standard can be found in projections of future year DVs that EPA recently completed to assist states with the development of interstate transport SIPs for the 2015 8-hour ozone NAAQS. Those projections, made for the year 2023, show that the highest DV at a monitor located in the State College Area is expected to be 0.0598 ppm.[15] Therefore, EPA proposes to determine that future violations of the 1997 ozone NAAQS in the State College Area are unlikely.

*C. Continued Air Quality Monitoring and Verification of Continued Attainment*

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the March 10, 2020 submittal, PADEP commits to continue to operate their air monitoring network in accordance with 40 CFR part 58. PADEP also commits to track the attainment status of the State College Area for the 1997 ozone NAAQS through the review of air quality and emissions data during the second maintenance period. This includes an annual evaluation of vehicles miles traveled and stationary

[11] This resource document is included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–0317 and is also available at *https://www.epa.gov/sites/production/files/2018-11/documents/ozone_1997_naaqs_lmp_resource_document_nov_20_2018.pdf.*

[12] See also Table II–2 of PADEP's March 10, 2020 submittal, included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–0317.

[13] This data is also included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–0317 and is also available at *https://www.epa.gov/air-trends/air-quality-design-values#report.*

[14] As explained in EPA's September 11, 2007 document proposing to redesignate the State College Area as attainment for the 1997 ozone NAAQS (72 FR 51747), the 2004–2006 DV for the State College Area was 0.076 ppm.

[15] See U.S. EPA, ''Air Quality Modeling Technical Support Document for the Updated 2023 Projected Ozone Design Values'', Office of Air Quality Planning and Standards, dated June 2018, available at *https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-updated-2023-projected-ozone-design.*

source emissions data compared to the assumptions included in the LMP. PADEP also states that it will evaluate the periodic (*i.e.,* every three years) emission inventories prepared under EPA's Air Emission Reporting Requirements (40 CFR part 51, subpart A). Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented for the State College Area. EPA has analyzed the commitments in PADEP's submittal and is proposing to determine that they meet the requirements for continued air quality monitoring and verification of continued attainment.

*D. Contingency Plan*

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must require that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175(A)(d) of the CAA.

PADEP's March 10, 2020 submittal includes a contingency plan for the State College Area. In the event that the fourth highest eight-hour ozone concentrations at a monitor in the State College Area exceeds 0.084 ppm for two consecutive years, but prior to an actual violation of the NAAQS, PADEP will evaluate whether additional local emission control measures should be implemented that may prevent a violation of the NAAQS.[16] After analyzing the conditions causing the excessive ozone levels, evaluating the effectiveness of potential corrective measures, and considering the potential effects of Federal, state, and local measures that have been adopted but not yet implemented, PADEP will begin the process of implementing selected measures so that they can be implemented as expeditiously as practicable following a violation of the NAAQS. In the event of a violation, PADEP commits to adopting additional emission reduction measures as expeditiously as practicable in accordance with the schedule included in the contingency plan as well as the CAA and applicable Pennsylvania statutory requirements.

PADEP will use the following criteria when considering additional emission reduction measures to adopt to address a violation of the 1997 ozone NAAQS in the State College Area: (1) Air quality analysis indicating the nature of the violation, including the cause, location, and source; (2) emission reduction potential, including extent to which emission generating sources occur in the nonattainment area; (3) timeliness of implementation in terms of the potential to return the area to attainment as expeditiously as practicable; and (4) costs, equity, and cost-effectiveness. The measures PADEP would consider pursuing for adoption in the State College Area include, but are not limited to, those summarized in Table 3 of this document. If additional emission reductions are necessary, PADEP commits to adopt additional emission reduction measures to attain and maintain the 1997 ozone NAAQS.

TABLE 3—STATE COLLEGE AREA SECOND MAINTENANCE PLAN CONTINGENCY MEASURES

| |
|---|
| Non-Regulatory Measures: |
| Voluntary diesel engine ''chip reflash'' (installation software to correct the defeat device option on certain heavy-duty diesel engines). |
| Diesel retrofit (including replacement, repowering or alternative fuel use) for public or private local onroad or offroad fleets. |
| Idling reduction technology for Class 2 yard locomotives. |
| Idling reduction technologies or strategies for truck stops, warehouses, and other freight-handling facilities. |
| Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment. |
| Additional promotion of alternative fuel (*e.g.,* biodiesel) for home heating and agricultural use. |
| Regulatory Measures: [17] |
| Additional control on consumer products.[18] |
| Additional controls on portable fuel containers.[19] |

The contingency plan includes schedules for the adoption and implementation of both non-regulatory and regulatory contingency measures, including schedules for adopting potential land use planning strategies not listed in Table 3 of this document, which are summarized in Tables 4 and 5 of this document, respectively.

TABLE 4—IMPLEMENTATION SCHEDULE FOR STATE COLLEGE AREA NON-REGULATORY CONTINGENCY MEASURES

| Time after triggering event | Action |
|---|---|
| Within 2 months ..... | PADEP will identify stakeholders for potential non-regulatory measures for further development. |

[16] A violation of the NAAQS occurs when an area's 3-year design value exceeds the NAAQS.

[17] These regulatory measures were considered potential cost-effective and timely control strategies by the Ozone Transport Commission (OTC) as well as the Mid-Atlantic Regional Air Management Association and the Mid-Atlantic/Northeast Visibility Union. The OTC is a multi-state organization responsible for developing regional solutions to ground-level ozone pollution in the Northeast and Mid-Atlantic, including the development of model rules that member states may adopt. The OTC member states include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. For more information on the OTC, visit *https://otcair.org/index.asp*. To view the model rules developed by the OTC, including those for consumer products and portable fuel containers, visit *https://otcair.org/document.asp?fview=modelrules*.

[18] Pennsylvania's existing controls on consumer products are under 25 Pa. Code Chapter 130, Subchapters B and C (38 Pa.B. 5598). This contingency measure includes the adoption of additional controls on consumer products such as VOC limits for adhesive removers.

[19] Existing controls on portable fuel containers can be found under 40 CFR part 39, subpart F—Control of Evaporative Emissions From New and In-Use Portable Fuel Containers.

TABLE 4—IMPLEMENTATION SCHEDULE FOR STATE COLLEGE AREA NON-REGULATORY CONTINGENCY MEASURES—Continued

| Time after triggering event | Action |
|---|---|
| Within 3 months | If funding is necessary, PADEP will identify potential sources of funding and the timeframe for when funds would be available. |
| Within 6 months | PADEP will work with the relevant planning commission(s) to identify potential land use planning strategies and projects with quantifiable and timely emission benefits. PADEP will also work with the Pennsylvania Department of Community and Economic Development and other state agencies to assist with these measures. |
| Within 9 months | If state loans or grants are required, PADEP will enter into agreements with implementing organizations. PADEP will also quantify projected emission benefits. |
| Within 12 months | PADEP will submit revised SIP to EPA. |
| Within 12–24 months | PADEP will implement strategies and projects. |

TABLE 5—IMPLEMENTATION SCHEDULE FOR STATE COLLEGE AREA REGULATORY CONTINGENCY MEASURES

| Time after triggering event | Action |
|---|---|
| Within 1 month | PADEP will submit request to begin regulatory development process. |
| Within 3 months | Request will be reviewed by the Air Quality Technical Advisory Committee (AQTAC), Citizens Advisory Council, and other advisory committees as appropriate. |
| Within 6 months | Environmental Quality Board (EQB) meeting/action. |
| Within 8 months | PADEP will publish regulatory measure in the Pennsylvania Bulletin for comment as proposed rulemaking. |
| Within 10 months | PADEP will hold a public hearing and comment period on proposed rulemaking. |
| Within 11 months | House and Senate Standing Committee and Independent Regulatory Review Commission (IRCC) comment on proposed rule. |
| Within 13 months | AQTAC, Citizens Advisory Council, and other committees will review responses to comment(s), if applicable, and the draft final rulemaking. |
| Within 16 months | EQB meeting/action. |
| Within 17 months | The IRCC will take action on final rulemaking. |
| Within 18 months | Attorney General's review/action. |
| Within 19 months | PADEP will publish the regulatory measure as a final rulemaking in the Pennsylvania Bulletin and submit to EPA as a SIP revision. The regulation will become effective upon publication in the Pennsylvania Bulletin. |

EPA proposes to find that the contingency plan included in PADEP's March 10, 2020 submittal satisfies the pertinent requirements of CAA section 175A(d). EPA notes that while six of the potential contingency measures included in the Commonwealth's second maintenance plan are non-regulatory, their inclusion among other measures is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable. EPA also finds that the submittal acknowledges Pennsylvania's continuing requirement to implement all pollution control measures that were contained in the SIP before redesignation of the State College Area to attainment.

*E. Transportation Conformity*

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).''

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs, and projects. Specifically, for such determination, RTPs, TIPs, and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 93.112) and transportation control measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved, they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The State College Area remains under the obligation to meet the applicable conformity requirements for the 1997 ozone NAAQS.

## III. Proposed Action

EPA's review of PADEP's March 10, 2020 submittal indicates that it meets all applicable CAA requirements, specifically the requirements of CAA section 175A. EPA is proposing to approve the second maintenance plan for the State College Area as a revision

to the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed rulemaking, proposing approval of Pennsylvania's second maintenance plan for the State College Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

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

Dated: September 17, 2020.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2020–20967 Filed 10–13–20; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2020–0344; FRL–10015–12–Region 4]**

## Air Plan Approval; North Carolina: Permits Requiring Public Participation

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, on July 10, 2019. This SIP revision seeks to modify the State's permitting program public participation procedures by adding two types of minor source permits to the list of permits that must undergo public participation and by making minor edits. EPA is proposing to approve this revision pursuant to the Clean Air Act (CAA or Act).

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

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0344 at *www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets*.

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Akers can be reached via electronic mail at *akers.brad@epa.gov* or via telephone at (404) 562–9089.

**SUPPLEMENTARY INFORMATION:**

## I. What action is EPA proposing?

North Carolina has SIP-approved permitting regulations at 15A North Carolina Administrative Code (NCAC) Subchapter 02Q, Section .0300—*Construction and Operation Permits*. These regulations include requirements for obtaining certain construction and operating permits, including applicability provisions and administrative procedures. NCDEQ's July 10, 2019, SIP revision seeks to make changes to the SIP-approved list of construction and operating permits which are required to undergo public participation at Section .0306, *Permits Requiring Public Participation*. The list in Section .0306 includes major source permits as well as certain types of minor source permits.

## II. Analysis of the State's Submittal

NCDEQ's July 10, 2019, SIP revision transmits changes to Section .0306, *Permits Requiring Public Participation*.[1] As described below, the changes to Section .0306 add two types of permits subject to public participation and make

[1] The State submitted the SIP revision following the readoption of several air regulations, including .0306, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B–21.3A.

several minor edits, including the removal of obsolete regulatory references. The permits listed in Section .0306 must undergo public notice for comments with the opportunity for the public to request a public hearing. Pursuant to Section .0307(d), *Public Participation Procedures,* the public comment period for these permits must last for at least 30 days.

The July 10, 2019, SIP revision adds two types of permits to the list of permits which must undergo public participation. First, .0306(a)(10) is added, which requires public notice of permits for sources seeking an exemption from the 20 percent opacity standard in paragraph (d) of 15A NCAC 02D .0521, *Control of Visible Emissions,* through the process at Section .0521, paragraph (f). Under paragraph (f), a source can comply with the 40 percent opacity standard in paragraph (c) instead of the 20 percent opacity standard in paragraph (d) only if the owner or operator of the source: (1) Demonstrates compliance with applicable mass emissions standards for particulate matter; (2) demonstrates that emissions allowed up to the opacity standards under paragraph (c) will not violate any National Ambient Air Quality Standards, and (3) applies for a revised permit. Paragraph (f) also requires that source testing be submitted within 90 days of the application for a revised permit.

Next, the SIP revision adds .0306(a)(11), which requires public notice of permits for sources using alternative monitoring procedures or methodologies pursuant to 15A NCAC 02D .0606, *Sources Covered by Appendix P of 40 CFR part 51,*[2] at paragraph (g)[3] or .0608, *Other Large Coal or Residual Oil Burners,* at paragraph (g).[4]

The SIP revision also contains minor edits to .0306,[5] including removal of obsolete cross-references to rules in the list of permits subject to public participation and renumbering the SIP-approved version of subparagraph (a)(10) to (a)(12).[6] [7]

EPA is proposing to approve the two additions to the list of permits requiring public participation pursuant to CAA section 110 as a SIP-strengthening measure and 40 CFR 51.161. EPA is proposing to approve the remaining changes to Section .0306 because they are minor edits that do not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

## III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 15A NCAC Subchapter 02Q, Section .0306, *Permits Requiring Public Participation,* state effective April 1, 2018, which expands the types of permits which require public participation and makes minor edits to the rule. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. Proposed Action

EPA is proposing to approve revisions to 15A NCAC 02Q .0306, *Permits Requiring Public Participation,* that add two types of permits to the list of permits that must undergo public participation and make minor edits, including the removal of obsolete regulatory references. EPA is proposing to approve these changes for the reasons discussed above.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[2] EPA's regulations at 40 CFR part 51, Appendix P, *Minimum Emission Monitoring Requirements,* set minimum continuous emissions monitoring requirements for the following source categories unless they are subject to a performance standard at 40 CFR part 60, or in limited other circumstances: (1) Fossil fuel-fired steam generators; (2) fluid bed catalytic cracking units; (3) sulfuric acid plants; and (4) nitric acid plants.

[3] The SIP-approved version of Section .0606(g) states that the ''owner or operator of the source may request to use a different procedure or methodology than that required by this Rule if one of the conditions identified in 40 CFR part 51, Appendix P, Section 3.9 exists. The person requesting to use a different procedure or methodology shall submit the request to the Director along with a description of the different procedure or methodology proposed to be used, an explanation of why the procedure or methodology required by this Rule will not work, and a showing that the proposed procedure or methodology is equivalent to the procedure or methodology being replaced. The Director shall approve the use of this procedure or methodology if he finds that one of the conditions identified in 40 CFR part 51, Appendix P, Section 3.9 exists, that the procedure or methodology required by this Rule will not work, and that the proposed procedure or methodology is equivalent to the procedure or methodology that it will replace.''

[4] The SIP-approved version of Section .0608(g) states that the ''owner or operator of the source may request to use a different procedure or methodology than that required by this Rule if one of the conditions identified in 40 CFR part 51, Appendix P, Section 3.9 exists. The person requesting to use a different procedure or methodology shall submit the request to the Director along with a description of the different procedure or methodology proposed to be used, an explanation of why the procedure or methodology required by this Rule will not work, and a showing that the proposed procedure or methodology is equivalent to the procedure or methodology being replaced. The Director shall approve the use of this procedure or methodology if he finds that one of the conditions identified in 40 CFR part 51, Appendix P, Section 3.9 exists, that the procedure or methodology required by this Rule will not work, and that the proposed procedure or methodology is equivalent to the procedure or methodology that it will replace.''

[5] North Carolina's April 1, 2018 rule revision also removed paragraph (b) from the state-effective version of the rule. This paragraph required a 30-day public notice period for permits that placed a physical or operational limitation on a facility to avoid title V requirements under 15 NCAC 02Q 0500. Furthermore, the revised rule renumbered paragraph (c) of the state-effective version of the rule to paragraph (b). However, these changes are not before EPA for action because (1) the version of paragraph (b) that the State removed in the April 1, 2018 rule revision is not in the SIP, and (2) the version of paragraph (b) in the SIP is identical to the version of paragraph (b) in the April 1, 2018 rule. *See* 67 FR 64990 (October 22, 2002).

[6] North Carolina deleted the reference to paragraph (c)(2)(B) of 15A NCAC 02D .1204, *Sewage Sludge Incinerators,* because the State removed (c)(2)(B) from the rule. The State had previously required permits issued under paragraph (c)(2)(B) to undergo public participation because that paragraph allowed incinerators subject to the rule comply with an alternative emission limit in lieu of the operation-based limitation in (c)(1)(A) if the owner or operator provided a demonstration that the ambient air quality standards for particulate matter would not be violated. There is no longer an option to comply with the alternative emission limit, and therefore, the reference is obsolete.

[7] North Carolina deleted the reference to 15A NCAC 02D .0936, *Graphic Arts,* because the State repealed this rule and superseded it with new rules. Accordingly, North Carolina updated 02Q .0306 to reference the replacement rules at 15A NCAC 02D .0961, *Offset Lithographic Printing and Letterpress Printing,* and 15A NCAC 02D .0965, *Flexible Package Printing* such that public participation is required for permits with a ''limitation on the quantity of solvent-borne ink that may be used by a printing unit or printing system'' under .0961 or .0965.

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

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

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

Dated: September 30, 2020.

**Mary Walker,**

*Regional Administrator, Region 4.*

[FR Doc. 2020–22139 Filed 10–13–20; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 257**

**[EPA–HQ–OLEM–2020–0107; FRL–10015–46–OLEM]**

**RIN 2050–AH14**

## Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** On April 17, 2015, the Environmental Protection Agency (EPA or the Agency) promulgated national minimum criteria for existing and new coal combustion residuals (CCR) landfills and existing and new CCR surface impoundments. On August 21, 2018, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion in the case of *Utility Solid Waste Activities Group, et al.* v. *EPA,* which vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the CCR regulations. As a first step to implement this part of the court decision, EPA is seeking comments in this advanced notice of proposed rulemaking (ANPRM) and data on inactive surface impoundments at inactive facilities to assist in the development of future regulations for these CCR units. This ANPRM also discusses the related research conducted to date, describes EPA's preliminary analysis of that research, and seeks additional data and public input on issues that may inform a future proposed rule.

**DATES:** Comments must be received on or before December 14, 2020.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2020–0107, by any of the following methods:

• *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.

• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OLEM Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/*, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. 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 submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** For questions concerning this ANPRM, contact Michelle Long, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304P, Washington, DC 20460; telephone number: (703) 347–8953; email address: *long.michelle@epa.gov.* For more information on this rulemaking please visit *https://www.epa.gov/coalash.*

**SUPPLEMENTARY INFORMATION:**

### I. Public Participation

*A. Docket*

EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2020–0107. EPA has previously established a docket for the April 17, 2015, CCR final rule (80 FR 21302) under Docket ID No. EPA–HQ–RCRA–2009–0640. All documents in the docket are listed in the *https://www.regulations.gov* index. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or in hard copy at the EPA Docket Center. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone

number for the EPA Docket Center is (202) 566–1742.

*B. Written Comments*

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2020–0107, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

EPA is temporarily suspending its Docket Center and Reading Room for public visitors, 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 submit comments via *https://www.regulations.gov/* as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets*.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

*C. Submitting CBI*

Do not submit information that you consider to be CBI electronically through *https://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: ORCR Document Control Officer, Mail Code 5305–P, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; Attn: Docket ID No. EPA–HQ–OLEM–2020–0107.

Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

## II. General Information

*A. Does this action apply to me?*

A future rulemaking for inactive (''legacy'') CCR surface impoundments potentially applies to owners and operators of all CCR generated by electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) code 221112 and may affect the following entities: Electric utility facilities and independent power producers that fall under the NAICS code 221112. This discussion is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This discussion lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not described here could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in § 257.50 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*B. What action is the Agency contemplating?*

EPA is seeking comments and data on legacy CCR surface impoundments at inactive facilities to assist in the development of future regulations for these CCR units. This action is in response to the August 21, 2018 opinion by the U.S. Court of Appeals for the District of Columbia Circuit (*Utility Solid Waste Activities Group, et al.* v. *EPA*) that vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the 2015 CCR rule.

By this document, EPA is seeking public input on key issues at this preliminary stage to inform its thinking on any future proposed rulemaking. EPA is not reopening any existing regulations through this ANPRM.

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

EPA is publishing this document under the authority of sections 1008(a), 2002(a), 4004, and 4005(a) and (d) of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, 42 U.S.C. 6907(a), 6912(a), 6944, and 6945(a) and (d).

## III. Background

On April 17, 2015, EPA finalized national minimum criteria for the disposal of CCR as solid waste under Subtitle D of the Resource Conservation and Recovery Act (RCRA) titled, ''Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities,'' (80 FR 21302) (2015 CCR rule or CCR regulations). The 2015 CCR rule, codified in subpart D of part 257 of Title 40 of the Code of Federal Regulations, established regulations for existing and new CCR landfills and existing and new CCR surface impoundments and all lateral expansions of CCR units. The criteria consist of location restrictions, design and operating criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, recordkeeping, notification and internet posting requirements.

The 2015 CCR rule regulated existing and new CCR landfills and existing and new CCR surface impoundments and all lateral expansions of CCR units. The rule also imposed requirements on inactive surface impoundments [1] at active facilities,[2] but did not impose

[1] An ''inactive CCR surface impoundment'' is defined at § 257.53 as a CCR surface impoundment that no longer received CCR on or after October 19, 2015 and still contains both CCR and liquids on or after October 19, 2015.

[2] An ''active facility or active electric utilities or independent power producers'' is defined at § 257.53 as any facility subject to the requirements of this subpart that is in operation on October 19, 2015. An electric utility or independent power producer is in operation if it is generating electricity

requirements on inactive surface impoundments at inactive facilities. The preamble to the 2015 CCR final rule (80 FR 21344) explained that inactive units at inactive facilities were not covered by the rule in part due to possible complications that were specific to inactive or closed facilities: The concern that the present owner of the land on which an inactive site was located might have no connection (other than present ownership of the land) with the prior disposal activities. For that reason, EPA exempted those units at § 257.50(e).

The rule was challenged by several parties, including a coalition of regulated entities and a coalition of environmental organizations (''Environmental Petitioners''). Environmental Petitioners raised two challenges that are relevant to this ANPRM: First, they challenged the provision that allowed existing, unlined surface impoundments to continue to operate until they exceeded the groundwater protection standard. See § 257.101(a)(1). They contended that EPA failed to show how continued operation of unlined impoundments met RCRA's baseline requirement that any solid waste disposal site pose ''no reasonable probability of adverse effects on health or the environment.'' 42 U.S.C. 6944(a). Secondly, Environmental Petitioners challenged the provisions exempting inactive surface impoundments at inactive power plants (*i.e.,* ''legacy ponds'') from regulation. The environmental petitioners argued that legacy ponds are at risk of unmonitored leaks and catastrophic structural failures. The U.S. Court of Appeals for the D.C. Circuit issued its decision on August 21, 2018. The Court upheld most of the rule but ruled for the environmental petitioners on these two claims. The court held that EPA acted ''arbitrarily and capriciously and contrary to RCRA'' in failing to require the closure of unlined surface impoundments [3] and in exempting inactive surface impoundments at inactive power plants from regulation. The court ordered that these provisions be vacated and remanded back to the Agency. *Utility Solid Waste Activities Group (USWAG), et al.* v. *EPA,* 901 F.3d 414 (D.C. Cir. 2018). This decision is referred to as the '*USWAG* decision' in this ANPRM.

In overturning the exemption for legacy ponds, the court pointed to evidence from the 2015 CCR rule that legacy ponds are most likely to be unlined and unmonitored and have been shown to be more likely to leak than units at utilities still in operation, therefore these units are at risk of leaks and catastrophic structural failures. The court stated that legacy ponds pose the same threats to human health and the environment as the riskiest coal residuals disposal methods, compounded by diminished preventative and remediation oversight due to the absence of an onsite owner and daily monitoring. *See* 80 FR at 21343 through 21344 (finding that the greatest disposal risks are ''primarily driven by the older existing units, which are generally unlined''). For these reasons, the court vacated and remanded the provision of the 2015 CCR rule that exempted inactive impoundments at inactive facilities from regulation, at § 257.50(e). Until EPA finalizes amendments to the regulations to effectuate the court's order, facilities are not legally obliged to take any action to comply with the federal CCR regulations. As currently drafted, nothing in § 257.50 would bring inactive surface impoundments at inactive facilities within the scope of the federal CCR regulations.

## IV. What information is EPA seeking?

In this action, EPA is seeking additional information related to inactive surface impoundments at inactive facilities, referred to as ''legacy'' CCR surface impoundments throughout this preamble, to better inform a future rulemaking. The Agency is seeking input on regulatory authority and a potential definition of a legacy CCR surface impoundment. It is also soliciting specific information on the types of inactive surface impoundments at inactive facilities that might be considered legacy CCR surface impoundments. In particular, EPA is requesting information on how many of these units might exist, their current status (*e.g.,* capped, dry, closed according to state requirements, still holding water), and names and locations of former power plants that may have these units and when they closed. Finally, the Agency is taking comment on which CCR regulations should apply to legacy CCR surface impoundments and on suggestions for timeframes that EPA should prescribe for coming into compliance with those regulations.

### *A. EPA Regulatory Authority*

As discussed in the preamble to the final 2015 CCR rule (80 FR 21302, April 17, 2015), EPA has previously interpreted RCRA subtitle D to grant it the authority to regulate both active units—*i.e.,* those landfills and impoundments that receive waste after the effective date of the regulation—and inactive units—those landfills and impoundments which ceased receiving waste before the effective date of the regulation. 80 FR at 21342 through 21346.

A challenge to this interpretation in the context of EPA's regulation of inactive units at currently operating power plants in the 2015 CCR rule was rejected by a panel of the D.C. Circuit in *Utility Solid Waste Activities Group, et al.* v. *EPA,* 901 F.3d 414 (D.C. Cir. 2018) (''*USWAG* decision''), which concluded that ''resolution of this issue begins and ends with RCRA's plain text.'' *Id.* at 440. The court focused on the phrase ''is disposed of'' in the statutory definition of an open dump, concluding that ''while the 'is' retains its active present tense, the 'disposal' takes the form of a past participle ('disposed').'' In this way the disposal itself can exist ('it is') even if the act of disposal took place at some prior time.'' *Id.* (citations omitted). Based on this reading, the court concluded that ''an open dump includes any facility (other than a sanitary landfill or hazardous waste disposal facility) where solid waste still 'is deposited,' 'is dumped,' 'is spilled,' 'is leaked,' or 'is placed,' regardless of when it might originally have been dropped off. In other words, the waste in an inactive impoundment 'is disposed of' at a site no longer receiving new waste in just the same way that it 'is disposed of' at a site that is still operating.'' *Id.* The court also opined that ''[e]ven if the text were ambiguous, EPA's interpretation is eminently reasonable under *Chevron* step two.'' *Id.* at 442. Judge Henderson wrote separately and concluded that ''the text—and more precisely, the grammatical structure—of RCRA's definition of 'open dump' is temporally ambiguous'' and that EPA's interpretation of its authority to regulate inactive units was a reasonable interpretation of that ambiguity under *Chevron* step two. *Id.* at 451 (Henderson, J., concurring in part and concurring in the judgment).

EPA requests comment on whether, in light of the court's opinion in the *USWAG* decision, the Agency has the discretion to reinterpret the extent of its authority under RCRA subtitle D. *See Nat'l Cable & Telecommunications*

that is provided to electric power transmission systems or to electric power distribution systems on or after October 19, 2015. An off-site disposal facility is in operation if it is accepting or managing CCR on or after October 19, 2015.

[3] Unlined CCR surface impoundments were addressed in a separate regulatory action that was published on August 28, 2020 (85 FR 53516).

*Ass'n* v. *Brand X internet Servs.,* 545 U.S. 967, 981 (2005). If EPA has the discretion to revisit its interpretation (including potentially identifying an alternative basis for not regulating inactive surface impoundments at inactive facilities (''legacy CCR surface impoundments'') while addressing the court's concern about risk), EPA requests comment on whether (and, if so, why) it should interpret its authority, whether for technical and policy reasons or for other reasons, to extend only to units that were in operation after November 1980 or to some other smaller set of units. If EPA does not revisit the extent of its authority to regulate inactive units, EPA requests comment on how far back in time it should reach and whether EPA should regulate units differently based on when they became inactive. In addition, EPA requests comment as to whether EPA's regulation of inactive units should be limited to only units at former power plants that sold electric power to the grid or whether it should also reach units at former power plants that provided power to a single site or facility. EPA generally requests comment on the technical, policy, and legal rationales for any distinctions that commenters believe it is appropriate for EPA to draw in this area or with respect to other topics that are subject to this advance notice of proposed rulemaking.

*B. Definition*

EPA is considering several options to define a legacy CCR surface impoundment. For example, EPA could define a legacy CCR surface impoundment as:

A surface impoundment that is located at a power plant that ceased generating power prior to October 19, 2015 and

- Option 1—the surface impoundment contained both CCR and liquids on the effective date of the 2015 CCR rule (*i.e.,* October 19, 2015); or
- Option 2—the surface impoundment contained both CCR and liquids on the date the Court issued its mandate for the August 21, 2018 court decision (*i.e.,* October 15, 2018); or
- Option 3—the surface impoundment contains both CCR and liquids on the date EPA issues a final rule bringing legacy CCR surface impoundments under the federal regulations.

EPA is specifically requesting comment on these options for the definition of legacy CCR surface impoundments. EPA provided three options for the definition of legacy CCR surface impoundment because the Agency is soliciting comment from the public on which option is best for this newly regulated universe and when such units contained both CCR and liquids. EPA does not have an estimated number of units that would be classified under each definition option at this time.

Furthermore, EPA requests comment on how the current owner of the legacy CCR surface impoundment should be defined. In particular, should there be a definition of innocent owner that would exclude certain qualifying landowners from regulation? If so, what should be the criteria? Should, for example, criteria be based on, or similar to, the criteria for the landowner liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, see, *https://www.epa.gov/enforcement/landowner-liability-protections#ild*? To the extent that certain landowners are exempted from the CCR rule requiring owners ensure impoundments meet the national minimum criteria, how should EPA address the impoundments under their ownership? Relatedly, for this potential subset of impoundments and for other, abandoned impoundments that may still contain CCR and liquids, but do not have an identifiable owner/operator, or for impoundments whose ownership has been transferred, should EPA evaluate other authorities, (such as CERCLA), or state programs, to address those units?

*C. Size of Universe*

The *USWAG* decision referenced a database that identifies legacy ponds and their owners that was included in the Regulatory Impact Analysis supporting EPA's Proposed RCRA Regulation of Coal Combustion Residues.[4] Upon further examination, it appears that these data include all the units that the Agency could identify at the time, not just inactive surface impoundments at inactive facilities.

EPA is requesting information on any known inactive surface impoundments at inactive power plants as of the effective date of the 2015 CCR rule, October 19, 2015. For example,

- Plant name (or former plant name);
- Location;
- If known, retirement year of power plant;
- If known, status of unit (*e.g.,* still holding water);
- If known the year the surface impoundment ceased receipt of waste and whether the unit has gone through any sort of closure process;
- Any characteristics of the unit (*e.g.,* size, volume); or
- Any other available information about the inactive surface impoundment.

Additionally, should there be a size limitation for legacy CCR surface impoundments?

Approximately 10 states have reported to EPA that they have estimated a total of 37 possible legacy CCR surface impoundments within their states. USWAG, after surveying their members, indicated they know of 45 units that could possibly be legacy CCR surface impoundments. Data showing approximately 140 facilities that have been reported to have one or more CCR units (boilers) retired or gone out of service between January of 1993 and October of 2015 were provided to EPA by the Department of Energy (DOE).[5] Those facilities are assumed to be closed because they do not have publicly accessible websites posted as required by the 2015 CCR rule. Some of these facilities may have been small power plants that did not generate electricity (or electricity and heat) for sale to the public, so any impoundments at those facilities would not be covered under 40 CFR part 257, subpart D. However, EPA could determine to expand the definition of legacy CCR surface impoundment to cover small power plant facilities that did not generate electricity for the sale to the public. However, CCR surface impoundments (if they exist) at the other facilities could potentially be considered legacy CCR surface impoundments.

In this same DOE database, approximately 110 coal units were listed as retired or otherwise not burning coal but are located at facilities that have posted a publicly accessible website containing CCR compliance data and information. Given the existence of those websites, any potential surface impoundments at facilities with closed units would already be regulated as inactive impoundments at active facilities and would not be considered legacy CCR surface impoundments.

*D. Applicable Regulations and Time To Come Into Compliance*

The Agency specifically requests comment on which of the requirements of the 2015 CCR rule should apply to legacy CCR surface impoundments and

[4] A copy of *Information Request Responses from Electric Utilities* (April 30, 2010) is available in the docket to this action.

[5] These data are from DOE's contractor, Energy Ventures Analysis, as of March 1, 2019. A copy of ''DOE-Energy Ventures Analysis Coal Unit Retirements—Historical + Announced March 1, 2019'' is available in the docket for this rulemaking.

whether other new requirements should apply to legacy CCR surface impoundments. EPA has tentatively identified certain requirements from the 2015 CCR rule that should apply to legacy CCR surface impoundments.

For instance, the establishment of a publicly accessible CCR website(s) by the companies or States may be appropriate to give the Agency and public the ability to track groundwater monitoring and closure progress for these units. The 2015 CCR rule requires that owners and operators of CCR units establish a publicly accessible internet site where they are required to post compliance information. The posting requirements include, for example, compliance information related to location restrictions, type of liner system, surface impoundment structural integrity information including hazard potential classification structural stability and safety factor assessments, fugitive dust control plans and annual reports, run-on and run-off controls for landfills, hydrologic and hydraulic capacity plans for surface impoundments, periodic inspections of CCR units, groundwater monitoring information including the annual groundwater monitoring and corrective action reports, and information related to closure or retrofit of a CCR unit and post-closure care. EPA is also interested in any potential liabilities associated with generating and maintaining a public website by owners or operators and local governments.

Also, because the Agency anticipates that many or all legacy CCR surface impoundments will be found to be unlined, and thus will be required to close, the groundwater monitoring, corrective action, closure and post-closure care requirements would be appropriate. EPA is requesting comment on who should be responsible for complying with existing requirements such as groundwater monitoring, corrective action, closure and post-closure care requirements.

Another technical requirement that may be appropriate for legacy CCR surface impoundments would be the fugitive dust requirements. This is because CCR could become airborne during closure of the unit and thus effectively minimizing releases would be appropriate.

However, some CCR rule requirements may not be necessary to apply to legacy CCR surface impoundments given that the legacy surface impoundments are no longer receiving waste. For example, certain location restrictions demonstrations (*e.g.,* whether the legacy surface impoundment is located in a fault area or seismic impact zone) may not be a necessary requirement for unlined legacy CCR surface impoundments because unlined surface impoundments would likely be subject to a requirement to close.

Another CCR rule requirement that may not be warranted for unlined legacy CCR surface impoundments is the provision to provide specific design and construction information pertaining to the CCR unit. One example in this provision is to provide area-capacity curves for the CCR unit, which show the reservoir water surface area at different water levels and the volume of the water contained in the unit at these different water elevations. It may not be warranted to require owners of legacy CCR surface impoundments to expend resources to compile this information for units likely to be subject to closure.

There may be additional standards or controls that are not required under the 2015 CCR rule that may be appropriate for legacy CCR surface impoundments. For instance, the posting of general information on the legacy CCR surface impoundment such as size, location, applicable state requirements, plant information, etc., could be useful.

The Agency could also consider a site security requirement for the facility to restrict access to the area containing the legacy CCR surface impoundment, since active facilities generally have guards and fencing. The Agency solicits comment on which additional standards or controls may be appropriate for legacy CCR surface impoundments.

In addition, EPA will need to determine the compliance deadlines for CCR surface impoundment regulations. The Agency would likely consider that a publicly accessible website would be required to be activated by the effective date of the rule. For other requirements, the Agency could base the timing on the timeline laid out in the 2015 CCR rule or from subsequent CCR rulemakings,[6 7 8] allowing approximately the same amount of time for legacy CCR surface impoundments to come into compliance as the active CCR surface impoundments. However, the timeline specified in the 2015 CCR rule was based in part on the owner or operator of the unit having to go through a series of steps to determine if the unit would be required to close. In the case of unlined inactive CCR surface impoundments at inactive facilities, it may be reasonable to assume that some owners and operators of these units have known that they may need to close such units since October 15, 2018 (*i.e.,* the date the Court issued its mandate for the August 21, 2018 *USWAG* decision). Because of this, and because neither the unit nor the power plant are operating, some owners and operators may have begun preparing for closure and thus could close in less time than was EPA has provided for active surface impoundments. The Agency specifically requests comment on the issue of appropriate compliance deadlines for the applicable requirements for legacy CCR surface impoundments. In addition, EPA is requesting comment on the establishment of publicly accessible websites, and specifically seeking input of who should establish and host the website, such as an owner or operator, a state or local government, or EPA.

In cases where significant vegetation or sensitive ecosystems are in place, should EPA take into account the impacts of disrupting that ecosystem when determining what actions should be imposed? Can the agency simply require notice and no further action under some circumstances? If so, what would those be, and why?

## V. Request for Comment and Additional Information

EPA is seeking comment on all questions and topics described in this ANPRM, including the questions and issues identified in Unit IV, and requests that you submit any information, which may not be included in this document, that you believe is important for EPA to consider in connection with these questions and topics. At the same time, EPA does not plan to consider comments that are beyond the scope of the questions and topics described in this ANPRM.

Instructions for providing written comments are provided under **ADDRESSES**, including how to submit any comments that contain CBI.

## VI. What are the next steps EPA will take?

EPA intends to carefully review all the comments and information received in response to this ANPRM. Once that review is completed, EPA may supplement the collected information, as appropriate, to determine which regulatory criteria should apply to legacy CCR surface impoundments. The next step will be to submit an information collection request to OMB, or if EPA determines that additional information is not needed, EPA will publish a proposed rule with the input from this ANPRM and other publicly available information. The anticipated date for issuing the proposed rule is July 2021. At that time, the public will have

[6] 81 FR 51807, Aug. 5, 2016.

[7] 83 FR 36452, July 30, 2018.

[8] 85 FR 53516, Aug. 28, 2020.

the opportunity to comment on EPA's proposal.

### VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not impose or propose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, other statutory and Executive Order reviews that apply to rulemaking do not apply to this action. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statutes and Executive Order as applicable to the rulemaking.

Nevertheless, the Agency welcomes comments and/or information that would help the Agency to assess any of the following: The potential impact of a rule on small entities pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*); potential impacts on federal, state, or local governments pursuant to the Unfunded Mandates Reform Act ((UMRA) (2 U.S.C. 1531–1538); federalism implications pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, November 2, 1999); availability of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113; tribal implications pursuant to Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000); environmental health or safety effects on children pursuant to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997); energy effects pursuant to Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001); Paperwork burdens pursuant to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501); or human health or environmental effects on minority or low-income populations pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). The Agency will consider such comments during the development of any subsequent proposed rulemaking.

### List of Subjects in 40 CFR Part 257

Environmental protection, Coal combustion products, Coal combustion residuals, Coal combustion waste, Disposal, Hazardous waste, Landfill, Surface impoundment.

**Andrew Wheeler,**

*Administrator.*

[FR Doc. 2020–22058 Filed 10–13–20; 8:45 am]

**BILLING CODE 6560–50–P**

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## FEDERAL MARITIME COMMISSION

## 46 CFR Part 540

**[Docket No. 20–15]**

**RIN 3072–AC82**

## Passenger Vessel Financial Responsibility

**AGENCY:** Federal Maritime Commission.

**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM).

**SUMMARY:** The Federal Maritime Commission (Commission) is issuing this ANPRM to seek comment on potential regulatory changes to its passenger vessel operator financial responsibility requirements. These changes were recommended in an Interim Report issued by the Fact Finding Officer in Commission Fact Finding 30: COVID–19 Impact on Cruise Industry.

**DATES:** Submit comments on or before November 13, 2020.

**ADDRESSES:** You may submit comments, identified by Docket No. 20–15, by the following methods:

- *Email: secretary@fmc.gov.* For comments, include in the subject line: ''Docket No. 20–15, Comments on PVO Financial Responsibility Rulemaking.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document.

*Instructions:* For detailed instructions on submitting comments, including requesting confidential treatment of comments, and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to the Commission's website, unless the commenter has requested confidential treatment.

*Docket:* For access to the docket to read background documents or comments received, go to the Commission's Electronic Reading Room at: *https://www2.fmc.gov/readingroom/proceeding/20-15/.*

**FOR FURTHER INFORMATION CONTACT:** Rachel E. Dickon, Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov.*

**SUPPLEMENTARY INFORMATION:**

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### I. Executive Summary

Before a passenger vessel operator (PVO) may arrange, offer, advertise, or provide transportation on a vessel, the PVO must file with the Commission evidence of responsibility to indemnify passengers in the event of nonperformance of transportation.[1] Satisfactory evidence includes a copy of a bond, insurance, guaranty, or escrow agreement meeting the Commission's requirements in 46 CFR part 540. The Commission reviews the PVO's submission and if it meets the Commission's requirements, it will issue the PVO a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (Certificate (Performance)).[2]

Following the arrival of Coronavirus disease 2019 (COVID–19) in the United States, the Centers for Disease Control and Prevention (CDC) issued a ''No Sail Order and Suspension of Further Embarkation,'' (CDC No Sail Order) causing PVOs to cease all operations and raising questions regarding passengers' ability to obtain refunds of monies paid for transportation disrupted by COVID–19. In response, the Commission initiated Fact Finding 30: COVID–19 Impact on Cruise Industry, on April 30, 2020.

The Fact Finding Officer issued an Interim Report on PVO Refund Policies

[1] 46 U.S.C. 44102; 46 CFR part 540, subpart A.

[2] 46 CFR 540.7.

on July 27, 2020, concluding that clearer guidance is needed in determining whether a passenger is entitled to obtain a refund if a PVO cancels a voyage, makes a significant schedule change, or significantly delays a voyage.[3] The Fact-Finding Officer proposed, among other things, that the Commission provide a clear interpretation of nonperformance of transportation and modify the appropriate provisions of the Commission's PVO regulations to make clear how passengers may obtain refunds under the PVOs' financial responsibility instruments filed with the Commission. The Commission voted on August 10, 2020, to initiate a rulemaking to implement the recommended changes.

The Commission is requesting comment on these recommended changes and their effects on PVOs and passengers. In addition to general comments, the Commission is requesting focused comment on the issues identified below in section III for each of the recommended changes.

## II. Background

### *A. PVO Program*

On November 6, 1966, Congress enacted Public Law 89–777. Section 2 of the statute (codified at 46 U.S.C. 44103) requires owners and charterers of vessels having berth or stateroom accommodations for 50 or more passengers, and embarking passengers at United States ports, to establish financial responsibility to meet any liability incurred for death or injury to passengers or other persons on voyages to or from United States ports. Section 3 of the statute (codified at 46 U.S.C. 44102) requires persons arranging, offering, advertising, or providing passage on such vessels to establish financial responsibility for indemnification of passengers for nonperformance of transportation. The Commission published implementing regulations at 46 CFR part 540 in 1967.[4]

Under this program, the Commission issues two types of certificates to PVOs of vessels that: (1) Have berths for 50 or more passengers; and (2) embark passengers from U.S. ports. The first type of Certificate (Performance) is issued by the Commission when a PVO provides the Commission with acceptable coverage to satisfy liability incurred for nonperformance of transportation up to the amount of unearned passenger revenue (UPR) held by the PVO or the monetary cap set in the Commission's regulation. Such coverage may be in the form of insurance, a guaranty, a surety bond, or escrow agreement (collectively referred to as financial responsibility instruments).[5] The coverage is used to reimburse passengers when the PVO fails to perform cruises as contracted and has taken no further actions to refund passengers.[6] The second type of Certificate (Casualty) is issued by the Commission when a PVO provides the Commission with acceptable coverage to satisfy any liability incurred for death or injury during a voyage, as provided in the regulations and statute.

There have been few changes to the regulations in part 540 since its inception. Changes have included several increases to the monetary cap for required performance coverage under section 44102, the elimination of the self-insurance option for PVOs, some limitations on the types of entities acceptable as guarantors, and the elimination of certain sliding-scale provisions as to the amount of coverage required. Most recently, the Commission increased the cap on required performance coverage in two annual steps, from $15 million to $22 million in 2014, and then from $22 million to $30 million in 2015.[7] Since 2015, the cap has been adjusted for inflation every two years based upon the U.S. Bureau of Labor Statistics' Consumer Price Index. The current cap is $32 million.[8]

### *B. Fact Finding 30*

In response to COVID–19, the Centers for Disease Control and Prevention (CDC) issued a ''No Sail Order and Suspension of Further Embarkation'' (CDC No Sail Order) on March 14, 2020, causing PVOs to cease all operations. Due to the unpredictable nature of the disease, the CDC has extended the term of the order through September 30, 2020.[9] Consequently, questions arose concerning future cruises and passengers' ability to obtain refunds of monies paid for transportation disrupted by COVID–19.

The Commission initiated Fact Finding 30 on April 30, 2020, to investigate COVID–19's impact and identify commercial solutions to COVID–19-related issues that interfere with the operation of the cruise industry. The Commission's Fact Finding Officer has been meeting with PVOs, marine terminal operators, and other stakeholders to understand COVID–19's effects on the cruise industry.

On July 27, the Fact Finding Officer issued an Interim Report recommending certain regulatory changes to the Commission's regulations with respect to PVOs. The Fact Finding Officer concluded that clearer guidance is needed in determining whether a passenger is entitled to obtain refunds if a PVO cancels a voyage, makes a significant schedule change, or significantly delays a voyage.

The Fact Finding Officer stated that a clear and consistent policy toward ticket refunds would eliminate any uncertainty on the part of passengers and would provide clear terms upon which the industry may plan for future operations. The Fact Finding Officer proposed, among other things, that the Commission provide a clear interpretation of nonperformance of transportation and modify the appropriate provisions of the Commission's PVO regulations in part 540 to make clear how passengers may obtain refunds under the PVOs' financial instruments filed with the Commission. These recommendations were as follows:

> Therefore, it is proposed that the Commission: (1) Interpret ''nonperformance of transportation'' to include cancelling a sailing or delaying passenger boarding by twenty-four (24) hours or more; and (2) modify the appropriate provisions of the Commission's PVO regulations to make clear how passengers may obtain refunds under the PVOs' financial instruments:
>
> 1. When a sailing is cancelled or consumer boarding is delayed by twenty-four (24) hours or more for any reason other than due to a government order or declaration in paragraph 2 below, full refunds must be paid within sixty (60) days following a passenger refund request.
>
> 2. When a sailing is cancelled or consumer boarding is delayed by twenty-four (24) hours or more due to a governmental order or declaration, full refunds must be paid within one hundred eighty (180) days following a passenger refund request. This includes all

[3] *See* Fact Finding Investigation No. 30: COVID–19 Impact on Cruise Industry, *Interim Report: Refund Policy,* at 11–13 (July 27, 2020) (Fact Finding 30 Interim Report or Interim Report).

[4] 32 FR 3986 (Mar. 11, 1967) (establishing regulations governing nonperformance coverage); 32 FR 7282 (May 16, 1967) (establishing regulations governing casualty coverage).

[5] The Commission's regulations also permit smaller PVOs to request to substitute alternative forms of financial protection as evidence of financial responsibility. *See* 46 CFR 540.9(l).

[6] In practice, passengers generally receive refunds for canceled cruises from the PVOs directly or, if the passenger paid by credit card, from the credit card issuer. Refund payments under the PVO financial responsibility instruments are rare and usually only occur if the PVO ceases operations or declares bankruptcy.

[7] 46 CFR 540.9(j); Final Rule: Passenger Financial Responsibility Requirements for Nonperformance of Transportation, 78 FR 13268 (Feb. 27, 2013).

[8] Notice: Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation–Cap Adjustment, 84 FR 17410 (June 24, 2019).

[9] CDC Newsroom, *https://www.cdc.gov/media/releases/2020/s0716-cruise-ship-no-sail-order.html.*

consumers who, at their own discretion, cancelled their booking within sixty (60) days prior to said governmental action and commensurate cancelled or delayed sailing.

3. If, following a declaration of a public health emergency, any consumer cancels a cruise booking of a sailing that may be affected by such emergency after the PVO's refund deadline, but the sailing is not cancelled, the PVO will provide a credit for a future cruise equal to the consumer's amount of deposit. In all other cases in which a consumer cancels and embarkation and sailing occur within the prescribed timeline, the cruise line's rules for cancellation will apply.

4. A PVO may set a reasonable deadline for a consumer entitled to a refund to request the refund which shall not be less than 6 months after the scheduled voyage.

5. Refunds should include all fees paid to carrier by consumer to include all ancillary fees remitted to the carrier by the consumer.

6. Refunds to be given in same fashion as monies were originally remitted to the carrier. The PVO will be deemed to have made a refund payment if the deposited revenue as to a passenger requesting a refund is remitted by the PVO in the same manner as the passenger's original payment, by: (1) Mailing a check payable in immediately available funds to the passenger at an address furnished by the passenger, (2) issuing an electronic funds transfer, including wire transfer, automated clearinghouse (ACH) or other electronic means, in immediately available funds, or (3) posting of a credit to the credit card processor for the benefit of the credit card account used by passenger to make payments to the applicant. The refund will be deemed timely notwithstanding that passenger may not immediately have access to the transferred funds in its account or any credit card account due to rules and processes of any third-party services provider.

7. Nothing in this rule shall be interpreted to preclude the consumer and the PVO from entering into an alternative form of compensation in full satisfaction of a required refund, such as a future cruise credit.[10]

The Fact Finding Officer also recommended the Commission mandate that: (1) PVOs provide on their websites clear instructions on how passengers may obtain refunds; and (2) PVOs submit current web addresses showing their refund instructions to the Commission for publication on the Commission's website.[11]

## III. Proposed Changes and Request for Comments

### *A. Defining Nonperformance of Transportation*

As discussed above, 46 U.S.C. 44102 requires that PVOs file with the Commission evidence of financial responsibility to indemnify passenger for nonperformance of transportation. The Commission's regulations in 46 CFR part 540 do not expressly define what constitutes nonperformance of transportation, but the substantive provisions and required financial responsibility instrument terms indicate that it means the PVO's failure to provide transportation or other accommodations and services subject to part 540, subpart A,[12] in accordance with the terms of the ticket contract between the PVO and passenger.[13]

As noted in the Fact Finding 30 Interim Report, what constitutes nonperformance of transportation under the current regulations depends on the specific terms of each PVO's ticket contract and may vary from PVO to PVO or from contract to contract.[14] Accordingly, the Interim Report recommended interpreting nonperformance of transportation under 46 U.S.C. 44102 to include: (1) Canceling a voyage; and (2) delaying passenger boarding by 24 hours or more. Similar to the U.S. Department of Transportation's policy (cited in the Interim Report) addressing when airline passengers are entitled to refunds from air carriers, a delay would only constitute nonperformance if the passenger chooses not to embark on the delayed voyage.

The Commission is seeking comment on adopting this definition of nonperformance of transportation. The Commission anticipates that implementing this change would involve amending the regulations in part 540, subpart A, to include the definition and revising the language of the forms for financial responsibility instruments (surety bonds, guaranties, and escrow agreements) to reflect coverage in situations under the definition.[15] To that end, the Commission has developed the following draft definition:

*Nonperformance of transportation* means: (1) Canceling a voyage; or (2) delaying the boarding of passengers by more than twenty-four (24) hours if the passenger elects not to embark on the substitute or delayed voyage.

The Commission predicts that this interpretation may change the situations in which passengers could make claims for refunds against the PVO's financial responsibility instrument. In addition to a request for comments on the draft definition provided above, the Commission requests comments on:

- Necessary changes to the Commission's regulations, including the financial responsibility instrument forms, to implement the revised definition of nonperformance of transportation;
- Whether this change will increase or decrease claims for refunds against PVO financial responsibility instruments (*i.e.,* bond, insurance, guaranty, or escrow agreement), and if so, the magnitude of the increase or decrease (including number of claims and total dollar amounts paid to passengers);
- Whether this change will increase or decrease the cost to PVOs of obtaining compliant financial responsibility instruments (*e.g.,* higher or lower premiums or collateral requirements), and if so, the magnitude of the increase or decrease (*i.e.,* dollar amount);
- Other effects of this change the Commission should consider.

### *B. Process for Obtaining Refunds From PVO Instruments for Nonperformance of Transportation*

#### 1. General

Although the Commission regulations require certain coverage and terms to be included in financial responsibility instruments, the regulations do not include uniform procedures regarding how and when passengers may make claims for refunds against the various financial responsibility instruments. The Fact Finding 30 Interim Report recommended that the Commission revise its regulations to make clear how passengers may obtain refunds under these instruments and include specific provisions related to such claims and the timing of refund payments.[16]

Neither part 540 nor the financial responsibility instrument forms provide

[10] Fact Finding 30 Interim Report at 11–12.

[11] *Id.* at 12.

[12] The scope of the transportation, accommodations, and services covered is described in the definition of ''unearned passenger revenue'' in § 540.2 and includes water transportation and all other accommodations, services, and facilities relating thereto, but excludes air transportation, hotel accommodations, or tour excursions. 46 CFR 540.2(i).

[13] *See* 46 CFR 540.1(a) (stating that PVOs must file evidence of financial responsibility or a bond or other security for obligations under the terms of ticket contracts to indemnify passengers for nonperformance of transportation to which they would be entitled; Form FMC–132A to Subpart A of Part 540 (stating that: (1) The purpose of the bond is to insure financial responsibility and the supplying transportation and other services subject to subpart A of part 540, in accordance with the ticket contract between the PVO and the passenger; and (2) the scope of the surety's liability is for refunds due under ticket contracts made by the PVO for the supplying of transportation and other services).

[14] Fact Finding 30 Interim Report at 11.

[15] These forms include Form FMC–132A, Passenger Vessel Surety Bond (Performance); Form FMC–133A, Guaranty in Respect of Liability for Nonperformance, Section 3 of the Act; Appendix A, Example of Escrow Agreement for Use Under 46 CFR 540.5(b)). There is no required or optional form for insurance, which must meet the requirement in § 540.5(a).

[16] Fact Finding 30 Interim Report at 11–12.

specific instructions on how or when passengers may obtain refunds under a PVO's financial responsibility instrument. For example, the Guaranty Form (Form FMC–133A) provides that Guarantor will make refund payments to passengers when: (1) The PVO and passenger enter into settlement agreement, approved by the Guarantor; or (2) the passenger obtains a final judgment against the PVO and the PVO does not make payment within 21 days. Similarly, the suggested language for Escrow Agreements in Appendix A states that an Escrow Agent will make refund payments to passengers when either: (1) The PVO provides written instructions to the Escrow Agent to make such payment; or (2) the passenger obtains a final judgment against the PVO, the PVO does not make payment within 21 days, and the Escrow Agent receives a certified copy of the court order.

The Fact Finding 30 Interim Report recommended the following general procedure: (1) The passenger makes a request for a refund from a PVO financial responsibility instrument when nonperformance has occurred; and (2) the refund payment is made within a certain period, depending on certain conditions.[17] Under this procedure, the passenger would not need a final court judgment in order to obtain a refund. The Commission anticipates that implementing these changes would involve amending the regulations in part 540, subpart A and the language of the financial responsibility instruments forms to reflect the new procedure. The Commission requests comment on the following issues related to this procedure that would need to be resolved in any proposed revisions to the Commission's regulations:

- To whom passengers should submit requests for refunds under the revised procedures.
- Should passengers submit refund claims to the financial responsibility instrument providers directly (*e.g.,* surety company, insurer, guarantor, or escrow agent)? Alternatively, should passengers submit refund claims to the PVO, and the PVO in turn authorizes payment from the financial responsibility instrument (similar to the current procedure for escrow agreements)?
- Information passengers will need to provide to obtain a refund.
- Should the Commission specify the information necessary for passengers to submit to obtain refunds from a PVO financial responsibility instrument, or should those decisions be left to the individual PVOs and their financial responsibility providers?
- If the Commission should specify the necessary information from passengers, what information should be required beyond evidence of payment to the PVO, ticket contract, and evidence of cancellation or delayed boarding?
- Necessary changes to the Commission's regulations, including the financial responsibility instrument forms, to implement the revised process for obtaining refunds.

The Commission is also requesting comments on the effects of the recommended changes described in this section (section III.B) (individually and as a whole), including:

- Whether these changes will increase or decrease claims for refunds against PVO financial responsibility instruments, and if so, the magnitude of the increase or decrease (including number of claims and total dollar amounts paid to passengers).
- Whether these changes will increase or decrease the cost to PVOs of obtaining compliant financial responsibility instruments (*e.g.,* higher or lower premiums or collateral requirements), and if so, the source and magnitude of the increase or decrease (*i.e.,* dollar amount).
- Other effects of these changes the Commission should consider.

2. Deadline for Submitting Refund Requests

Commission regulations do not currently prescribe how long passengers have after a scheduled voyage to seek a refund from a PVO financial responsibility instrument. The Fact Finding 30 Interim Report recommended that the Commission specify that a PVO may set a reasonable deadline for passenger refund requests but the deadline may not be less than six months after the scheduled voyage.[18] The Commission has developed the following draft provision to reflect this recommendation:

> A passenger must submit a request for refund no later than 180 days [19] after nonperformance occurs, unless the ticket contract or other passenger vessel operator policy allows a longer period of time for such requests.

The Commission could include this provision in part 540 and require that the financial responsibility instrument specify the time period for passengers to file refund requests. The Commission requests comment on prescribing a minimum timeframe for refund requests, the amount of time recommended in the Fact Finding 30 Interim Report (six months) and the draft language provided above. As discussed above in section III.B.1, the Commission also requests comment on the effects of this change.

3. Deadline for Refund Payment

Commission regulations do not currently specify a time period within which passengers must receive a refund under a PVO financial responsibility instrument. The Fact Finding 30 Interim Report recommended that the Commission specify two different timeframes for payment depending on whether nonperformance was due to ''a governmental order or declaration'': (1) When nonperformance is due to a governmental order or declaration, full refund payments must be made within 180 days after the passenger requests a refund; and (2) in all other cases, full refund payments must be made within 60 days after the passenger requests a refund.[20] The Interim Report also recommended that a refund payment be deemed timely notwithstanding that the passenger may not immediately have access to the funds due to the rules and processes of any third party services provider.[21]

The Commission requests comment on prescribing a deadline for payment of refunds from financial responsibility instruments as a general matter, establishing two different timeframes for payment depending on whether nonperformance is due to a governmental order or declaration, and the deadlines recommended in the Interim Report (180 days when there is a governmental order or declaration; 60 days in all other cases). The Commission also requests comment on the following:

- The types of governmental orders or declarations that would trigger the longer 180-day period for providing refunds.
- Should these include only U.S. federal, state, and local orders or declarations, or should foreign government orders and declarations also trigger the longer refund payment period?
- What types of governmental orders and declarations should qualify, *i.e.,* should this be limited to governmental orders and declarations that expressly prohibit embarking passengers and suspend passenger operations like the CDC No Sail Order? If not, what other

[17] Fact Finding 30 Interim Report at 11–12.

[18] Fact Finding 30 Interim Report at 12.

[19] For clarity and ease of calculation, the Commission contemplates using a deadline of 180 days rather than six months.

[20] Fact Finding Interim Report at 11.

[21] *Id.* at 12.

types of governmental orders and declarations should trigger the longer refund payment period?

• The effects of this change as discussed above in section III.B.1.

4. Form and Amount of Refund Payment

Commission regulations provide that the PVO financial responsibility instruments must provide coverage for ''unearned passenger revenue,'' which is defined as passenger revenue received for water transportation and all other accommodations, services, and facilities relating thereto not yet performed; this includes port fees and taxes paid, but excludes such items as airfare, hotel accommodations, and tour excursions.[22] The regulations do not specify in what form refund payments must be made under PVO financial responsibility instruments.

The Fact Finding 30 Interim Report recommended the Commission specify: (1) That refund payments must include all fees, including ancillary fees, paid to the PVO by the passenger; and (2) refund payments must be made in the same manner as the passenger's original payment, *e.g.,* check, electronic funds transfer, or credit card chargeback.[23]

Regarding the first recommendation, the Commission is requesting comment on whether to expand the definition of unearned passenger revenue and the scope of the ancillary fees to be included in any revised definition. The Fact Finding 30 Interim Report discusses the following types of ancillary charges paid by passengers to PVOs prior to sailing: Gratuities, shore excursions, pre-cruise onboard purchases, port fees, and taxes. Of these, the current definition of unearned passenger revenue expressly includes port fees and taxes and excludes excursions. The Interim Report does not discuss refunds for airfare or hotel accommodation.

To facilitate comment, the Commission has developed the following draft definition:

*Unearned passenger revenue* means that passenger revenue received for water transportation and all other related accommodations, services, and facilities relating thereto not yet performed; this includes port fees, taxes, and all ancillary fees remitted to the passenger vessel operator by the passenger.

The Commission requests comment on expanding the definition of unearned passenger revenue, including:

• What types of ancillary fees should be included as unearned passenger revenue subject to refund, and what types of fees should be excluded.

• For example, should the Commission include the types of fees mentioned in the Fact Finding 30 Interim Report (*e.g.,* shore excursions, dining packages, other onboard packages, and gratuities)?

• Are there any types of fees that should be included?

• Should the definition continue to exclude airfare and hotel accommodations?

• The effects of this change as discussed above in section III.B.1.

The Commission is also requesting comment on the recommendation to specify that refund payments must be made in the same manner as the passenger's original payment. Specifically, the Commission requests comment on the following:

• Whether it is feasible for payment from a PVO financial responsibility instrument to be made in the same manner as the passenger's original payment.

• Necessary changes to the Commission's regulations, including the financial responsibility instrument forms, to implement this recommendation.

• The effects of this change as discussed above in section III.B.1.

5. Publishing Information on How To Obtain Refunds

The Fact Finding 30 Interim Report recommended the Commission mandate that: (1) PVOs provide on their websites clear instructions on how passengers may obtain refunds; and (2) PVOs submit current website addresses for their refund instructions to the Commission for publication on the Commission's website.[24] The Commission envisions that this recommendation could be implemented by: (1) Revising the Form FMC–131, Application for Certificate of Financial Responsibility, to require PVOs to provide the uniform resource locator (URL) for their refund instructions; and (2) amending § 540.4 to require PVOs to amend their application if the URL changes. The Commission requests comment on this potential change, including:

• Whether the Commission should prescribe any specific content or format requirements for published PVO refund instructions.

• The nature of any additional regulatory burden associated with publishing refund policies on a PVO's website or providing the URL for those instructions to the Commission, as well as the estimated cost to PVOs.

*C. Passenger Cancellations*

In addition to recommendations related to passenger refunds in the event of nonperformance of transportation, the Fact Finding 30 Interim Report also proposed that the Commission amend its regulations to ensure PVO financial responsibility in the event passengers cancel their booking with a PVO prior to or following certain governmental orders or declarations. Specifically, the Fact Finding 30 Interim Report recommended that: (1) A passenger be entitled to a refund if they cancel their booking no more than 60 days prior to a governmental order or declaration that results in the PVO canceling the voyage or delaying boarding of passengers by more than 24 hours; and (2) a passenger be entitled to a future cruise credit if they cancel their booking following the declaration of a public health emergency and the voyage occurs as scheduled.

The Commission requests comment on the recommendation regarding passenger refunds when the passenger cancels their booking and the voyage is subsequently canceled as a result of a governmental orders or declarations, including comment on the following:

• The types of governmental orders or declarations that would make a passenger eligible for a refund when they cancel their booking.

• Should these include only U.S. federal, state, and local orders or declarations, or should foreign government orders and declarations also trigger the longer refund payment period?

• What types of governmental orders and declarations qualify, *i.e.,* should this be limited to governmental orders and declarations that expressly prohibit embarking passengers and suspend passenger operations like the CDC No Sail Order? If not, what other types of governmental orders and declarations should qualify?

• Information passengers will need to provide to obtain a refund.

• Should the Commission specify the information necessary for passengers to submit to obtain refunds from a PVO financial responsibility instrument, or should those decisions be left to the individual PVOs and their financial responsibility providers?

• If the Commission should specify the necessary information from passengers, what information should be required? Such required information could include evidence of payment to the PVO, ticket contract, evidence showing cancellation of the booking,

[22] 46 CFR 540.2(i).

[23] Fact Finding 30 Interim Report at 11–12.

[24] *Id.* at 12.

evidence of a governmental order or declaration, and evidence of cancellation or delayed boarding of the voyage.

The Commission also requests comment on the recommendation regarding the provision of future cruise credit when the passenger cancels their booking following declaration of a public health emergency but the voyage occurs as scheduled, including comment on the following:

- Whether it is feasible for a passenger to obtain future cruise credit under a PVO financial responsibility instrument.
- The type of public health emergency declaration that would make a passenger eligible for a future cruise credit when they cancel their booking.
- Whether requests for future cruise credit should be subject to the same requirements as those recommended for refunds with respect to the deadline for requesting credit, the deadline for providing credit, and the amount of the credit.

The Commission also requests comment on the following related to both recommendations:

- Necessary changes to the Commission's regulations, including the financial responsibility instrument forms, to implement these changes.
- Whether these changes will increase or decrease claims for refunds against PVO financial responsibility instruments, and if so, the magnitude of the increase or decrease (including number of claims and total dollar amounts paid to passengers).
- Whether these changes will increase or decrease the cost to PVOs of obtaining compliant financial responsibility instruments (*e.g.,* higher or lower premiums or collateral requirements), and if so, the magnitude of the increase or decrease (*i.e.,* dollar amount).
- Other effects of these changes the Commission should consider.

## IV. Public Participation

*How do I prepare and submit comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

You may submit your comments via email to the email address listed above under **ADDRESSES**. Please include the docket number associated with this notice and the subject matter in the subject line of the email. Comments should be attached to the email as a Microsoft Word or text-searchable PDF document.

*How do I submit confidential business information?*

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If your comments contain confidential information, you must submit the following by email to the address listed above under **ADDRESSES**:

- A transmittal letter requesting confidential treatment that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked ''Confidential-Restricted,'' and the confidential material clearly marked on each page.
- A public version of your comments with the confidential information excluded. The public version must state ''Public Version—confidential materials excluded'' on the cover page and on each affected page, and must clearly indicate any information withheld.

*Will the Commission consider late comments?*

The Commission will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date.

*How can I read comments submitted by other people?*

You may read the comments received by the Commission at the Commission's Electronic Reading Room at the address listed above under **ADDRESSES**.

## V. Rulemaking Analyses and Notices

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612), no analysis is required for an ANPRM. However, PVOs are encouraged to comment on any aspects of the potential rulemaking that may apply to them and the potential impact.

*National Environmental Policy Act*

The Commission's regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4. The ANPRM discusses potential amendments to Commission's program for certifying the financial responsibility of PVOs. This rulemaking thus falls within the categorical exclusion for certification of financial responsibility of passenger vessels under Part 540. § 504.4(2). Therefore, no environmental assessment or environmental impact statement is required.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. Any information collection requirements and associated burdens will be discussed in detail if a proposed rule is issued.

*Executive Order 12988 (Civil Justice Reform)*

The Commission will ensure that any proposed or final rule issued in this proceeding meets the applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

*Regulation Identifier Number*

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain*.

By the Commission.

**Rachel Dickon,**

*Secretary.*

[FR Doc. 2020–21957 Filed 10–13–20; 8:45 am]

BILLING CODE 6730–02–P

# Notices

Federal Register

Vol. 85, No. 199

Wednesday, October 14, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

October 8, 2020.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by November 13, 2020. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *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.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**National Agricultural Statistics Service**

*Title:* Agricultural Prices.

*OMB Control Number:* 0535–0003.

*Summary of Collection:* The Agricultural Prices surveys provide data on the prices received by farmers and prices paid for production goods and services. This information is needed by the U.S. Department of Agriculture, National Agriculture Statistics Service (NASS) for the following purposes: (a) To compute Parity Prices in accordance with requirements of the Agricultural Adjustment Act of 1938 as amended (Title III, Subtitle A, Section 301a, (b) to estimate value of production, inventory values, and cash receipts from farming, (c) to determine the level for farmer owned reserves, (d) to provide guidelines for Risk Management Agency price selection options, (e) to determine Federal disaster prices to be paid, (f) establishing USDA's net farm income projections by the Economic Research Service and (g) to determine the grazing fee on Federal lands. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Revisions were made to reflect the following program changes made to the Prices Received surveys. The Prices Received survey for sugar and the annual Livestock and Crops Survey in Alaska, were both discontinued. Some of the States that were conducting monthly milk price surveys dropped back to collecting the data quarterly. There are no program changes made to the Prices Paid surveys. The remainder of the changes are adjustments to the sample sizes and burden minutes.

*Need and Use of the Information:* The NASS price program computes annual U.S. weighted average prices received by farmers for wheat, barley, oats, corn, grain sorghum, rice, cotton, peanuts, pulse crops and oilseeds based on monthly marketing. Estimates of prices received are used by NASS to determine the value of agricultural production. Prices estimates are used by many Government agencies as a general measure of commodity price changes, economic analysis relating to farm income and alternative marketing policies, and for disaster and insurance payments. NASS estimates based on these surveys are used as a Principle Economic Indicator of the United States. These price estimates are also used to compute Parity Prices in accordance with requirements of the Agricultural Adjustment Act of 1938 as amended (Title III, Subtitle A, Section 301(a)).

*Description of Respondents:* Farms; Business or other for-profit.

*Number of Respondents:* 67,025.

*Frequency of Responses:* Reporting: On occasion; Monthly; Annually; Biennially.

*Total Burden Hours:* 32,416.

**Levi S. Harrell,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2020–22689 Filed 10–13–20; 8:45 am]

BILLING CODE 3410–20–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the New York Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice 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 New York Advisory Committee (Committee) will hold a meeting on Friday, November 20, 2020, from 1:00–2:00 p.m. EST for the purpose of discussing the committee's daft proposal on housing and evictions in New York.

**DATES:** The meeting will be held on Friday, November 20, 2020, from 1:00–2:00 p.m. EST.

**ADDRESSES:** *Public Call Information:* Dial: (800) 367–2403; Conference ID: 7109728.

**FOR FURTHER INFORMATION CONTACT:** Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or 202–809–9618.

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference operator will ask callers to

identify themselves, the organizations they are affiliated with (if any), and an email address prior to placing callers into the conference call. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit at 202–809–9618.

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/apex/FACAPublicCommittee?id=a10t0000001gzmAAAQ* under the Commission on Civil Rights, New York 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 phone number.

**Agenda**

I. Welcome and Roll Call
II. Approval of Minutes From Last Meeting
III. Discussion: Housing and Evictions in New York
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: October 8, 2020.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2020–22695 Filed 10–13–20; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Arizona Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meetings.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Arizona Advisory Committee (Committee) to the Commission will hold a series of meetings via teleconference on Tuesday, November 10, Tuesday, December 1, and Tuesday, December 15, 2020 at 12 p.m. Mountain Time. The purpose of the meeting is to discuss their project proposal and planning online panels on ''COVID–19 and the Native American Community.''

**DATES:** These meetings will be held on:

- Tuesday, November 10, 2020 at 12 p.m. Mountain Time
- Tuesday, December 1, 2020 at 12 p.m. Mountain Time
- Tuesday, December 15, 2020 at 12 p.m. Mountain Time

*Public Call Information:* Dial: 800–353–6461, Conference ID: 1659738

**FOR FURTHER INFORMATION CONTACT:** Brooke Peery, Designated Federal Officer, (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800–353–6461, conference ID number: 1659738. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl2AAA.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome and Introduction
II. Approval of Minutes
III. Discussion on Project Proposals and Online Panels
IV. Public Comment
V. Adjournment

Dated: October 8, 2020.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2020–22700 Filed 10–13–20; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–38–2020]**

### Foreign-Trade Zone (FTZ) 126—Reno, Nevada; Authorization of Production Activity; Tesla, Inc. (Battery Penthouse Controllers); McCarren and Sparks, Nevada

On June 10, 2020, Tesla, Inc., submitted a notification of proposed production activity to the FTZ Board for its facilities within Subzone 126D, in McCarren and Sparks, Nevada.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (85 FR 37060, June 19, 2020). On October 8, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: October 8, 2020.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2020–22699 Filed 10–13–20; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on October 27, 2020, at 1:00 p.m., Eastern Daylight Time. The meeting will be available via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

**Agenda**

*Open Session*

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

*Closed Session*

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than October 20, 2020.

A limited number of slots will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on October 10, 2019 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2020–22691 Filed 10–13–20; 8:45 am]

BILLING CODE 3510–JT–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–897, A–557–821, A–469–823, C–533–898, C–557–822]**

### Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Utility Scale Wind Towers From India, Malaysia, and Spain

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable October 7, 2020.

**FOR FURTHER INFORMATION CONTACT:** Robert Galantucci; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2923.

**Extension of Initiation of Investigations**

*The Petitions*

On September 30, 2020, the Department of Commerce (Commerce) received antidumping duty petitions on imports of utility scale wind towers (wind towers) from India, Malaysia, and Spain and countervailing duty petitions on imports of wind towers from India and Malaysia, filed by the Wind Tower Trade Coalition (the petitioner) on behalf of the domestic industry producing wind towers.[1]

*Determination of Industry Support for the Petitions*

Sections 702(b)(1) and 732(b)(1) of the Tariff Act of 1930, as amended (the Act), require that a petition be filed by or on behalf of the domestic industry. To determine that the petition has been filed by or on behalf of the industry, sections 702(c)(4)(A) and 732(c)(4)(A) of the Act require that the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, sections 702(c)(4)(D) and 732(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

*Extension of Time*

Sections 702(c)(1)(A) and 732(c)(1)(A) of the Act provide that within 20 days of the filing of an antidumping or countervailing duty petition, Commerce will determine, *inter alia,* whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Sections 702(c)(1)(B) and 732(c)(1)(B) of the Act provide that the deadline for the initiation determination, in exceptional circumstances, may be extended by 20 days in any case in which Commerce must ''poll or otherwise determine support for the petition by the industry.'' Because the Petitions have not established that the domestic producers or workers accounting for more than 50 percent of total production support the Petitions, in accordance with sections 702(c)(4)(D) and 732(c)(4)(D) of the Act, Commerce has determined it would be appropriate in this case to poll the industry and extend the time period for determining whether to initiate investigations in order to further examine the issue of industry support.

Commerce will need additional time to gather and analyze additional information regarding industry support. Therefore, it is necessary to extend the deadline for determining the adequacy of the Petitions for a period not to exceed 40 days from the filing of the Petitions. As a result, in accordance with sections 702(c)(1)(B) and 732(c)(1)(B) of the Act, Commerce's initiation determination will now be due no later than November 9, 2020.

*International Trade Commission Notification*

Commerce will contact the International Trade Commission (ITC) and will make this extension notice available to the ITC.

[1] *See* Petitioner's Letter, ''Utility Scale Wind Towers from India, Malaysia, and Spain: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated September 30, 2020 (the Petitions).

Dated: October 7, 2020.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2020–22681 Filed 10–13–20; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Judges Panel of the Malcolm Baldrige National Quality Award; Meeting

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet in closed session Monday, November 9, 2020 through Friday, November 13, 2020, from 10:00 a.m. until 5:00 p.m. Eastern Time each day. The purpose of this meeting is to review recommendations from site visits and recommend 2020 Malcolm Baldrige National Quality Award (Award) recipients. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed at the meeting.

**DATES:** The meeting will be held Monday, November 9, 2020 through Friday, November 13, 2020, from 10:00 a.m. until 5:00 p.m. Eastern Time each day. The entire meeting will be closed to the public.

**ADDRESSES:** The meeting will be held virtually.

**FOR FURTHER INFORMATION CONTACT:** Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020, telephone number (301) 975–2361, email *robert.fangmeyer@nist.gov.*

**SUPPLEMENTARY INFORMATION:**

Authority:5 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Judges Panel will meet on Monday, November 9, 2020 through Friday, November 13, 2020, from 10:00 a.m. until 5:00 p.m. Eastern Time each day. The Judges Panel is composed of twelve members, appointed by the Secretary of Commerce, with balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. Members are selected for their familiarity with quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, nonprofits, health care providers, and educational institutions. The purpose of this meeting is to review recommendations from site visits and recommend 2020 Award recipients. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed at the meeting.

The Chief Financial Officer/Assistant Secretary for Administration, with the concurrence of the Assistant General Counsel for Employment, Litigation, and Information, formally determined on May 25, 2020, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409, that the meeting of the Judges Panel may be closed to the public in accordance with 5 U.S.C. 552b(c)(4), because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential; and 5 U.S.C. 552b(c)(9)(B) because the meeting is likely to disclose information the premature disclosure of which would, in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of current Award applicant data from U.S. organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, will be closed to the public.

**Kevin A. Kimball,**

*Chief of Staff.*

[FR Doc. 2020–22621 Filed 10–13–20; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA560]**

### Marine Mammals; File No. 21045

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

**ACTION:** Notice; receipt of application for permit amendment.

**SUMMARY:** Notice is hereby given that the Matson Laboratory, LLC (Responsible Party: Carolyn Nistler), has applied for an amendment to Scientific Research Permit No. 21045.

**DATES:** Written, telefaxed, or email comments must be received on or before November 13, 2020.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21045 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 21045 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 21045 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 21045, issued on June 29, 2017 (82 FR 39776), authorizes the permit holder to import, export, and receive parts from pinnipeds to perform age analysis. The permit holder is requesting the permit be amended to include authorization for the import, export, and receipt of parts from up to 300 individual cetaceans of any species annually for the same research objectives. No changes to the permitted locations, methods, or sources of samples are proposed. The permit expires on June 30, 2020.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**,

NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 7, 2020.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2020–22616 Filed 10–13–20; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA558]**

### Endangered Species; File Nos. 24016 and 24020

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

**ACTION:** Notice; receipt of applications for permits.

**SUMMARY:** Notice is hereby given that two applicants have applied in due form for a permit to take Atlantic (*Acipenser oxyrinchus*) and shortnose (*A. brevirostrum*) sturgeon for purposes of scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before November 13, 2020.

**ADDRESSES:** The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the appropriate File Nos. 24016 or 24020 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include the appropriate File No. 24016 or 24020 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a similar written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on the requested application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Malcolm Mohead or Erin Markin, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permits are requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

*File No. 24016:* Jason Kahn, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, requests a permit to conduct scientific research on Atlantic and shortnose sturgeon in freshwater and estuary areas of the Chesapeake Bay to assess adult sturgeon population and reproductive capacity as well as monitor spawning activity, movement, and habitat through telemetry. Juvenile, sub-adult and adult life stages of Atlantic and shortnose sturgeon would be captured using gill or trammel nets, trawls, and trapping nets (*e.g.,* fyke, or other trap nets), whereupon all animals would be marked with passive integrated transponder (PIT) and Floy tags, genetic tissue sampled, measured, weighed, photographed and released. Subsets of animals may also be anesthetized, internally or externally acoustically tagged, biologically sampled (*i.e.,* fin ray, blood, gametes), endoscoped and ultrasounded. Larvae and eggs may also be collected with D-nets, trawls (*i.e.,* epibenthic sleds), and egg mats. The applicant anticipates that up to one adult/sub-adult and one juvenile Atlantic sturgeon may be killed annually.

In coastal areas within the Atlantic sturgeon's range, research will focus on opportunistic sampling and telemetry of adult, sub-adult and juvenile life stages captured incidentally under other ESA authority. All animals would be marked with PIT and Floy tags, genetic tissue sampled, measured, weighed, photographed, and released. Subsets of animals may also be anesthetized, internally or externally acoustically tagged, biologically sampled (*e.g.,* fin ray, blood, gametes), and endoscoped. Survival and coastal movement of animals in a mixed marine stock would be documented through telemetry. The permit would be valid for up to 10 years from the date of issuance.

*File No. 24020:* The Delaware Department of Natural Resources and Environmental Control, 3002 Bayside Drive, Dover, DE 19901 (Responsible Party: Michael Stangle), requests a permit to conduct scientific research on adult, sub-adult, and juvenile Atlantic and shortnose sturgeon in the Delaware River to document abundance, movement patterns, and habitat preference using telemetry. Annually, sturgeon would be captured with gillnets and trawls, where upon they would be weighed, measured, examined for tags, marked with PIT and Floy tags, genetically sampled, photographed and released. Subsets of animals would be anesthetized and implanted with acoustic transmitters, gastric lavaged, and fin-ray sampled, released, and traced by telemetry.

The applicant anticipates that up to one adult/sub-adult and one juvenile Atlantic and shortnose sturgeon may be killed annually. The permit would be valid for up to 10 years from the date of issuance.

Dated: October 7, 2020.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2020–22615 Filed 10–13–20; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Public Availability of Fiscal Year 2018 Service Contract Inventory

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC) is publishing this notice to advise the public of the availability of CFTC's Fiscal Year 2018 Service Contract Inventory.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the service contract inventory should be directed to Kathryn Rison, Contracting Officer, at 202–418–5419 or *krison@cftc.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with section 743 of division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, 123 Stat. 3034, CFTC is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2018 Service Contract Inventory. CFTC has posted its inventory documents on the agency website at the following link: *https://www.cftc.gov/About/CFTC Reports/index.htm.*

This inventory provides information on service contracts above the Simplified Acquisition Threshold ($150,000), as determined by the base and all options value, that were awarded in FY 2018. CFTC's service contract inventory data is included in the government-wide inventory, which can be filtered to display the CFTC-specific data. A link to the government-wide inventory is included in the posting on the CFTC website, or it can be accessed directly at *https://*

*www.acquisition.gov/service-contract-inventory.*

The inventory documents posted on the CFTC website also include the following:

• *CFTC FY 2017 Service Contract Inventory Analysis* (February 2019): This report provides information about the Product Service Codes (PSC) that the CFTC analyzed from the 2017 inventory.

• *CFTC FY 2016 Service Contract Inventory Analysis* (February 2018): This report provides information about the PSCs that the CFTC analyzed from the 2016 inventory.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2020–22673 Filed 10–13–20; 8:45 am]

BILLING CODE 6351–01–P

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 9:30 a.m. EDT, Thursday, October 15, 2020.

**PLACE:** Virtual meeting.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

• *Final Rule:* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (Phase VI Compliance Date Extension);

• *Final Rule:* Exemption from Registration for Certain Foreign Intermediaries; and

• *Final Rule:* Position Limits for Derivatives.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public access to the live feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

**Authority:** 5 U.S.C. 552b.

Dated: October 8, 2020.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2020–22759 Filed 10–9–20; 11:15 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 20–0L]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(5)(C) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–0L.

Dated: October 7, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

September 24, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0L. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 19-33 of July 26, 2019.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal

Transmittal No. 20–0L

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

*(i) Prospective Purchaser:* Government of Thailand

*(ii) Sec. 36(b)(1), AECA Transmittal No.:* 19–33

Date: July 26, 2019

Implementing Agency: Army

*(iii) Description:* On July 26, 2019 Congress was notified, by Congressional certification transmittal number 19–33, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, to the Government of Thailand of sixty (60) Stryker Infantry Carrier Vehicles (ICV); and sixty (60) M2 Flex .50 cal machine guns. Also included were spare parts, Basic Issue Items (BII), Components of End Items (COEI), Additional Authorized List (AAL) (specific items for operations and maintenance), Special Tools and Test Equipment (STTE), technical manuals, OCONUS Deprocessing Service, M6 smoke grenade launchers (4 per vehicle) and associated spares, AN/VAS–5 Driver's Vision Enhancer (DVE), AN/VIC–3 vehicle intercommunications system, contractor provided training and Field Service Representatives (FSR), and other related elements of logistics and program support. The estimated cost was $175 million. Major Defense Equipment (MDE) constituted $125 million of this total.

This transmittal notifies inclusion of the following additional MDE items:

(1) Forty-seven (47) Stryker Infantry Carrier Vehicles (ICV)
(2) Ninety (90) Stryker variant vehicles (includes the Commander's Vehicle (CV), Mortar Carrier Vehicle (MCV), and the Medical Evacuation Vehicle (MV) variants)
(3) One hundred thirty-seven (137) M2A1 .50 cal machine guns (one per Stryker vehicle)

(4) Twelve (12) Common Remote Operated Weapons Station (CROWS) (to be mounted on 12 of the 47 Stryker ICVs)

The following non-MDE items will also be included: Spare parts, Basic Issue Items (BII), Components of End Items (COEI), Additional Authorized List (AAL) (specific items for operations and maintenance), Special Tools and Test Equipment (STTE), technical manuals, OCONUS Deprocessing Service, M6 smoke grenade launchers (4 per vehicle) and associated spares, AN/VAS–5 Driver's Vision Enhancer (DVE), AN/VIC–3 vehicle intercommunications system, contractor provided training and Field Service Representatives (FSR), and other related elements of logistics and program support.

The addition of these items will result in a net increase in MDE cost of $400 million, resulting in a revised MDE cost of $525 million. The additional non-MDE items will result in a net increase of $100 million. The total estimated case value will increase to $675 million.

*(iv) Significance:* The proposed articles and services will support Thailand's need to replace less capable M–113 tracked armored vehicles with a modern multirole medium-weight armored fighting vehicle. The provision of the Stryker ICV, CV, MCV, MV, and CROWS directly supports the Country Team's and USINDOPACOM's strategic objectives for Thailand by building partner capacity to plan, train, and operate with U.S. forces in support of mutual strategic interests.

*(v) Justification:* This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve security of a Major Non-NATO ally which is an important force for political stability and economic progress in the Indo-Pacific region.

*(vi) Sensitivity of Technology:* The Common Remotely Operated Weapon Station (CROWS) is an externally mounted weapon mounting and control system that allows the gunner to remain inside the vehicle protected by armor while firing a variety of crew served weapons. The CROWS provides remote day and night sighting and ballistic control capacity, providing first-burst engagement of targets at maximum effective weapon range while on the move.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

*(vii) Date Report Delivered to Congress:* September 24, 2020.

[FR Doc. 2020–22612 Filed 10–13–20; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting

**AGENCY:** General Counsel of the Department of Defense, Department of Defense (DoD).

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces will take place.

**DATES:** Open to the public, Friday, October 23, 2020, from 11:00 a.m. to 1:00 p.m. EDT.

**ADDRESSES:** This public meeting will be held via teleconference. To access the teleconference dial: 410–874–6300, conference PIN: 328–916–161.

**FOR FURTHER INFORMATION CONTACT:** Dwight Sullivan, 703–695–1055 (Voice), *dwight.h.sullivan.civ@mail.mil* (Email). Mailing address is DAC-IPAD, One Liberty Center, 875 N Randolph Street, Suite 150, Arlington, Virginia 22203. Website: *http://dacipad.whs.mil/*. 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) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer for the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its October 23, 2020 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

*Purpose of the Meeting:* In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), Congress tasked the DAC-IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the nineteenth public meeting held by the DAC-IPAD. At this meeting the DAC-IPAD staff will provide the Committee with a briefing of the Committee's review and assessment of racial and ethnic disparities in the investigation, prosecution, and conviction of Service members for sexual offenses involving adult victims within the military justice system as required by section 540I of the National Defense Authorization Act for Fiscal Year 2020. The Committee will deliberate on the methodology, data results, and report content.

*Agenda:* 11:00 a.m.–11:10 a.m. Public Meeting Begins—Welcome and Introduction; 11:10 a.m.–11:30 a.m. DAC-IPAD Staff Presentation on Background of Race and Ethnicity Report Tasking and Methodology; 11:30 a.m.–12:30 p.m. DAC-IPAD Staff Presentation on Data Results for Race and Ethnicity Report; 12:30 p.m.–12:45 p.m. DAC-IPAD Staff Presentation on Contents of Draft Report; 12:45 p.m.–1:00 p.m. Meeting Wrap-Up and Public Comment; 1:00 p.m. Public Meeting Adjourns.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public. This public meeting will be held via teleconference. To access the teleconference dial: 410–874–6300, conference PIN: 328–916–161.

Please consult the website for any changes to the public meeting date or time.

*Written Statements:* Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public session. Written comments must be received by the DAC-IPAD at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the

DAC-IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC-IPAD operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. Oral statements from the public will be permitted, though the number and length of such oral statements may be limited based on the time available and the number of such requests. Oral presentations by members of the public will be permitted from 12:45 p.m. to 1:00 p.m. EST on October 23, 2020.

Dated: October 7, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2020–22609 Filed 10–13–20; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2020–SCC–0135]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; CARES Act 18004(a)(3) Budget and Expenditure Reporting

**AGENCY:** Office of Postsecondary Education, Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change to a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before November 13, 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 Gaby Watts, 202–453–7195.

**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:* CARES Act 18004(a)(3) Budget and Expenditure Reporting.

*OMB Control Number:* 1840–0846.

*Type of Review:* An extension without change to a currently approved information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments; Private Sector.

*Total Estimated Number of Annual Responses:* 538.

*Total Estimated Number of Annual Burden Hours:* 1,076.

*Abstract:* Section 18004(a)(3) of the CARES Act authorizes the Secretary to allocate funds for part B of Title VII of the HEA, for institutions of higher education that the Secretary determines have the greatest unmet needs related to coronavirus. This collection includes a budget and expenditure reporting form for institutions potentially eligible for funds under this section.

Dated: October 8, 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. 2020–22685 Filed 10–13–20; 8:45 am]

**BILLING CODE 4000–01–P**

## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Meetings

**AGENCY:** U.S. Election Assistance Commission.

**ACTION:** Sunshine act notice; cancellation.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 85 FR 63263, October 7, 2020.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Wednesday, October 14, 2020, 1:30 p.m. Eastern.

**CHANGES IN THE MEETING:** The Hearing scheduled for Wednesday, October 14, 2020, 1:30 p.m. Eastern has been cancelled.

**CONTACT PERSON FOR MORE INFORMATION:** Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

**Amanda Joiner,**

*Associate Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2020–22865 Filed 10–9–20; 4:15 pm]

**BILLING CODE P**

## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Meetings

**AGENCY:** U.S. Election Assistance Commission.

**ACTION:** Sunshine Act notice; notice of public roundtable agenda.

**SUMMARY:** Roundtable Discussion: Election Night Reporting for the 2020 Election.

**DATES:** Tuesday, October 20, 2020, 1:30 p.m.–2:30 p.m. Eastern.

**ADDRESSES:**

**Virtual via Zoom**

The roundtable discussion is open to the public and will be livestreamed on the U.S. Election Assistance Commission YouTube Channel: *https://www.youtube.com/channel/UCpN6i0g2rlF4ITWhwvBwwZw.*

**FOR FURTHER INFORMATION CONTACT:** Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose:* In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual roundtable discussion on how some state election officials are preparing prepare for election night results reporting, and perspectives from a representative from the media and subject matter expert.

*Agenda:* The U.S. Election Assistance Commission (EAC) will hold a

roundtable discussion on preparing for election night reporting and press coverage on election results. Speakers will offer remarks on issues surrounding misinformation and disinformation, unofficial results, managing expectations, ballots received after the election, and audits. Speakers will also answer questions from the EAC Commissioners.

The full agenda will be posted in advance on the EAC website: *https://www.eac.gov.*

*Status:* This roundtable discussion will be open to the public.

**Amanda Joiner,**

*Associate Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2020–22772 Filed 10–9–20; 11:15 am]

BILLING CODE P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG21–2–000.
*Applicants:* HDSI, LLC.
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of HDSI, LLC.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5060.
*Comments Due:* 5 p.m. ET 10/27/20.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2302–008; ER19–1342–001; ER19–1343–001; ER19–2674–001.
*Applicants:* Public Service Company of New Mexico, NMRD Data Center II, LLC, NMRD Data Center III, LLC, New Mexico PPA Corporation.
*Description:* Notice of Change in Status to Reflect Participation in Energy Imbalance Market, et al. of the PNM Entities.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5138.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER10–2719–037.
*Applicants:* East Coast Power Linden Holding, L.L.C.
*Description:* Notice of Non-Material Change in Status of East Coast Power Linden Holding, L.L.C.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5176.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER19–1935–004.
*Applicants:* UNS Electric, Inc.
*Description:* Compliance filing: Errata to Order No. 845 Compliance Filing to be effective 5/22/2019.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5048.
*Comments Due:* 5 p.m. ET 10/27/20.

*Docket Numbers:* ER21–29–000.
*Applicants:* Duke Energy Florida, LLC.
*Description:* Tariff Cancellation: Notice of Termination DEF-Duette Solar E&P Agreement to be effective 12/5/2020.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5139.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER21–30–000.
*Applicants:* Pattern Energy Wind Development LLC.
*Description:* Request for Prospective One-Time, Limited Waivers of Pattern Energy Wind Development LLC.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5140.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER21–31–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Notice of Cancellation of WMPA SA No. 3915 to be effective 8/13/2020.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5148.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER21–32–000.
*Applicants:* Tampa Electric Company.
*Description:* Notice of Cancellation of Rate Schedule No. 78 of Tampa Electric Company.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5157.
*Comments Due:* 5 p.m. ET 10/26/20.

*Docket Numbers:* ER21–33–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Original ISA, Service Agreement No. 5799; Queue No. AF1–260 and Cancellation to be effective 9/8/2020.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5042.
*Comments Due:* 5 p.m. ET 10/27/20.

*Docket Numbers:* ER21–34–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5812; Queue No. AF1–166 to be effective 9/9/2020.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5082.
*Comments Due:* 5 p.m. ET 10/27/20.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF21–11–000.
*Applicants:* SW Cogen Project, LLC.
*Description:* Form 556 of SW Cogen Project, LLC.
*Filed Date:* 10/5/20.
*Accession Number:* 20201005–5153.
*Comments Due:* None-Applicable.

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: October 6, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22661 Filed 10–13–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP20–1233–000]**

### Rover Pipeline, LLC; Notice of Initiation of Section 5 Proceeding

On October 5, 2020, the Commission issued an order in Docket No. RP20–1233–000, pursuant to section 5 of the Natural Gas Act, 15 U.S.C. 717d, instituting an investigation into whether the public interest requires abrogation or modification of a firm transportation agreement and an interruptible transportation agreement between Rover and Gulfport (Gulfport TSAs). *Rover Pipeline LLC,* 173 FERC 61,019 (2020).

Any interested person desiring to be heard in Docket No. RP20–1233–000 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 (2020), within 30 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: October 6, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22660 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**TIME AND DATE:** October 15, 2020. 10:00 a.m.

**PLACE:** Open to the public via audio Webcast only.[1]

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *http://ferc.capitolconnection.org/* using the eLibrary link.

1071ST—MEETING—OPEN MEETING

[October 15, 2020, 10:00 a.m.]

| Item No. | Docket No. | Company |
|---|---|---|
| | **Administrative** | |
| A–1 | AD21–1–000 | Agency Administrative Matters. |
| A–2 | AD21–2–000 | Customer Matters, Reliability, Security and Market Operations. |
| A–3 | AD06–3–000 | 2020/2021 Winter Energy Market and Reliability Assessment. |
| | **Electric** | |
| E–1 | RM21–2–000 | Fuel Cell Thermal Energy Output. |
| | RM20–20–000 | Bloom Energy Corporation. |
| E–2 | EC20–60–000 | NextEra Energy, Inc., Florida Power & Light Company and Gulf Power Company. |
| E–3 | ER20–1741–000 | Florida Power & Light Company. |
| E–4 | ER20–1743–000 | Gulf Power Company. |
| E–5 | RM19–20–000 | WECC Regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve). |
| E–6 | ER20–1783–000 | PJM Interconnection, L.L.C. and NextEra Energy. |
| | ER20–1783–001 | Transmission MidAtlantic Indiana, Inc. |
| E–7 | ER20–1795–000 | Pacific Gas and Electric Company. |
| E–8 | ER20–1728–000 | Borrego Solar Systems, Inc. |
| E–9 | ER20–1642–000 | Mariposa Energy, LLC. |
| E–10 | ER20–1314–000 | Sunflower Electric Power Corporation. |
| E–11 | ER20–1078–001 | Midcontinent Independent System Operator, Inc. and Ameren Illinois Company. |
| | ER20–1079–001 | Midcontinent Independent System Operator, Inc. and Ameren Transmission Company of Illinois. |
| | ER20–1080–001 (not consolidated) | Midcontinent Independent System Operator, Inc. and Union Electric Company. |
| E–12 | ER20–942–001 | Midcontinent Independent System Operator, Inc. |
| | ER20–944–001 (not consolidated) | PJM Interconnection, L.L.C. |
| E–13 | ER20–938–002 | Midcontinent Independent System Operator, Inc. |
| | ER20–940–001 | |
| | ER20–941–002 | Southwest Power Pool, Inc. |
| | ER20–943–001 (not consolidated) | |
| E–14 | ER20–359–003 | Midcontinent Independent System Operator, Inc. |
| E–15 | ER18–1611–000 | Midcontinent Independent System Operator, Inc. |
| E–16 | ER20–1812–000 | Public Service Electric and Gas Company and PECO Energy Company. |
| E–17 | ER20–2343–000 | Upstream Wind Energy LLC. |
| E–18 | ER19–570–000 | Vineyard Wind LLC. |
| E–19 | ER19–1904–001 | Nevada Power Company. |

[1] Join FERC online to listen live at *http://ferc.capitolconnection.org/.*

1071ST—MEETING—OPEN MEETING—Continued

[October 15, 2020, 10:00 a.m.]

| Item No. | Docket No. | Company |
|---|---|---|
| E–20 | ER19–2821–000<br>TS19–4–000 | Upper Missouri G. & T. Electric Cooperative, Inc. |
| E–21 | TS19–1–001 | AMP Transmission, LLC. |
| E–22 | ER19–2529–003 | Black Hills Wyoming, LLC. |
| E–23 | ER20–2604–000 | California Independent System Operator Corporation. |
| E–24 | EL20–48–000 | PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation. |
| E–25 | EL19–86–001 | New York State Public Service Commission and New York State Energy Research and Development Authority v. New York Independent System Operator, Inc. |
| E–26 | EL19–78–001 | National Railroad Passenger Corporation v. PPL Electric Utilities Corporation and PJM Interconnection, L.L.C. |
| E–27 | EL20–14–001 | Public Service Company of Colorado. |
| E–28 | ER16–2320–002 | Pacific Gas and Electric Company. |
| E–29 | ER18–1314–003<br>ER18–1314–004<br>ER18–1314–006<br>EL16–49–003<br>EL18–178–003 (Consolidated) | PJM Interconnection, L.L.C.<br><br><br>Calpine Corporation, Dynegy Inc., Eastern Generation, LLC, Homer City Generation, L.P., NRG Power Marketing LLC, GenOn Energy Management, LLC, Carroll County Energy LLC, C.P. Crane LLC, Essential Power, LLC, Essential Power OPP, LLC, Essential Rock Springs, LLC, Lakewood Cogeneration, L.P., GDF SUEZ Energy Marketing NA, Inc., Oregon Clean Energy, LLC, and Panda Power Generation Infrastructure Fund, LLC. v. PJM Interconnection, L.L.C. PJM Interconnection, L.L.C. |
| **Miscellaneous** | | |
| M–1 | AD20–14–000 | Carbon Pricing in Organized Wholesale Electricity Markets. |
| **Gas** | | |
| G–1 | PL21–1–000 | Oil Pipeline Affiliate Contracts. |
| G–2 | RP20–667–000 | Columbia Gas Transmission, LLC. |
| G–3 | RP20–745–000<br>RP20–767–000 | Alliance for Open Markets v. Northern Border Pipeline Company.<br>ConocoPhillips Company, Shell Energy North America (US), L.P. and XTO Energy Inc. v. Northern Border Pipeline Company. |
| G–4 | RP20–777–000 | Southern Star Central Gas Pipeline, Inc. |
| G–5 | RP20–913–001 | Gulf South Pipeline Company, LLC. |
| G–6 | RP17–811–002<br>RP18–271–000 | Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP. |
| **Hydro** | | |
| H–1 | P–2153–067 | United Water Conservation District. |
| H–2 | P–15022–000 | Warrior Hydro, LLC. |
| H–3 | P–2808–018 | KEI (Maine) Power Management (III) LLC. |
| H–4 | P–2576–187 | FirstLight CT Housatonic LLC. |
| H–5 | P–2785–100<br>P–10809–048<br>P–10810–054 | Boyce Hydro Power LLC. |
| **Certificates** | | |
| C–1 | CP20–30–000 | Texas Eastern Transmission, LP. |
| C–2 | CP20–21–000 | Port Arthur Pipeline, LLC. |
| C–3 | CP20–1–001 | ANR Pipeline Company. |
| C–4 | CP19–495–000<br>CP19–495–001 | Double E Pipeline, LLC. |
| C–5 | CP19–125–001 | Gulf South Pipeline Company, LLC. |
| C–6 | CP17–458–002<br>CP19–17–001 | Midship Pipeline Company, LLC. |
| C–7 | CP16–10–000<br>CP19–477–000 | Mountain Valley Pipeline, LLC. |
| C–8 | CP16–10–006<br>CP16–13–000 | Mountain Valley Pipeline, LLC.<br>Equitrans, LP. |

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

The public is invited to listen to the meeting live at *http://ferc.capitolconnection.org/*. Anyone

with internet access who desires to hear this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its audio webcast. The Capitol Connection provides technical support for this free audio webcast. It will also offer access to this event via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Shirley Al-Jarani at 703–993–3104.

Issued: October 8, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22778 Filed 10–9–20; 4:15 pm]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. EL21–4–000; QF20–1360–000]**

### Mt. Olive Solar 1, LLC; Notice of Petition for Declaratory Order

Take notice that on October 6, 2020, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2019), Mt. Olive Solar 1, LLC (Mt. Olive or Petitioner), filed a petition for declaratory order (Petition) requesting that the Commission issue an order granting waiver of the qualifying facility (QF) filing requirement set forth in section 292.203 of the Commission's regulations,[1] as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling 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 November 5, 2020.

Dated: October 7, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–22672 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

[1] 18 CFR 292.203(a)(3).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER18–2317–004.
*Applicants:* Meadow Lake Wind Farm V LLC.
*Description:* Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT & Request for Waiver to be effective N/A.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5101.
*Comments Due:* 5 p.m. ET 10/27/20.

*Docket Numbers:* ER19–468–003.
*Applicants:* California Independent System Operator Corporation.
*Description:* Compliance filing: 2020–10–07 Order No. 841—Third Compliance Filing to be effective 12/3/2019.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5082.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER19–585–002.
*Applicants:* Quilt Block Wind Farm LLC.
*Description:* Compliance filing: Informational Filing Pursuant to Schedule 2 of the MISO OATT & Waiver Request to be effective N/A.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5099.
*Comments Due:* 5 p.m. ET 10/27/20.

*Docket Numbers:* ER20–1802–000.
*Applicants:* Entergy Louisiana, LLC.
*Description:* Entergy Louisiana, LLC submits tariff filing per 35.19a(b): Refund Report_SRMPA to be effective N/A.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5058.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–35–000.
*Applicants:* Tri-State Generation and Transmission Association, Inc.
*Description:* § 205(d) Rate Filing: Amendment to Tri-State Rate Schedule FERC No. 244 to be effective 10/8/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5002.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–36–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5820; Queue No. AF2–290 to be effective 9/9/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5003.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–37–000.
*Applicants:* Techren Solar II LLC.
*Description:* Tariff Cancellation: Cancellation of Rate Schedule Tariff to be effective 10/8/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5041.
*Comments Due:* 5 p.m. ET 10/19/20.

*Docket Numbers:* ER21–38–000.
*Applicants:* AEP Texas Inc.
*Description:* § 205(d) Rate Filing: AEPTX-Starr Solar Ranch Generation Interconnection Agreement to be effective 10/1/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5051.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–39–000.
*Applicants:* Wabash Valley Power Association, Inc.
*Description:* § 205(d) Rate Filing: Compliance Filing of Amended Distributed Generation Policy D–11 to be effective 12/7/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5054.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–40–000.
*Applicants:* ConocoPhillips Company.
*Description:* Compliance filing: WECC Cost Justification Filing to be effective N/A.

*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5065.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–41–000.
*Applicants:* La Joya Wind, LLC.
*Description:* Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 11/1/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5076.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–42–000.
*Applicants:* Tenaska Power Services Co.
*Description:* Compliance filing: Filing re Certain Spot Sales at Prices Exceeding West-Wide Soft Cap—Aug. 2020 to be effective N/A.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5079.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–43–000.
*Applicants:* Exelon Generation Company, LLC.
*Description:* Compliance filing: WECC Soft Offer Cap to be effective N/A.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5081.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–44–000.
*Applicants:* Altavista Solar, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Tariff Application to be effective 10/15/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5083.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–45–000.
*Applicants:* Calvert Cliffs Nuclear Power Plant, LLC.
*Description:* Compliance filing: Baseline Filing to be effective 12/6/2020.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5085.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–45–001.
*Applicants:* Calvert Cliffs Nuclear Power Plant, LLC.
*Description:* Compliance filing: Informational Filing Regarding Transfer of Ownership to be effective N/A.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5110.
*Comments Due:* 5 p.m. ET 10/28/20.

*Docket Numbers:* ER21–46–000.
*Applicants:* Mercuria Energy America, LLC.
*Description:* Compliance filing: Explanation for Bilateral Spot Sales in the West to be effective N/A.
*Filed Date:* 10/7/20.
*Accession Number:* 20201007–5088.
*Comments Due:* 5 p.m. ET 10/28/20.

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: October 7, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22662 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

## 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:* RP21–38–000.
*Applicants:* Northern Border Pipeline Company.
*Description:* Compliance filing Tariff Waiver Request—Capacity Release.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5109.
*Comments Due:* 5 p.m. ET 10/19/20.

*Docket Numbers:* RP21–39–000.
*Applicants:* LLOG Exploration & Production Company, L, LLOG Exploration Offshore, L.L.C., Ridgewood Rattlesnake LLC.
*Description:* Joint Petition For Limited Waiver, et al. of LLOG Exploration & Production Company, LLC, et al. under RP21–39.
*Filed Date:* 10/6/20.
*Accession Number:* 20201006–5111.
*Comments Due:* 5 p.m. ET 10/13/20.

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 date(s). 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: October 7, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22668 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP21–2–000]**

### Southern Star Central Gas Pipeline, Inc.; Notice of Application

Take notice that on October 2, 2020, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Route 56, Owensboro, Kentucky 42301, filed in the above referenced docket an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations for authorization to amend its certificate granted in Docket No. CP19–31–000 for its Lines DT and DS Replacement Project in Anderson and Franklin Counties, Kansas. Southern Star proposes to abandon the 31.79-mile-long, 26-inch-diameter Line DT and the 31.36-mile-long, 20-inch-diameter Line DS entirely in place, rather than primarily by the approved method of removal, 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning Southern Star's application may be directed to Douglas Field, Senior Attorney, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by telephone at (270) 852–4657 or by email at *w.doug.field@southernstar.com.*

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, protests and interventions in lieu of paper using the eFiling 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 October 28, 2020.

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

Dated: October 7, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–22671 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IN79–6–000]**

### FERC Form 580; Interrogatory on Fuel and Energy Purchase Practices; Notice of Request for Partial Waiver

Take notice that on May 20, 2020, pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[1] Sierra Pacific Power Company submitted a request for a partial waiver of the requirement to respond to the 2020 FERC Form 580 Interrogatory on Fuel and Energy Purchase Practices, as more fully explained in the request.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

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

[1] 18 CFR 385.207(2020).

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 eFiling 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 October 14, 2020.

Dated: October 7, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–22670 Filed 10–13–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IN79–6–000]**

### FERC Form 580, Interrogatory on Fuel and Energy, Purchase Practices; Notice of Request for Partial Waiver

Take notice that on August 28, 2020, pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[1] Pacific Gas and Electric Company submitted a request for a partial waiver of the requirement to respond to the 2020 FERC Form 580 Interrogatory on Fuel and Energy Purchase Practices, as more fully explained in the request.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

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.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling 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 October 14, 2020.

Dated: October 7, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–22669 Filed 10–13–20; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.207(2020).

## 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:* RP20–1193–001.

*Applicants:* Paiute Pipeline Company.

*Description:* Tariff Amendment: Non-Conforming TSAs Amendment Filing to be effective 9/15/2020.

*Filed Date:* 10/5/20.

*Accession Number:* 20201005–5119.

*Comments Due:* 5 p.m. ET 10/12/20.

*Docket Numbers:* RP21–37–000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement Filing-Sabine Pass Liquefaction, LLC to be effective 10/3/2020.

*Filed Date:* 10/5/20.

*Accession Number:* 20201005–5077.

*Comments Due:* 5 p.m. ET 10/19/20.

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 date(s). 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: October 6, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22663 Filed 10–13–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP20–1236–000]**

### ANR Pipeline Company; Columbia Gas Transmission, LLC; Columbia Gulf Transmission, LLC; Notice of Initiation of Section 5 Proceeding

On October 5, 2020, the Commission issued an order in Docket No. RP20–1236–000, pursuant to section 5 of the Natural Gas Act, 15 U.S.C. 717d (2012), instituting an investigation into whether the public interest presently requires that the firm transportation service agreements between ANR Pipeline Company, Columbia Gas Transmission, LLC, and Columbia Gulf Transmission, LLC (collectively, TC Energy Pipelines) and Gulfport Energy Corporation (Gulfport TSAs) should be abrogated or modified. *ANR Pipeline Company, et al.,* 173 FERC 61,018 (2020).

Any interested person desiring to be heard in Docket No. RP20–1233–000 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 (2020), within 30 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: October 6, 2020.

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

*Deputy Secretary.*

[FR Doc. 2020–22664 Filed 10–13–20; 8:45 am]

**BILLING CODE 6717–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### FDIC Advisory Committee on Community Banking; Notice of Meeting

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas. The meeting is open to the public. Out of an abundance of caution related to current and potential coronavirus developments, the public's means to observe this Community Banking Advisory Committee meeting will be via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event.

**DATES:** Wednesday, October 28, 2020, from 1:00 p.m. to 5:30 p.m.

**ADDRESSES:** To view the live event, visit *http://fdic.windrosemedia.com.* To view the recording, visit *http://fdic.windrosemedia.com/index.php?category=Community+Banking+Advisory+Committee.* If you require a reasonable accommodation to participate, please contact *DisabilityProgram@fdic.gov* or call 703–562–2096 to make necessary arrangements.

**FOR FURTHER INFORMATION CONTACT:** Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

*Type of Meeting:* This meeting of the Advisory Committee on Community Banking will be Webcast live via the internet *http://fdic.windrosemedia.com.* For optimal viewing, a high-speed internet connection is recommended.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 8, 2020.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2020–22648 Filed 10–13–20; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL MARITIME COMMISSION

**[Docket No. 20–16]**

### Notice of Inquiry; Vessel-Operating Common Carrier Definition and Application of the Term ''Merchant'' in Bills of Lading

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Federal Maritime Commission (''FMC'' or ''Commission'') is issuing this Notice of Inquiry (''NOI'') to solicit public comment on the practice of vessel-operating common carriers (VOCCs or carrier) defining ''Merchant'' in their bills of lading to apply to persons and entities with whom the VOCCs may not be in contractual privity. Generally, the Commission seeks public comment as to 1) how VOCCs apply the term ''Merchant'' in their bills of lading; 2) whether the definition, as applied, subjects third parties who are not in contractual privity with the carrier to joint or several liability; and 3) whether carriers have enforced the definition of merchant against third parties that have not consented to be bound by, or otherwise accept, the terms and conditions of the bill of lading.

**DATES:** Submit comments on or before November 6, 2020.

**ADDRESSES:** Submit comments to: Rachel E. Dickon, Secretary, Federal Maritime Commission, *secretary@fmc.gov*, (email comments at attachments preferably in MS Word or PDF), 800 North Capitol Street NW, Room 1046, Washington, DC 20573–0001, Phone: 202–523–5725.

**FOR FURTHER INFORMATION CONTACT:** Benjamin K. Trogdon, Director, and Cory Cinque, Trial Attorney, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001, Phone: 202–523–5783, Email: *btrogdon@fmc.gov* and *ccinque@fmc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Submit Comments:* Comments may be submitted by email as an attachment (preferably in Microsoft Word or PDF) addressed to *secretary@fmc.gov* on or before November 6, 2020. Include in the subject line: ''Response to FMC NOI—Merchant Clause.'' The Commission will provide confidential treatment for comments received to the extent permitted by law and will not post comments to the public docket. Questions regarding filing or treatment of confidential responses to this inquiry should be directed to the Commission's Secretary, Rachel E. Dickon, at the telephone number or email provided above. This NOI will be made available via the **Federal Register** and on the Commission's website at *www.fmc.gov.*

*Background:*

The Commission has received information from shipping industry participants that VOCCs have defined ''merchant'' in their respective bills of lading to include persons or entities who have no beneficial interest in the cargo, but rather are providing service as third parties on behalf of someone specifically identified on the bill of lading. The concerns expressed indicate that VOCCs may be enforcing the terms of the bill of lading (including, without

limitation, collection of freight rates and charges, equipment charges, detention and demurrage charges) jointly and severally against entities that are not party to, and have not agreed to be bound by the bill of lading. The Commission has been advised by third-party logistics providers, harbor truckers, stevedores, customs brokers and freight forwarders, many of whom have no connection to the cargo or the shipment, other than providing service to entities that may own or have a proprietary interest in the cargo covered by a VOCC bill of lading, that VOCCs seek payment from such third parties for rates and charges pursuant to the terms and conditions of the bill of lading. Allegations have also been received that VOCCs threaten to discontinue allowing such third parties to provide service for future shipments unless amounts due on current shipments are paid.

This issue was raised in Docket No. 19–05, *Interpretive Rule on Demurrage and Detention Under the Shipping Act* by several commenters, including the New York New Jersey Freight Forwarders and Customs Brokers, the National Customs Brokers and Freight Forwarders Association, the Agricultural Transportation Coalition, as well as other industry participants since the issuance of the Final Rule. As noted in the Final Rule, ''the Commission's emphasis in the NPRM that ocean carriers bill the correct party reflected concerns raised by truckers that they were being required to pay charges that were more appropriately charged to others.'' 85 FR 29638, at 29662 (May 18, 2020). Several commenters reiterated these concerns. AgTC contended that ''carriers should impose detention and/or demurrage on the actual exporter or importer customer with whom the carrier has a contractual relationship.'' The New York New Jersey Foreign Freight Forwarders & Brokers Association asserted that VOCCs define the term ''merchant'' in their bill of lading too broadly, resulting in parties being billed for demurrage and detention ''regardless of whether they are truly in control of the cargo when the charges were incurred.'' Id.

The Commission clarified that one of its goals for the Interpretive Rule ''was to emphasize the importance of ocean carriers and marine terminal operator bills aligning with contractual responsibilities.'' Id. In doing so, the Commission noted that it ''does not believe it is appropriate in this interpretive rule to prescribe'' specific billing practices, or to address the application of the merchant definition as it related to such practices. Id. The Commission further noted it would address such issues in the context of particular facts, considering all relevant arguments. Although the Commission incorporated reference to certain billing practices and regulations in the Final Rule, it declined to prescribe specific billing practices or regulations which would be deemed reasonable under 46 U.S.C. 41102(c).

General contract law principles provide that one party cannot enforce a contract against another who did not assent to be bound by its terms and conditions. This can include situations where one party attempts to bind another party with unilaterally defined terms. Accordingly, the Commission has determined to request public comment on the manner in which VOCCs are defining the term ''Merchant'' and enforcing that definition in their bills of lading.

The purpose of the inquiry is to determine whether such carrier enforcement (*i.e.,* seeking to collect freight and other charges) is unfairly or unjustly wielded against third parties who have not directly contracted with the VOCC nor assented to be bound by the contract of carriage. The Commission encourages all interested parties, including VOCCs, shippers, ports, maritime terminal operators, ocean transportation intermediaries, truckers, stevedores or customs brokers to submit comments or to identify information relevant to the manner in which VOCCs have applied their respective definitions of ''Merchant.'' As part of this NOI, the Commission will also be contacting certain VOCCs to provide information about the manner in which they have defined and applied their definition of a ''Merchant.''

The Commission will consider relevant comments submitted by any party. Along with comments, commenters should provide their name, title/position, contact information (*e.g.,* telephone number and/or email address), name and address of the company or other entity and the type of company or entity (*e.g.,* carrier, exporter, importer, trade association, etc.).

Responses to the NOI will help the Commission ascertain more precisely the practices of VOCCs, including whether they may be imposing liability on entities who may not have assented to be bound to the terms and conditions of a VOCC's bill of lading, and in determining whether additional analyses or action by the Commission may be necessary.

By the Commission.

Issued: October 7, 2020.

**Rachel Dickon,**

*Secretary.*

[FR Doc. 2020–22602 Filed 10–13–20; 8:45 am]

BILLING CODE 6730–02–P

## FEDERAL MARITIME COMMISSION

**[PETITION NO. P2–20]**

## Petition of CMA CGM S.A., American President Lines, LLC, APL Co. Pte. Ltd. and ANL Singapore Pte Ltd for a Temporary Exemption From Standard Tariff & Service Contract Filing Requirements; Notice of Filing and Request for Comments

Served: October 8, 2020.

Notice is hereby given that CMA CGM S.A., American President Lines, LLC, APL Co. Pte. Ltd. and ANL Singapore Pte Ltd (''Petitioners'') have petitioned the Commission pursuant to 46 CFR 502.92 for temporary exemption from 46 CFR 520.7(c) & 46 CFR 520.8(a)(1), 46 CFR 520.8(4), 46 CFR 530.3(i), and 46 CFR 530.14(a). Petitioner states it ''seeks this temporary exemption for the sole purpose of best serving its customers by requesting retroactive application of filings impacted by the recent cyber-attack against the CMA group.''

In order for the Commission to make a thorough evaluation of the requested exemption and rulemaking presented in the Petition, pursuant to 46 CFR 502.92, interested parties are requested to submit views or arguments in reply to the Petition no later than October 15, 2020. Replies shall be sent to the Secretary by email to *Secretary@fmc.gov* and replies shall be served on Petitioner's counsel, Draughn Arbona, *usa.darbona@usa.cma-cgm.com.*

Non-confidential filings may be submitted by email as a PDF attachment to *Secretary@fmc.gov* and include in the subject line: P2–20 (Commenter/Company). A confidential filing must be accompanied by a transmittal letter that identifies the filing as ''Confidential-Restricted'' and describes the nature and extent of the confidential treatment requested. The Commission will provide confidential treatment to the extent allowed by law for confidential submissions, or parts of submissions, for which confidentiality has been requested. When a confidential filing is submitted, there must also be submitted a public version of the filing. Such public filing version shall exclude confidential materials, and shall indicate on the cover page and on each affected page ''Confidential materials excluded.'' The Petition will be posted on the Commission's website at *http://*

*www.fmc.gov/P2-20*. Replies filed in response to the Petition will also be posted on the Commission's website at this location.

**Rachel Dickon,**

*Secretary.*

[FR Doc. 2020–22722 Filed 10–13–20; 8:45 am]

**BILLING CODE 6730–02–P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Consumer and Stakeholder Surveys (FR 3073; OMB No. 7100–0359).

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

**Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection**

*Report title:* Consumer and Stakeholder Surveys.

*Agency form number:* FR 3073.

*OMB control number:* 7100–0359.

*Frequency:* As needed.

*Respondents:* Consumers and other stakeholders.

*Estimated number of respondents:* Consumer quantitative surveys (medium): 3,000; consumer quantitative surveys (large): 6,000; consumer qualitative surveys: 50; stakeholder quantitative surveys: 1,500; stakeholder qualitative surveys: 50.

*Estimated average hours per response:* Consumer quantitative surveys (medium): 0.25; consumer quantitative surveys (large): 0.4; consumer qualitative surveys: 1.5; stakeholder quantitative surveys: 0.25; stakeholder qualitative surveys: 1.5.

*Estimated annual burden hours:* Consumer quantitative surveys (medium): 3,000; consumer quantitative surveys (large): 4,800; consumer qualitative surveys: 600; stakeholder quantitative surveys: 3,000; stakeholder qualitative surveys: 600; total: 12,000.

*General description of report:* The surveys in this collection gather quantitative and qualitative information directly from individual consumers or households (consumer surveys) on consumer finance topics. This collection also gathers quantitative and qualitative information on current and emerging community economic issues from stakeholders (stakeholder surveys). Examples of stakeholders include community groups, community development organizations, nonprofit service providers, faith-based service organizations, public sector agencies, small business owners, health care organizations, food banks, K–12 public and private schools, community colleges, community development financial institutions, credit unions, banks, and other financial institutions and companies offering financial products and services. While these surveys are ongoing, the frequency and content of the questions may change depending on economic conditions, regulatory or legislative developments, as well as changes in technology, business practices, and other factors affecting consumers, stakeholders, and communities.

*Legal authorization and confidentiality:* The FR 3073 is authorized by sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Board and the Federal Open Market Committee (FOMC) ''maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of the maximum employment, stable prices, and moderate long-term interest rates.'' Under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks ''with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.'' The information collection under the FR 3073 is used to fulfill these obligations.

In addition, the Board is responsible for implementing and drafting regulations and interpretations for various consumer protection laws. The information obtained from the FR 3073 may be used in support of the Board's development and implementation of regulatory provisions for these laws. Therefore, depending on the survey questions asked, the FR 3073 may be authorized pursuant to the Board's authority under one or more of those consumer protection statutes.

The ability of the Board to maintain the confidentiality of information provided by respondents to the FR 3073 surveys will have to be determined on a case-by-case basis depending on the type of information provided for a particular survey. Some of the information collected on the surveys may be protected from Freedom of Information Act (FOIA) disclosure by FOIA exemptions 4 and 6. Exemption 4 protects from disclosure trade secrets and commercial or financial information, while Exemption 6 protects information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.''

*Current actions:* On July 21, 2020, the Board published a notice in the **Federal Register** (85 FR 44078) requesting public comment for 60 days on the extension, without revision, of the FR 3073. The comment period for this notice expired on September 21, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, October 7, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22686 Filed 10–13–20; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Senior Loan Officer Opinion Survey on Bank Lending Practices (FR 2018; OMB No. 7100–0058).

**DATES:** Comments must be submitted on or before December 14, 2020.

**ADDRESSES:** You may submit comments, identified by FR 2018, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

### Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

*Report title:* Senior Loan Officer Opinion Survey on Bank Lending Practices.

*Agency form number:* FR 2018.

*OMB control number:* 7100–0058.

*Frequency:* Up to six times a year.

*Respondents:* Domestically chartered large commercial banks and large U.S. branches and agencies of foreign banks.

*Estimated number of respondents:* Main surveys, 104; Special surveys, 104.

*Estimated average hours per response:* 2 hours.

*Estimated annual burden hours:* Main surveys, 832; Special surveys, 416.

*General description of report:* The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through electronic submission, up to six times a year. The purpose of the survey is to provide qualitative and limited quantitative information on credit availability and demand, as well as evolving developments and lending practices in the U.S. loan markets. A portion of each survey typically covers special topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or other financial entities) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

*Legal authorization and confidentiality:* Section 2A of the Federal Reserve Act (FRA) requires the Federal Reserve Board and the Federal Open Market Committee (FOMC) to maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates [1] and section 12A of the FRA requires the FOMC to implement regulations relating to the open market operations conducted by Federal Reserve Banks ''with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.'' [2] Because the

[1] 12 U.S.C. 225a.

[2] 12 U.S.C. 263.

Board and the FOMC use the information obtained from the FR 2018 to fulfill these obligations, these statutory provisions provide the legal authorization for the collection of information on the FR 2018. In addition, section 11 of the FRA, which permits the Federal Reserve Board to examine at its discretion the accounts, books, and affairs of each Federal Reserve Bank and each member bank and to require such statements and reports as it may deem necessary, authorizes the collection of information from depository institutions [3] and section 7 of the International Banking Act authorizes the collection of information from branches and agencies of foreign banks.[4] Survey submissions under the FR 2018 are voluntary.

Although the specific questions to be asked on each survey have not yet been formulated, the questions are designed to obtain information that is customarily and actually treated as private by the institution. Thus, the individual survey responses from each respondent may be held confidential under exemption (4) of the Freedom of Information Act.[5] However, certain data from the survey is publically reported in aggregate form, and the information in aggregate form is made publicly available and not considered confidential.

Board of Governors of the Federal Reserve System, October 8, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22721 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

[3] 12 U.S.C. 248(a).

[4] 12 U.S.C. 3105(c)(2).

[5] 5 U.S.C. 552(b)(4)

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Provisions Associated with the Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice (FR 4100; OMB No. 7100–0309).

**DATES:** Comments must be submitted on or before December 14, 2020.

**ADDRESSES:** You may submit comments, identified by FR 4100, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

#### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

#### Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

*Report title:* Reporting, Recordkeeping, and Disclosure Provisions Associated with the Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice.

*Agency form number:* FR 4100.

*OMB control number:* 7100–0309.

*Frequency:* On occasion.

*Respondents:* State member banks, bank holding companies (BHCs), affiliates and certain non-banking

subsidiaries of BHCs, uninsured state agencies and branches of foreign banks, commercial lending companies owned or controlled by foreign banks, savings and loan holding companies, and Edge and agreement corporations.

*Estimated number of respondents:* Recordkeeping, 1; Reporting, 831; Disclosure, 831.

*Estimated average hours per response:* Recordkeeping, 24 hours; Reporting, 9 hours; Disclosure, 27 hours.

*Estimated annual burden hours:* Recordkeeping, 24 hours; Reporting, 7,479 hours; Disclosure, 22,437 hours.

*General description of report:* The FR 4100 is the Board's information collection associated with the *Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice* (''ID-Theft Guidance'' or ''Guidance''). The ID-Theft Guidance was published in the **Federal Register** in March 2005.[1] The ID-Theft Guidance, which applies to financial institutions, was issued in response to developing trends in the theft and accompanying misuse of customer information. The Guidance includes certain voluntary reporting, recordkeeping, and disclosure provisions.

*Legal authorization and confidentiality:* The FR 4100 is authorized by section 501(b) of the Gramm-Leach-Bliley Act,[2] which requires the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to establish appropriate standards for financial institutions to develop and implement an information security program designed to protect their customers' information and a response program that specifies actions to be taken when the institution suspects or detects that unauthorized individuals have gained access to customer information systems.

Because the provisions under the FR 4100 are contained in guidance, which is nonbinding, the provisions are voluntary.[3]

The disclosure provisions of FR 4100 are not confidential. The records maintained under recordkeeping provisions of FR 4100 would be maintained at each banking organization, and the Freedom of Information Act (''FOIA'') would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process. In addition, the information obtained by the Board under the FR 4100 may also be kept confidential under exemption 4 for the FOIA, which protects commercial or financial information obtained from a person that is privileged or confidential.[4]

*Consultation outside the agency:* Representatives from the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency responsible for the reporting, recordkeeping, and disclosure requirements associated with the ID-Theft Guidance have reviewed their respective information collections and agreed that no revisions to the collections are necessary at this time.

Board of Governors of the Federal Reserve System, October 7, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22683 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

[1] *See* 70 FR 15736 (March 29, 2005).

[2] 15 U.S.C. 6801(b).

[3] *See* SR 18–5/CA 18–7: Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018).

[4] 5 U.S.C. 552(b)(4).

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 28, 2020.

*A. Federal Reserve Bank of Minneapolis* (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *First Holding Company of Cavalier, Inc., Cavalier, North Dakota*; through its subsidiary bank, United Valley Bank, also of Cavalier, North Dakota, to indirectly retain voting shares of AccuData Services, Inc., Park River, North Dakota, and thereby engage in data processing activities pursuant to section 225.28(b)(14)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22698 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Securities Transactions pursuant to the Board's Regulation H. OMB No. 7100–0196.

**DATES:** Comments must be submitted on or before December 14, 2020.

**ADDRESSES:** You may submit comments, identified by *FR H–3,* by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*

• *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

**Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

**Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection**

*Report title:* Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Sections 208.34(c), (d), and (g) of Regulation H.

*Agency form number:* FR H–3.

*OMB control number:* 7100–0196.

*Frequency:* Event-generated, quarterly.

*Respondents:* State member banks (SMBs), SMB officers/employees.

*Estimated number of respondents:* SMBs (de novo): 1; SMBs with trust departments: 209; SMBs without trust departments: 545; SMB officers/employees: 2,389.

*Estimated average hours per response:* SMBs (de novo): Recordkeeping, 40 hours. SMBs with trust departments: Recordkeeping, 2 hours; disclosure, 16 hours. SMBs without trust departments: Recordkeeping, 15 minutes; disclosure, 5 hours. SMB officers/employees: Reporting, 2 hours.

*Estimated annual burden hours:* SMBs (de novo): Recordkeeping, 40 hours. SMBs with trust departments: Recordkeeping, 10,032 hours; disclosure, 40,128 hours. SMBs without trust departments: Recordkeeping, 3,815 hours; disclosure, 32,700 hours. SMB officers/employees: Reporting, 19,112 hours.

*General description of report:* Section 15C of the Securities Exchange Act of 1934 (the Act), establishes federal regulation of brokers and dealers of government securities, including banks and other financial institutions, and directs those brokers and dealers to keep certain records.[1] These requirements are implemented for SMBs by sections 208.34(c), (d), and (g) of the Board's Regulation H, which require that non-exempt state member banks [2] effecting securities transactions for customers establish and maintain a system of records of these transactions, furnish confirmations of transactions to customers that disclose certain information, and establish written policies and procedures relating to securities trading.

*Legal authorization and confidentiality:* The FR H–3 is authorized pursuant to Section 23 of the Act,[3] which empowers the Board to make rules and regulations implementing those portions of the Act for which it is responsible. Because these records and disclosures would be maintained at each banking organization, the Freedom of Information Act (FOIA) would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization.

[1] 12 U.S.C. 78*o*–5(a), (d).

[2] The requirements of section 208.34 of Regulation H apply to all SMBs that effect more than 500 government securities brokerage transactions per year, unless the institution has filed a written notice, or is required to file notice, with the Board that it acts as a government securities broker or a government securities dealer. These requirements also do not apply to activities of foreign branches of SMBs; activities of nonmember, non-insured trust company subsidiaries of bank holding companies; or activities that are subject to regulations promulgated by the Municipal Securities Rulemaking Board. In addition, SMBs with an annual average of less than 200 securities transactions for customers over the prior three calendar years (exclusive of transactions in U.S. government and agency obligations) are exempt from these Regulation H recordkeeping and disclosure requirements. *See* 12 CFR 208.34(a)(1)(i)–(iv).

[3] 15 U.S.C. 78w. The Board also has the authority to require reports from SMBs (12 U.S.C. 248(a) and 324).

In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process.[4] In addition, the information may also be kept confidential under exemption 4 for the FOIA, which protects commercial or financial information obtained from a person that is privileged or confidential.[5]

Board of Governors of the Federal Reserve System, October 7, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22684 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

[4] 5 U.S.C. 552(b)(8).

[5] 5 U.S.C. 552(b)(4).

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Disclosure Requirements Associated with Consumer Financial Protection Bureau's (CFPB) Regulation DD (FR DD; OMB No. 7100–0271).

**DATES:** Comments must be submitted on or before December 14, 2020.

**ADDRESSES:** You may submit comments, identified by FR DD, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

### Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

*Report title:* Disclosure Requirements Associated with CFPB's Regulation DD.

*Agency form number:* FR DD.

*OMB control number:* 7100–0271.

*Frequency:* Monthly.

*Respondents:* Except those that are supervised by the CFPB, state member banks, branches of foreign banks (other than federal branches and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 of the Federal Reserve Act (12 U.S.C. 601–604a). The CFPB supervises, among other institutions, insured depository institutions with over $10 billion in assets and their affiliates (including affiliates that are themselves depository institutions regardless of asset size and subsidiaries of such affiliates).

*Estimated number of respondents:* Account disclosures, Change in terms notice, Notices prior to maturity, Periodic statement disclosure and additional disclosure requirements for overdraft services, and Advertising and additional disclosure requirements for overdraft services, 835.

*Estimated average hours per response:* Account disclosures, 1 hour; Change in terms notice, 1.5 hours; Notices prior to maturity, 1.5 hours; Periodic statement disclosure and additional disclosure requirements for overdraft services, 8

hours; and Advertising and additional disclosure requirements for overdraft services, 0.5 hour.

*Estimated annual burden hours:* Account disclosures, 10,020 hours; Change in terms notice, 15,030 hours; Notices prior to maturity, 15,030 hours; Periodic statement disclosure and additional disclosure requirements for overdraft services, 80,160 hours; and Advertising and additional disclosure requirements for overdraft services, 5,010 hours.

*General description of report:* The Truth in Savings Act (TISA) was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of TISA and its implementing regulation is to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield (APY), and other account terms. TISA requires depository institutions to disclose key terms for deposit accounts at account opening, upon request, when certain changes in terms occur, and in periodic statements. It also includes rules about advertising for deposit accounts. TISA does not provide exemptions from compliance for small institutions.

*Legal authorization and confidentiality:* Section 269 of TISA specifically authorizes the CFPB ''to prescribe regulations'' to carry out the purposes and provisions of the Act, as well as to adopt model forms and clauses for common disclosures to facilitate compliance. Regulation DD implements this statutory provision. The Board's imposition of the disclosure requirements on Board-supervised institutions is authorized by Section 270 of TISA.

An institution's disclosure and recordkeeping obligations under Regulation DD are mandatory. The public disclosure requirements of FR DD are not confidential. The records maintained under recordkeeping requirements of FR DD would be maintained at each banking organization, and the Freedom of Information Act (''FOIA'') would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information would be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process.

Board of Governors of the Federal Reserve System, October 7, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22687 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than November 12, 2020.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *FWB Financial Inc., Chicago, Illinois*; to become a bank holding company by acquiring the voting shares of FWBank, Chicago, Illinois, a de novo bank.

Board of Governors of the Federal Reserve System, October 8, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22696 Filed 10–13–20; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Recordkeeping and Disclosure Provisions Associated with Real Estate Appraisal Standards (FR Y–30; OMB No. 7100–0250).

**DATES:** Comments must be submitted on or before December 14, 2020.

**ADDRESSES:** You may submit comments, identified by FR Y–30, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235,

725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

**Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed 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;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

**Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection**

*Report title:* Recordkeeping and Disclosure Provisions Associated with Real Estate Appraisal Standards.[1]

*Agency form number:* FR Y–30.

*OMB control number:* 7100–0250.

*Frequency:* Event-generated.

*Respondents:* State member banks (SMBs) and nonbank subsidiaries of bank holding companies (BHCs).

*Estimated number of respondents:* SMBs, 740; nonbank subsidiaries of BHCs, 1,126.

*Estimated average hours per response:* SMBs, 5 minutes; nonbank subsidiaries of BHCs, 5 minutes.

*Estimated annual burden hours:* Recordkeeping, SMBs, 25,837 hours; nonbank subsidiaries of BHCs, 2,346 hours. Disclosure, SMBs, 62 hours; nonbank subsidiaries of BHCs, 94 hours.

*General description of report:* Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*) requires that, for federally related transactions,[2] regulated institutions obtain real estate appraisals performed by certified or licensed appraisers in conformance with uniform appraisal standards.[3] The Board's regulations implementing Title XI of FIRREA, contained in the Board's Regulation Y, include certain recordkeeping requirements that apply to SMBs, BHCs, and nonbank subsidiaries of BHCs that extend mortgage credit (together, institutions). The Board and other supervisory agencies also have issued Interagency Appraisal and Evaluation Guidelines (the Guidelines) that convey supervisory expectations relating to real estate appraisals and evaluations used to support real estate-related financial transactions.[4] These Guidelines recommend that institutions adopt certain policies and procedures to ensure compliance with Title XI of FIRREA and Regulation Y.

*Proposed revisions:* The Board proposes to revise the FR Y–30 to account for the collections of information contained in the Guidelines. Although previous OMB Supporting Statements for the FR H–4, the former agency tracking number for this clearance, referred to the Guidelines, the Board did not formally clear these collections of information or account for their corresponding burden.

*Legal authorization and confidentiality:* The FR Y–30 is authorized pursuant to Title XI of FIRREA.[3] The obligation to respond is mandatory. The recordkeeping provisions contained in the Guidelines, which is nonbinding, are voluntary.[4]

Because FR Y–30 records would be maintained at each banking organization, the Freedom of Information Act (''FOIA'') would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process.[5] In addition, the information may also be kept confidential under exemption 4 for the FOIA, which protects commercial or financial information obtained from a person that is privileged or confidential.[6]

[1] This information collection was previously titled *Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y (FR H–4; OMB No. 7100–0250).* Under the proposal, this information collection would no longer include references to section 208.51 of the Board's Regulation H (12 CFR 208.51), which is cleared by the Board as part of the FR H–5 clearance (OMB No. 7100 0261). This change would not affect the burden estimate for this collection of information, as prior burden calculations for the FR H–4 have not included any burden associated with section 208.51 of Regulation H. Additionally, as described in this Supporting Statement, the proposal would replace references to section 208.50 of Regulation H with references to subpart G of Regulation Y as the source for certain appraisal standards for state member banks. Therefore, the Board has modified the title and agency tracking number of the FR H–4 information collection to reflect that it will no longer account for provisions of Regulation H.

[2] A ''federally related transaction'' means any real estate-related financial transaction which (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser. 12 U.S.C. 3350(4). The term ''real estate-related financial transaction'' means any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. 12 U.S.C. 3350(5).

[3] 12 U.S.C. 3339. The Board also has the authority to require reports from bank holding companies (12 U.S.C. 1844(c)) and state member banks (12 U.S.C. 248(a) and 324).

[4] *See* SR 18–5/CA 18–7: Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018).

[5] 5 U.S.C. 552(b)(8).

[6] 5 U.S.C. 552(b)(4).

Board of Governors of the Federal Reserve System, October 8, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–22720 Filed 10–13–20; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Notice of Board Meeting

**DATES:** October 19, 2020 at 10:00 a.m.

**ADDRESSES:** Telephonic. Dial-in (listen only) information: Number: 1–877–446–3914, Code: 9640426.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

**SUPPLEMENTARY INFORMATION:**

**Board Meeting Agenda**

*Open Session*

1. Approval of the September 14, 2020 Board Meeting Minutes
2. Investment Manager Annual Service Review
3. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
4. Quarterly Reports
   (c) Investment Policy
   (d) Budget Review
   (e) Audit Status
5. Mid-Year Financial Review
6. Enterprise Risk Management Update

*Closed Session*

Information covered under 5 U.S.C. 552b(c)(6) and (c)(9)(b).

Dated: October 7, 2020.

**Dharmesh Vashee,**

*Acting General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. 2020–22613 Filed 10–13–20; 8:45 am]

**BILLING CODE P**

## GENERAL SERVICES ADMINISTRATION

**[Notice–PBS–2020–08; Docket No. 2020–0002; Sequence No. 35]**

### Notice of Availability for the Final Environmental Impact Statement for the Expansion and Modernization of the San Luis I Land Port of Entry, San Luis, Arizona

**AGENCY:** Public Building Service (PBS), General Services Administration (GSA).

**ACTION:** Notice of availability and announcement of virtual public meeting.

**SUMMARY:** This notice announces the availability of the Final Environmental Impact Statement (FEIS), which analyzes the potential environmental impacts of a proposal by the General Services Administration (GSA) to expand and modernize the San Luis I Land Port of Entry (LPOE) located in San Luis, Arizona along the U.S.-Mexico international border. The FEIS describes the purpose of and need for the proposed action, the alternatives being considered, and the potential impacts of each alternative on the existing environment. As the lead agency for this undertaking, GSA is acting on behalf of its major tenant at the facility, the Department of Homeland Security's U.S. Customs and Border Protection (CBP).

**DATES:** The comment period for the FEIS ends on Monday, November 9, 2020. After this date, GSA will prepare the Record of Decision (ROD). A virtual public meeting for the FEIS will be held on Tuesday, October 20, 2020 from 4:30 p.m. to 5:30 p.m. Mountain Standard Time (MST) (3:30 p.m. to 4:30 p.m. Pacific Daylight Time (PDT)).

**ADDRESSES:** Interested parties are encouraged to attend and provide comments on the FEIS. The virtual public meeting will be held via a Zoom Webinar. Pre-registration is strongly encouraged and is available on the project website provided below. The meeting will include a presentation by GSA and an opportunity for interested parties to provide comments. Comments can also be provided prior to the meeting via email to *osmahn.kadri@gsa.gov.*

Additional information and an electronic copy of the FEIS, may be found online on the following website: *https://www.gsa.gov/about-us/regions/welcome-to-the-pacific-rim-region-9/land-ports-of-entry/san-luis-i-land-port-of-entry.*

**FOR FURTHER INFORMATION CONTACT:** Questions or comments on the FEIS should be directed to: Osmahn Kadri, Regional Environmental Quality Advisor/NEPA Project Manager, GSA, at 415–522–3617, or via email to *osmahn.kadri@gsa.gov.* Written comments can be mailed to: GSA San Luis EIS, c/o LMI, 7940 Jones Branch Drive, Tysons, VA 22102. All comments must be received by November 9, 2020.

**SUPPLEMENTARY INFORMATION:**

**Background**

The San Luis I LPOE is located on the U.S.-Mexico international border in the City of San Luis, Arizona. It is the westernmost LPOE in Arizona and is approximately four miles from the California border. The San Luis I LPOE was built in 1982 to accommodate noncommercial traffic to and from Mexico. The facilities at the LPOE are in deteriorated condition and are inadequate for the present volume of pedestrian and vehicle traffic. There has been a 58 percent increase in the number of personal vehicles processed since 2010. The higher volume and outdated facilities creates long wait times, leading to traffic backups in downtown San Luis.

GSA is proposing to expand and modernize the San Luis I LPOE to correct operational deficiencies imposed by deteriorating building conditions and improve the LPOE's functionality, capacity, and security. Three action alternatives, the Proposed Action, Alternative 1, and Alternative 2; and the No Action Alternative, are evaluated in the FEIS.

Proposed Action Alternative—Demolition and Redevelopment. GSA would acquire the land adjacent to the western end of the LPOE, the former Friendship Park, and the LPOE would be reconfigured to streamline CBP operations and inspection processes. GSA would demolish the old, deteriorated buildings and construct new buildings and infrastructure on the expanded site to accommodate the increasing volume of pedestrian and vehicle traffic. The Proposed Action would be implemented in a phased approach to alleviate potential disruptions to operations at the LPOE.

Alternative 1—Renovate and Modernize. GSA would not acquire former Friendship Park, but would renovate and modernize all existing facilities and infrastructure at the LPOE. The LPOE layout would remain as currently configured, and current traffic patterns entering and leaving the LPOE would remain the same.

Alternative 2—Relocate Southbound POV Processing. GSA would acquire Friendship Park and construct new facilities as described under the Proposed Action, however the outgoing traffic would be routed directly south from Archibald Street (through the former Friendship Park site) to Avenida Morelos in Mexico. The rerouting of southbound traveling vehicles directly south from Archibald Street would alleviate the need for vehicles to turn left onto Urtuzuastegui Street.

No Action Alternative—GSA would not renovate or modernize any portion of the LPOE. The LPOE would remain as-is and continue its operations in facilities as they are currently configured.

**Virtual Public Meeting**

*Next Steps*

After comments are received from the public and reviewing agencies, GSA may: (1) Give environmental approval to the Project by signing a ROD no sooner than 30 days after the FEIS is issued. In the ROD, GSA will explain all the factors that were considered in reaching its final decision, including the environmental factors. GSA will identify the environmentally preferable alternative or alternatives and may select one of the alternatives or a combination of alternatives analyzed in the EIS; (2) Undertake additional environmental studies, or (3) Abandon the Project. If the Project is given environmental approval and funding is appropriated, the GSA could design and construct all or part of the Project.

**Jared Bradley,**

*Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.*

[FR Doc. 2020–22592 Filed 10–13–20; 8:45 am]

BILLING CODE 6820–YF–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0090; Docket No. 2020–0053; Sequence No. 5]**

## Information Collection; Rights in Data and Copyrights

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement regarding rights in data and copyrights.

**DATES:** Submit comments on or before November 13, 2020.

**ADDRESSES:** Written comments and recommendations for this 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 Review—Open for Public Comments'' or by using the search function.

Additionally submit a copy to GSA 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.

*Instructions:* All items submitted must cite Information Collection 9000–0090, Rights in Data and Copyrights. 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. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

**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)

9000–0090, Rights in Data and Copyrights.

### B. Need and Uses

Contracts must contain terms that delineate the appropriate rights and obligations of the Government and the contractor regarding the use, reproduction and disclosure of data. This clearance covers the information that offerors and contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

• *FAR 52.227–15, Representation of Limited Rights Data and Restricted Computer Software.* This provision requires an offeror to state, in response to a solicitation, whether data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software. If the Government does not receive unlimited rights, the offeror must provide a list of the data that qualify as limited rights data or restricted computer software. The offeror would identify any proprietary data it would use during contract performance, in order that the contracting officer might ascertain if such proprietary data should be delivered.

• *FAR 52.227–16, Additional Data Requirements.* This clause requires contractors to keep, for possible delivery to the Government, any data, in addition to data already required to be delivered under the contract, first produced or specifically used in performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. The data delivered under this clause may be in the form of computations, preliminary data, records of experiments, etc. For any data to be delivered under this clause, the Government will pay the contractor for converting the data into a specific form, and for reproducing and delivering the data. The purpose of such recordkeeping requirements is to ensure that, if all data requirements are not known prior to contract award, the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information.

• *FAR 52.227–17, Rights in Data-Special Works.* This clause is included in solicitations and contracts primarily for production or compilation of data. It is used in rare and exceptional circumstances to permit the Government to limit the contractor's rights in data by preventing the release, distribution, and publication of any data first produced in the performance of the contract. This clause may also be limited to particular items and not the entire contract. This clause requires contractors to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

• *FAR 52.227–18, Rights in Data-Existing Works.* This clause is used when the Government is acquiring existing audiovisual or similar works, such as books, without modification. This clause requires contractors to obtain license for the Government to reproduce, prepare derivative works, and perform and display publicly the materials.

• *FAR 52.227–19, Commercial Computer Software License.* This clause requires contractors to affix a notice on any commercial software delivered under the contract that provides notice that the Government's rights regarding the data are set forth in the contract.

• *FAR 52.227–20, Rights in Data–SBIR Program.* This clause authorizes contractors under Small Business Innovation Research (SBIR) contracts to affix a notice to SBIR data delivered under the contract to limit the Government's rights to disclose data first produced under the contract. Contractors shall obtain from their subcontractors all data and rights necessary to fulfill the contractor's obligations to the Government under the

contract. If a subcontractor refuses to accept terms affording the Government those rights, the contractor shall notify the contracting officer of the refusal.

• *FAR 52.227–21, Technical Data Declaration, Revision, and Withholding of Payment–Major Systems.* This clause requires major systems contractors to certify that the data delivered under the contract is complete, accurate, and compliant with the requirements of the contract.

• *FAR 52.227–23, Rights to Proposal Data (Technical).* This clause allows the Government to identify pages of a proposal that would not be subject to unlimited rights in the technical data.

**C. Annual Burden**

*Respondents/Recordkeepers:* 2,106.

*Total Annual Responses:* 5,999.

*Total Burden Hours:* 5,999. (1,403 reporting hours + 4,596 recordkeeping hours).

**D. Public Comment**

A 60-day notice was published in the **Federal Register** at 85 FR 45637, on July 29, 2020. No comments were received.

*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. 9000–0090, Rights in Data and Copyrights.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2020–22675 Filed 10–13–20; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**[Document Identifier: OS–0990–0025]**

### Agency Information Collection Request; 30-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before November 13, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0990–0025–30D and project title for reference.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Title of the Collection:* Commissioned Corps of the U.S. Public Health Service Application.

*Type of Collection:* Revision.

OMB No. 0990–0025—Commissioned Corps Headquarters.

*Abstract:* The principal purpose of this revision is a result of the Coronavirus Aid, Relief, and Economic Security (CARES) Act that was signed into law on March 27, 202. The Public Health Service Act was amended to provide for a Ready Reserve corps in times of public health emergencies, in addition to national emergencies. Collecting the information is to permit HHS to determine eligibility for appointment of applicants into the Regular Corps and Ready Reserve Corps of the Commissioned Corps of the U.S. Public Health Service Corps (Corps). The Corps is one of the seven Uniformed Services of the United States (37 U.S.C. 101(3)), and appointments in the Corps are made pursuant to 42 U.S.C. 204 *et seq.* and 42 CFR 21.58.

*Type of respondent:* Candidates/Applicants to the Regular and Ready Reserve Corps of the Commissioned Corps of the U.S. Public Health Service.

ANNUALIZED BURDEN HOUR TABLE

| Type of respondent | Form name | Number of regular corps respondents | Number of reserve corps respondents | Number response per respondent | Average burden per responses (in hours) | Total burden hours |
|---|---|---|---|---|---|---|
| Interested Health Professionals. | Prequalification Questionnaire. | 6,000 | 1,000 | 1 | 10/60 | 1,167 |
| Health Professionals | Form PHS–50 | 3,000 | 500 | 1 | 15/60 | 875 |
| References (college professors/teachers). | Form PHS–1813 | 3,000 | 500 | 1 | 15/60 | 875 |
| Health Professionals | Addendum: Commissioned Corps Personal Statement. | 3,000 | 500 | 1 | 15/60 | 875 |
| Total | | | | | | 3,792 |

Dated: October 8, 2020.

**Sherrette A Funn,**

*Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2020–22703 Filed 10–13–20; 8:45 am]

**BILLING CODE 4150–49–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Performance Review Board Members

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 may be named to serve on the Department of Health and Human

Services' (HHS) Performance Review Boards (PRB) from 2020 through 2021. The PRB provides performance rating and rating-based compensation recommendations to the HHS Secretary based on the individual performance appraisals for Senior Executive Service, Senior Level/Senior Technical, and Title 42 executive equivalent employees and the organizational assessments of the Operating and Staff Divisions in which they serve.

| Last name | First name |
|---|---|
| BARRON | PAMELA |
| BARRY | DANIEL |
| BERGERON | DEBORAH |
| BRATCHER BOWMAN. | NIKKI |
| BURNSZYNSKI | JENNIFER |
| BUSH | LAINA |
| CULPEPPER | MICHAEL |
| DUNCAN | JAMES BLAIR |
| HOLLAND | HOWARD |
| KERR | LAWRENCE |
| KRETSCHMAIER | MICHON |
| MCDANIEL | EILEEN |
| NIAKAN | BAHAR |
| NICHOLLS | RICHARD J. |
| POSNACK | STEVEN |
| SCHUHAM | AARON |
| TOBIAS | CONSTANCE |
| TOVEN | JEFFREY |
| WILLIAMS | RASHEED |

Dated: October 7, 2020.

**Kia K. Williams,**

*Program Manager, Executive Performance Management and Compensation on behalf of:*

**Michelle Monroe,**

*Director, Executive Resources.*

[FR Doc. 2020–22551 Filed 10–9–20; 4:15 pm]

**BILLING CODE 4151–17–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Notice of Purchased/Referred Care Delivery Area Redesignation for the Minnesota Chippewa Tribe, Minnesota, Mille Lacs Band of Ojibwe

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** This Notice advises the public that the Indian Health Service (IHS) proposes to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for the Mille Lacs Band of Ojibwe in the State of Minnesota to include the Minnesota counties of Crow Wing and Morrison in the State of Minnesota. The current PRCDA for the Mille Lacs Band of Ojibwe includes the Minnesota counties of Aitkin, Kanebec, Mille Lacs, and Pine. Mille Lacs Band of Ojibwe members residing outside of the PRCDA are eligible for direct care services, however, they are not eligible for Purchased/Referred Care (PRC) services. The sole purpose of this expansion would be to authorize additional Mille Lacs Band of Ojibwe members and beneficiaries to receive PRC services.

**DATES:** Comments must be submitted November 13, 2020.

**ADDRESSES:** Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a Comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Evonne Bennett, Acting Director, Division of Regulatory and Policy Coordination, Indian Health Service, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the above address.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to the address above.

If you intend to deliver your comments to the Rockville address, please call telephone number (301) 443–1116 in advance to schedule your arrival with a staff member.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment.

**FOR FURTHER INFORMATION CONTACT:** CAPT John Rael, Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop: 10E85C, Rockville, Maryland 20857. Telephone 301/443–0969 (This is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

*Background:* The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the person's relative medical priority, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRCDA. The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRCDA must be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). In compliance with this requirement, IHS is publishing this Notice and requesting public comments.

The Minnesota Chippewa Tribe, Minnesota, Mille Lacs Band of Ojibwe Tribe's Reservation boundaries were established by the 1855 Treaty between the Chippewa and the United States. While the Mille Lacs Band of Ojibwe's PRCDA currently consists of Aitkin, Kanebec, Mille Lacs, and Pine counties in the State of Minnesota, the Mille Lacs Band of Ojibwe attests by Tribal Resolution that many Mille Lacs Band of Ojibwe members reside in the nearby Minnesota counties of Crow Wing and

Morrison. These counties are not currently part of a Tribe's designated PRCDA. Accordingly, IHS proposes to expand the Mille Lacs Band of Ojibwe's PRCDA to include the Minnesota Counties of Crow Wing and Morrison.

Under 42 CFR 136.23, those otherwise eligible Indians who do not reside on a reservation, but reside within a PRCDA, must be either members of the Tribe or other IHS beneficiaries who maintain close economic and social ties with the Tribe. In this case, applying the aforementioned PRCDA redesignation criteria required by operative regulations codified at 42 CFR part 136, subpart C, the following findings are made:

1. By expanding, the Mille Lacs Band of Ojibwe estimates the current eligible population will be increased by 324.

2. The Mille Lacs Band of Ojibwe has determined that these 324 individuals are members of the Mille Lacs Band of Ojibwe and they are socially and economically affiliated with the Mille Lacs Band of Ojibwe.

3. The expanded area including Crow Wing and Morrison counties in the State of Minnesota maintain a common boundary with the current PRCDA consisting of Aitkin, Kanebec, Mille Lacs, and Pine counties in the State of Minnesota.

4. The Mille Lacs Band of Ojibwe will use its existing Federal allocation for PRC funds to provide services to the expanded population. No additional financial resources will be allocated by IHS to the Mille Lacs Band of Ojibwe to provide services to Mille Lacs Band of Ojibwe members residing in Crow Wing and Morrison counties in the State of Minnesota.

This Notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

| Tribe/reservation | County/state |
|---|---|
| Ak Chin Indian Community | Pinal, AZ. |
| Alabama-Coushatta Tribes of Texas | Polk, TX.[1] |
| Alaska | Entire State.[2] |
| Arapahoe Tribe of the Wind River Reservation, Wyoming | Hot Springs, WY, Fremont, WY, Sublette, WY. |
| Aroostook Band of Micmacs | Aroostook, ME.[3] |
| Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana. | Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT. |
| Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin. | Ashland, WI, Iron, WI. |
| Bay Mills Indian Community, Michigan | Chippewa, MI. |
| Blackfeet Tribe of the Blackfeet Indian Reservation of Montana | Glacier, MT, Pondera, MT. |
| Brigham City Intermountain School Health Center, Utah | Permanently closed on May 17, 1984.[4] |
| Burns Paiute Tribe | Harney, OR. |
| California | Entire State, except for the counties listed in the footnote.[5] |
| Catawba Indian Nation (AKA Catawba Tribe of South Carolina) | All Counties in SC,[6] Cabarrus, NC, Cleveland, NC, Gaston, NC, Mecklenburg, NC, Rutherford, NC, Union, NC. |
| Cayuga Nation | Alleghany, NY,[7] Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA. |
| Chickahominy Indian Tribe | New Kent, VA, James City, VA, Charles City, VA, Henrico, VA.[8] |
| Chickahominy Indian Tribe—Eastern Division | New Kent, VA, James City, VA, Charles City, VA, Henrico, VA.[9] |
| Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota. | Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD. |
| Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana | Chouteau, MT, Hill, MT, Liberty, MT. |
| Chitimacha Tribe of Louisiana | St. Mary Parish, LA. |
| Cocopah Tribe of Arizona | Yuma, AZ, Imperial, CA. |
| Coeur D'Alene Tribe | Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA. |
| Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California. | La Paz, AZ, Riverside, CA, San Bernardino, CA, Yuma, AZ. |
| Confederated Salish and Kootenai Tribes of the Flathead Reservation | Flathead, MT, Lake, MT, Missoula, MT, Sanders, MT. |
| Confederated Tribes and Bands of the Yakama Nation | Klickitat, WA, Lewis, WA, Skamania, WA,[10] Yakima, WA. |
| Confederated Tribes of Siletz Indians of Oregon | Benton, OR,[11] Clackamas, OR, Lane, OR, Lincoln, OR, Linn, OR, Marion, OR, Multnomah, OR, Polk, OR, Tillamook, OR, Washington, OR, Yamhill, OR. |
| Confederated Tribes of the Chehalis Reservation | Grays Harbor, WA, Lewis, WA, Thurston, WA. |
| Confederated Tribes of the Colville Reservation | Chelan, WA,[12] Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA. |
| Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians | Coos, OR,[13] Curry, OR, Douglas, OR, Lane, OR, Lincoln, OR. |
| Confederated Tribes of the Goshute Reservation, Nevada and Utah | The entire State of Nevada, Juab, UT, Toole, UT. |
| Confederated Tribes of the Grand Ronde Community of Oregon | Marion, OR, Multnomah, OR, Polk, OR,[14] Tillamook, OR, Washington, OR, Yamhill, OR. |
| Confederated Tribes of the Umatilla Indian Reservation | Umatilla, OR, Union, OR. |
| Confederated Tribes of the Warm Springs Reservation of Oregon | Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR. |
| Coquille Indian Tribe | Coos, OR, Curry, OR, Douglas, OR, Jackson, OR, Lane, OR. |
| Coushatta Tribe of Louisiana | Allen Parish, LA, the city limits of Elton, LA.[15] |
| Cow Creek Band of Umpqua Tribe of Indians | Coos, OR,[16] Deshutes, OR, Douglas, OR, Jackson, OR, Josephine, OR, Klamath, OR, Lane, OR. |
| Cowlitz Indian Tribe | Clark, WA, Cowlitz, WA, King, WA, Lewis, WA, Peirce, WA, Skamania, WA, Thurston, WA, Columbia, OR,[17] Kittitas, WA, Wahkiakum, WA. |
| Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota | Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD. |
| Crow Tribe of Montana | Big Horn, MT, Carbon, MT, Treasure, MT,[18] Yellowstone, MT, Big Horn, WY, Sheridan, WY. |
| Eastern Band of Cherokee Indians | Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC. |
| Eastern Shoshone Tribe of the Wind River Reservation, Wyoming | Hot Springs, WY, Fremont, WY, Sublette, WY. |

| Tribe/reservation | County/state |
|---|---|
| Flandreau Santee Sioux Tribe of South Dakota | Moody, SD. |
| Forest County Potawatomi Community, Wisconsin | Forest, WI, Marinette, WI, Oconto, WI. |
| Fort Belknap Indian Community of the Fort Belknap Reservation of Montana. | Blaine, MT, Phillips, MT. |
| Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon. | The entire State of Nevada, Malheur, OR. |
| Fort McDowell Yavapai Nation, Arizona | Maricopa, AZ. |
| Fort Mojave Indian Tribe of Arizona, California and Nevada | The entire State of Nevada, Mohave, AZ, San Bernardino, CA. |
| Gila River Indian Community of the Gila River Indian Reservation, Arizona. | Maricopa, AZ, Pinal, AZ. |
| Grand Traverse Band of Ottawa and Chippewa Indians, Michigan | Antrim, MI,[19] Benzie, MI, Charlevoix, MI, Grand Traverse, MI, Leelanau, MI, Manistee, MI. |
| Hannahville Indian Community, Michigan | Delta, MI, Menominee, MI. |
| Haskell Indian Health Center | Douglas, KS.[20] |
| Havasupai Tribe of the Havasupai Reservation, Arizona | Coconino, AZ, Mohave, AZ.[21] |
| Ho-Chunk Nation of Wisconsin | Adams, WI,[22] Clark, WI, Columbia, WI, Crawford, WI, Dane, WI, Eau Claire, WI, Houston, MN, Jackson, WI, Juneau, WI, La Crosse, WI, Marathon, WI, Monroe, WI, Sauk, WI, Shawano, WI, Vernon, WI, Wood, WI. |
| Hoh Indian Tribe | Jefferson, WA. |
| Hopi Tribe of Arizona | Apache, AZ, Coconino, AZ, Navajo, AZ. |
| Houlton Band of Maliseet Indians | Aroostook, ME.[23] |
| Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona | Coconino, AZ, Mohave, AZ, Yavapai, AZ. |
| Iowa Tribe of Kansas and Nebraska | Brown, KS, Doniphan, KS, Richardson, NE. |
| Jamestown S'Klallam Tribe | Clallam, WA, Jefferson, WA. |
| Jena Band of Choctaw Indians | Grand Parish, LA,[24] LaSalle Parish, LA, Rapides, LA. |
| Jicarilla Apache Nation, New Mexico | Archuleta, CO, Rio Arriba, NM, Sandoval, NM. |
| Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona. | Coconino, AZ, Mohave, AZ, Kane, UT. |
| Kalispel Indian Community of the Kalispel Reservation | Pend Oreille, WA, Spokane, WA. |
| Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo). | Sandoval, NM, Santa Fe, NM. |
| Keweenaw Bay Indian Community, Michigan | Baraga, MI, Houghton, MI, Ontonagon, MI. |
| Kickapoo Traditional Tribe of Texas | Maverick, TX.[25] |
| Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas | Brown, KS, Jackson, KS. |
| Klamath Tribes | Klamath, OR.[26] |
| Koi Nation of Northern California (formerly known as Lower Lake Rancheria, California). | Lake, CA, Sonoma, CA.[27] |
| Kootenai Tribe of Idaho | Boundary, ID. |
| Lac Courte Oreilles Band of Superior Chippewa Indians of Wisconsin | Sawyer, WI. |
| Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin. | Iron, WI, Oneida, WI, Vilas, WI. |
| Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan | Gogebic, MI. |
| Little River Band of Ottawa Indians, Michigan | Kent, MI,[28] Muskegon, MI, Newaygo, MI, Oceana, MI, Ottawa, MI, Manistee, MI, Mason, MI, Wexford, MI, Lake, MI. |
| Little Shell Tribe of Chippewa Indians of Montana | Blaine, MT, Cascade, MT, Glacier, MT, Hill, MT.[29] |
| Little Traverse Bay Bands of Odawa Indians, Michigan | Alcona, MI,[30] Alger, MI, Alpena, MI, Antrim, MI, Benzie, MI, Charlevoix, MI, Cheboygan, MI, Chippewa, MI, Crawford, MI, Delta, MI, Emmet, MI, Grand Traverse, MI, Iosco, MI, Kalkaska, MI, Leelanau, MI, Luce, MI, Mackinac, MI, Manistee, MI, Missaukee, MI, Montmorency, MI, Ogemaw, MI, Oscoda, MI, Otsego, MI, Presque Isle, MI, Schoolcraft, MI, Roscommon, MI, Wexford, MI. |
| Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota | Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD. |
| Lower Elwha Tribal Community | Clallam, WA. |
| Lower Sioux Indian Community in the State of Minnesota | Redwood, MN, Renville, MN. |
| Lummi Tribe of the Lummi Reservation | Whatcom, WA. |
| Makah Indian Tribe of the Makah Indian Reservation | Clallam, WA. |
| Mashantucket Pequot Indian Tribe | New London, CT.[31] |
| Mashpee Wampanoag Tribe | Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[32] |
| Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan | Allegan, MI,[33] Barry, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI. |
| Menominee Indian Tribe of Wisconsin | Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI. |
| Mescalero Apache Tribe of the Mescalero Reservation, New Mexico | Chaves, NM, Lincoln, NM, Otero, NM. |
| Miccosukee Tribe of Indians | Broward, FL, Collier, FL, Miami-Dade, FL, Hendry, FL. |
| Minnesota Chippewa Tribe, Minnesota, Bois Forte Band (Nett Lake) | Itasca, MN, Koochiching, MN, St. Louis, MN. |
| Minnesota Chippewa Tribe, Minnesota, Fond du Lac Band | Carlton, MN, St. Louis, MN. |
| Minnesota Chippewa Tribe, Minnesota, Grand Portage Band | Cook, MN. |
| Minnesota Chippewa Tribe, Minnesota, Leech Lake Band | Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN. |
| Minnesota Chippewa Tribe, Minnesota, Mille Lacs Band | Aitkin, MN, Crow Wing, MN,[34] Kanebec, MN, Mille Lacs, MN, Morrison, MN,[35] Pine, MN. |
| Minnesota Chippewa Tribe, Minnesota, White Earth Band | Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN. |

| Tribe/reservation | County/state |
|---|---|
| Mississippi Band of Choctaw Indians | Attala, MS, Jasper, MS,[36] Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS,[37] Scott, MS,[38] Winston, MS. |
| Mohegan Tribe of Indians of Connecticut | Fairfield, CT, Hartford, CT, Litchfield, CT, Middlesex, CT, New Haven, CT, New London, CT, Tolland, CT, Windham, CT. |
| Monacan Indian Nation | Amherst, VA, Nelson, VA, Albemarle, VA, Buckingham, VA, Appomattox, VA, Campbell, VA, Bedford, VA, Botetourt, VA, Rockbridge, VA, Augusta, VA, and the independent cities of Lynchburg, VA, Lexington, VA, Buena Vista, VA, Staunton, VA, Waynesboro, VA, and Charlottesville, VA.[39] |
| Muckleshoot Indian Tribe | King, WA, Pierce, WA. |
| Nansemond Indian Tribe | The independent cities of Chesapeake, VA, Hampton, VA, Newport News, VA, Norfolk, VA, Portsmouth, VA, Suffolk, VA, and Virginia Beach, VA.[40] |
| Narragansett Indian Tribe | Washington, RI.[41] |
| Navajo Nation, Arizona, New Mexico, & Utah | Apache, AZ, Bernalillo, NM, Cibola, NM, Coconino, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Rio Arriba, NM, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM. |
| Nevada | Entire State.[42] |
| Nez Perce Tribe | Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID. |
| Nisqually Indian Tribe | Pierce, WA, Thurston, WA. |
| Nooksack Indian Tribe | Whatcom, WA. |
| Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana. | Big Horn, MT, Carter, MT,[43] Rosebud, MT. |
| Northwestern Band of Shoshone Nation | Box Elder, UT,[44] Davis, UT, Salt Lake, UT, Weber, UT.[45] |
| Nottawaseppi Huron Band of the Pottawatomi, Michigan | Allegan, MI,[46] Barry, MI, Branch, MI, Calhoun, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI. |
| Oglala Sioux Tribe | Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD,[47] Mellette, SD, Pennington, SD, Shannon, SD, Sheridan, NE, Todd, SD. |
| Ohkay Owingeh, New Mexico | Rio Arriba, NM. |
| Oklahoma | Entire State.[48] |
| Omaha Tribe of Nebraska | Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE. |
| Oneida Nation (previously listed as the Oneida Tribe of Indians of Wisconsin). | Brown, WI, Outagamie, WI. |
| Oneida Indian Nation (previously listed as the Oneida Nation of New York). | Chenango, NY, Cortland, NY, Herkimer, NY, Madison, NY, Oneida, NY, Onondaga, NY. |
| Onondaga Nation | Onondaga, NY. |
| Paiute Indian Tribe of Utah | Iron, UT,[49] Millard, UT, Sevier, UT, Washington, UT. |
| Pamunkey Indian Tribe | Caroline, VA, Hanover, VA, Henrico, VA, King William, VA, King and Queen, VA, New Kent, VA, and the independent city of Richmond, VA.[50] |
| Pascua Yaqui Tribe of Arizona | Pima, AZ.[51] |
| Passamaquoddy Tribe | Aroostook, ME,[52] [53] Hancock, ME,[54] Washington, ME. |
| Penobscot Nation | Aroostook, ME,[55] Penobscot, ME. |
| Poarch Band of Creeks | Baldwin, AL,[56] Elmore, AL, Escambia, AL, Mobile, AL, Monroe, AL, Escambia, FL. |
| Pokagon Band of Pottawatomi Indians, Michigan and Indiana | Allegan, MI,[57] Berrien, MI, Cass, MI, Elkhart, IN, Kosciusko, IN, La Porte, IN, Marshall, IN, St. Joseph, IN, Starke, IN, Van Buren, MI. |
| Ponca Tribe of Nebraska | Boyd, NE,[58] Burt, NE, Charles Mix, SD, Douglas, NE, Hall, NE, Holt, NE, Knox, NE, Lancaster, NE, Madison, NE, Platte, NE, Pottawatomie, IA, Sarpy, NE, Stanton, NE, Wayne, NE, Woodbury, IA. |
| Port Gamble S'Klallam Tribe | Kitsap, WA. |
| Prairie Band of Pottawatomi Nation | Jackson, KS. |
| Prairie Island Indian Community in the State of Minnesota | Goodhue, MN. |
| Pueblo of Acoma, New Mexico | Cibola, NM. |
| Pueblo of Cochiti, New Mexico | Sandoval, NM, Santa Fe, NM. |
| Pueblo of Isleta, New Mexico | Bernalillo, NM, Torrance, NM, Valencia, NM. |
| Pueblo of Jemez, New Mexico | Sandoval, NM. |
| Pueblo of Laguna, New Mexico | Bernalillo, NM, Cibola, NM, Sandoval, NM, Valencia, NM. |
| Pueblo of Nambe, New Mexico | Santa Fe, NM. |
| Pueblo of Picuris, New Mexico | Taos, NM. |
| Pueblo of Pojoaque, New Mexico | Rio Arriba, NM, Santa Fe, NM. |
| Pueblo of San Felipe, New Mexico | Sandoval, NM. |
| Pueblo of San Ildefonso, New Mexico | Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM. |
| Pueblo of Sandia, New Mexico | Bernalillo, NM, Sandoval, NM. |
| Pueblo of Santa Ana, New Mexico | Sandoval, NM. |
| Pueblo of Santa Clara, New Mexico | Los Alamos, NM, Sandoval, NM, Santa Fe, NM. |
| Pueblo of Taos, New Mexico | Colfax, NM, Taos, NM. |
| Pueblo of Tesuque, Mexico | Santa Fe, NM. |
| Pueblo of Zia, New Mexico | Sandoval, NM. |
| Puyallup Tribe of the Puyallup Reservation | King, WA, Pierce, WA, Thurston, WA. |

| Tribe/reservation | County/state |
|---|---|
| Quechan Tribe of the Fort Yuma Indian Reservation, Arizona and California. | Yuma, AZ, Imperial, CA. |
| Quileute Tribe of the Quileute Reservation | Clallam, WA, Jefferson, WA. |
| Quinault Indian Nation | Grays Harbor, WA, Jefferson, WA |
| Rapid City, South Dakota | Pennington, SD.[59] |
| Rappahannock Tribe, Inc. | King and Queen County, VA, Caroline County, VA, Essex County, VA, King William County, VA.[60] |
| Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin | Bayfield, WI. |
| Red Lake Band of Chippewa Indians, Minnesota | Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN. |
| Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota | Bennett, SD, Cherry, NE, Gregory, SD, Lyman, SD, Mellette, SD, Todd, SD, Tripp, SD. |
| Sac & Fox Nation of Missouri in Kansas and Nebraska | Brown, KS, Richardson, NE. |
| Sac & Fox Tribe of the Mississippi in Iowa | Tama, IA. |
| Saginaw Chippewa Indian Tribe of Michigan | Arenac, MI,[61] Clare, MI, Isabella, MI, Midland, MI, Missaukee, MI. |
| Saint Regis Mohawk Tribe | Franklin, NY, St. Lawrence, NY. |
| Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona. | Maricopa, AZ. |
| Samish Indian Nation | Clallam, WA,[62] Island, WA, Jefferson, WA, King, WA, Kitsap, WA, Pierce, WA, San Juan, WA, Skagit, WA, Snohomish, WA, Whatcom, WA. |
| San Carlos Apache Tribe of the San Carlos Reservation, Arizona | Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ. |
| San Juan Southern Paiute Tribe of Arizona | Coconino, AZ, San Juan, UT. |
| Santee Sioux Nation, Nebraska | Bon Homme, SD, Knox, NE. |
| Sauk-Suiattle Indian Tribe | Snohomish, WA, Skagit, WA. |
| Sault Ste. Marie Tribe of Chippewa Indians, Michigan | Alger, MI,[63] Chippewa, MI, Delta, MI, Luce, MI, Mackinac, MI, Marquette, MI, Schoolcraft, MI. |
| Seminole Tribe of Florida | Broward, FL, Collier, FL, Miami-Dade, FL, Glades, FL, Hendry, FL. |
| Seneca Nation of Indians | Alleghany, NY, Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA. |
| Shakopee Mdewakanton Sioux Community of Minnesota | Scott, MN. |
| Shinnecock Indian Nation | Nassau, NY,[64] Suffolk, NY. |
| Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation | Pacific, WA. |
| Shoshone-Bannock Tribes of the Fort Hall Reservation | Bannock, ID, Bingham, ID, Caribou, ID, Lemhi, ID,[65] Power, ID. |
| Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada | The entire state of Nevada, Owyhee, ID. |
| Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota. | Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN. |
| Skokomish Indian Tribe | Mason, WA. |
| Skull Valley Band of Goshute Indians of Utah | Tooele, UT. |
| Snoqualmie Indian Tribe | King, WA,[66] Snohomish, WA, Pierce, WA, Island, WA, Mason, WA. |
| Sokaogon Chippewa Community, Wisconsin | Forest, WI. |
| Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado | Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM. |
| Spirit Lake Tribe, North Dakota | Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND. |
| Spokane Tribe of the Spokane Reservation | Ferry, WA, Lincoln, WA, Stevens, WA. |
| Squaxin Island Tribe of the Squaxin Island Reservation | Mason, WA. |
| St. Croix Chippewa Indians of Wisconsin | Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI. |
| Standing Rock Sioux Tribe of North & South Dakota | Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD. |
| Stillaguamish Tribe of Indians of Washington | Snohomish, WA. |
| Stockbridge Munsee Community, Wisconsin | Menominee, WI, Shawano, WI. |
| Suquamish Indian Tribe of the Port Madison Reservation | Kitsap, WA. |
| Swinomish Indian Tribal Community | Skagit, WA. |
| Tejon Indian Tribe | The State of California including Kern, CA.[67] |
| Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota | Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND. |
| Tohono O'odham Nation of Arizona | Maricopa, AZ, Pima, AZ, Pinal, AZ. |
| Tolowa Dee-ni' Nation (formerly known as Smith River Rancheria of California). | California, Curry, OR.[68] |
| Tonawanda Band of Seneca | Genesee, NY, Erie, NY, Niagara, NY. |
| Tonto Apache Tribe of Arizona | Gila, AZ. |
| Trenton Service Unit, North Dakota and Montana | Divide, ND,[69] McKenzie, ND, Williams, ND, Richland, MT, Roosevelt, MT, Sheridan, MT. |
| Tulalip Tribes of Washington | Snohomish, WA. |
| Tunica-Biloxi Indian Tribe | Avoyelles, LA, Rapides, LA.[70] |
| Turtle Mountain Band of Chippewa Indians of North Dakota | Rolette, ND. |
| Tuscarora Nation | Niagara, NY. |
| Upper Mattaponi Tribe | Caroline, VA, Charles City, VA, Essex, VA, Hanover, VA, Henrico, VA, James City, VA, King and Queen, VA, King William, VA, Middlesex, VA, New Kent, VA, Richmond, VA and the independent city of Richmond, VA.[71] |
| Upper Sioux Community, Minnesota | Chippewa, MN, Yellow Medicine, MN. |

| Tribe/reservation | County/state |
|---|---|
| Upper Skagit Indian Tribe | Skagit, WA. |
| Ute Indian Tribe of the Uintah & Ouray Reservation, Utah | Carbon, UT, Daggett, UT, Duchesne, UT, Emery, UT, Grand, UT, Rio Blanco, CO, Summit, UT, Uintah, UT, Utah, UT, Wasatch, UT. |
| Ute Mountain Ute Tribe | Apache, AZ, La Plata, CO, Montezuma, CO, San Juan, NM, San Juan, UT. |
| Wampanoag Tribe of Gay Head (Aquinnah) | Dukes, MA,[72] Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[73] |
| Washoe Tribe of Nevada & California | The State of Nevada, The State of California except for the counties listed in footnote. |
| White Mountain Apache Tribe of the Fort Apache Reservation, Arizona | Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ. |
| Wilton Rancheria, California | The State of California including Sacramento, CA.[74] |
| Winnebago Tribe of Nebraska | Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA. |
| Yankton Sioux Tribe of South Dakota | Bon Homme, SD, Boyd, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchinson, SD, Knox, NE. |
| Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona | Yavapai, AZ. |
| Yavapai-Prescott Indian Tribe | Yavapai, AZ. |
| Ysleta Del Sur Pueblo of Texas | El Paso, TX.[75] |
| Zuni Tribe of the Zuni Reservation, New Mexico | Apache, AZ, Cibola, NM, McKinley, NM, Valencia, NM. |

[1] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for ''members of the Tribe'' by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

[2] Entire State of Alaska is included as a CHSDA by regulation (42 CFR 136.22(a)(1)).

[3] Aroostook Band of Micmacs was recognized by Congress on November 26, 1991, through the Aroostook Band of Micmac Settlement Act. Aroostook County, ME, was defined as the SDA.

[4] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Brigham City Intermountain School Health Center, Utah (Pub. L. 88–358).

[5] Entire State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, is designated a CHSDA (25 U.S.C. 1680).

[6] The counties were recognized after the January 1984 CHSDA FRN was published, in accordance with Public Law 103–116, Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, dated October 27, 1993.

[7] There is no reservation for the Cayuga Nation; the service delivery area consists of those counties identified by the Cayuga Nation.

[8] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Chickahominy Indian Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[9] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Chickahominy Indian Tribe—Eastern Division as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[10] Skamania County, WA, has historically been a part of the Yakama Service Unit population since 1979.

[11] In order to carry out the Congressional intent of the Siletz Restoration Act, Public Law 95–195, as expressed in H. Report No. 95–623, at page 4, members of the Confederated Tribes of Siletz Indians of Oregon residing in these counties are eligible for contract health services.

[12] Chelan County, WA, has historically been a part of the Colville Service Unit population since 1970.

[13] Pursuant to Public Law 98–481 (H. Rept. No. 98–904), Coos, Lower Umpqua and Siuslaw Restoration Act, members of the Tribe residing in these counties were specified as eligible for Federal services and benefits without regard to the existence of a Federal Indian reservation.

[14] The Confederated Tribes of Grand Ronde Community of Oregon were recognized by Public Law 98–165 which was signed into law on November 22, 1983, and provides for eligibility in these six counties without regard to the existence of a reservation.

[15] The CHSDA for the Coushatta Tribe of Louisiana was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(b)) to include city limits of Elton, LA.

[16] Cow Creek Band of Umpqua Tribe of Indians recognized by Public Law 97–391, signed into law on December 29, 1983. House Rept. No. 97–862 designates Douglas, Jackson, and Josephine Counties as a service area without regard to the existence of a reservation. The IHS later administratively expanded the CHSDA to include the counties of Coos, OR, Deschutes, OR, Klamath, OR, and Lane, OR.

[17] The Cowlitz Indian Tribe was recognized in July 2002 as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638. The CHSDA was administratively expanded to included Columbia County, OR, Kittitas, WA, and Wahkiakum County, WA, as published at 67884 FR December 21, 2009.

[18] Treasure County, MT, has historically been a part of the Crow Service Unit population.

[19] The counties listed have historically been a part of the Grand Traverse Service Unit population since 1980.

[20] Haskell Indian Health Center has historically been a part of Kansas Service Unit since 1979. Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Haskell Indian Health Center (H. Rept. No. 95–392).

[21] The PRCDA for the Havasupai Tribe of Arizona was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(b)) to include Mohave County in the State of Arizona.

[22] CHSDA counties for the Ho-Chunk Nation of Wisconsin were designated by regulation (42 CFR 136.22(a)(5)). Dane County, WI, was added to the reservation by the Bureau of Indian Affairs in 1986.

[23] Public Law 97–428 provides that any member of the Houlton Band of Maliseet Indians in or around the Town of Houlton shall be eligible without regard to existence of a reservation.

[24] The Jena Band of Choctaw Indian was Federally acknowledged as documented at 60 FR 28480, May 31, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[25] Kickapoo Traditional Tribe of Texas, formerly known as the Texas Band of Kickapoo, was recognized by Public Law 97–429, signed into law on January 8, 1983. The Act provides for eligibility for Kickapoo Tribal members residing in Maverick County without regard to the existence of a reservation.

[26] The Klamath Indian Tribe Restoration Act (Pub. L. 99–398, Sec. 2(2)) states that for the purpose of Federal services and benefits ''members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation''.

[27] The Koi Nation of Northern California, formerly known as the Lower Lake Rancheria, was reaffirmed by the Secretary of the Bureau of Indian Affairs on December 29, 2000. The counties listed were designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[28] The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act recognized the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Pursuant to Public Law 103–324, Sec. 4(b) the counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[29] In Public Law 116–92, that became law on December 20, 2019, Congress federally recognized the Little Shell Tribe of Chippewa Indians of Montana. Consistent with Public Law 116–92, the IHS designated the counties as the PRCDA for the Little Shell Tribe of Chippewa Indians of Montana.

[30] The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act recognized the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Pursuant to Public Law 103–324, Sec. 4(b) the counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[31] Mashantucket Pequot Indian Claims Settlement Act, Public Law 98–134, signed into law on October 18, 1983, provides a reservation for the Mashantucket Pequot Indian Tribe in New London County, CT.

[32] The Mashpee Wampanoag Tribe was recognized in February 2007, as documented at 72 FR 8007, February 22, 2007. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[33] The Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan was recognized in October 1998, as documented at 63 FR 56936, October 23, 1998. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[34] The PRCDA for the Mille Lacs Band of Ojibwe was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(b)) to include the counties of Crow Wing and Morrison in the State of Minnesota.

[35] The PRCDA for the Mille Lacs Band of Ojibwe was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(b)) to include the counties of Crow Wing and Morrison in the State of Minnesota.

[36] Members of the Mississippi Band of Choctaw Indians residing in Jasper and Noxubee Counties, MS, are eligible for contract health services; these two counties were inadvertently omitted from 42 CFR 136.22.

[37] Members of the Mississippi Band of Choctaw Indians residing in Jasper and Noxubee Counties, MS, are eligible for contract health services; these two counties were inadvertently omitted from 42 CFR 136.22.

[38] Scott County, MS, has historically been a part of the Choctaw Service Unit population since 1970.

[39] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Monacan Indian Nation as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[40] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Nansemond Indian Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[41] The Narragansett Indian Tribe was recognized by Public Law 95–395, signed into law September 30, 1978. Lands in Washington County, RI, are now Federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[42] Entire State of Nevada is included as a CHSDA by regulation (42 CFR 136.22 (a)(2)).

[43] Carter County, MT, has historically been a part of the Northern Cheyenne Service Unit population since 1979.

[44] Land of Box Elder County, Utah, was taken into trust for the Northwestern Band of Shoshone Nation in 1986.

[45] The PRCDA for the Northwestern Band of Shoshone Nation was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(b)) to include the counties of Davis, Salt Lake, and Weber, in the State of Utah.

[46] The Nottawaseppi Huron Band of the Potawatomi, Michigan, formerly known as the Huron Band of Potawatomi, Inc., was recognized in December 1995, as documented at 60 FR 66315, December 21, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[47] Washabaugh County, SD, merged and became part of Jackson County, SD, in 1983; both were/are CHSDA counties for the Oglala Sioux Tribe.

[48] Entire State of Oklahoma is included as a CHSDA by regulation (42 CFR 136.22 (a)(3)).

[49] Paiute Indian Tribe of Utah Restoration Act, Public Law 96–227, provides for the extension of services for the Paiute Indian Tribe of Utah to these four counties without regard to the existence of a reservation.

[50] In the **Federal Register** on July 8, 2015 (80 FR 39144), the Pamunkey Indian Tribe was officially recognized as an Indian Tribe within the meaning of Federal law. The counties listed were designated administratively as the PRCDA, for the purposes of operating a PRC program.

[51] Legislative history (H.R. Report No. 95–1021) to Public Law 95–375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresses congressional intent that lands conveyed to the Pascua Yaqui Tribe of Arizona pursuant to Act of October 8, 1964. (Pub. L. 88–350) shall be deemed a Federal Indian Reservation.

[52] The Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420; H. Rept. 96–1353) includes the intent of Congress to fund and provide contract health services to the Passamaquoddy Tribe and the Penobscot Nation.

[53] The Passamaquoddy Tribe has two reservations: Indian Township and Pleasant Point. The PRCDA for the Passamaquoddy Tribe at Indian Township, ME, is Aroostook County, ME, Washington County, ME, and Hancock County, ME. The PRCDA for the Passamaquoddy Tribe at Pleasant Point, ME, is Washington County, ME, south of State Route 9, and Aroostook County, ME.

[54] The Passamaquoddy Tribe's counties listed are designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[55] The Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420; H. Rept. 96–1353) includes the intent of Congress to fund and provide PRC to the Passamaquoddy Tribe and the Penobscot Nation.

[56] Counties in the Service Unit designated by Congress for the Poarch Band of Creek Indians (see H. Rept. 98–886, June 29, 1984; Cong. Record, October 10, 1984, Pg. H11929).

[57] Public Law 103–323 restored Federal recognition to the Pokagon Band of Potawatomi Indians, Michigan and Indiana, in 1994 and identified counties to serve as the SDA.

[58] The Ponca Restoration Act, Public Law 101–484, recognized members of the Ponca Tribe of Nebraska in Boyd, Douglas, Knox, Madison or Lancaster counties of Nebraska or Charles Mix county of South Dakota as residing on or near a reservation. Public Law 104–109 made technical corrections to laws relating to Native Americans and added Burt, Hall, Holt, Platte, Sarpy, Stanton, and Wayne counties of Nebraska and Pottawatomie and Woodbury counties of Iowa to the Ponca Tribe of Nebraska SDA.

[59] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations. Historically services have been provided at Rapid City (S. Rept. No. 1154, FY 1967 Interior Approp. 89th Cong. 2d Sess.).

[60] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Rappahannock Tribe, Inc. as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[61] Historically part of Isabella Reservation Area for the Saginaw Chippewa Indian Tribe of Michigan and the Eastern Michigan Service Unit population since 1979.

[62] The Samish Indian Tribe Nation was Federally acknowledged in April 1996 as documented at 61 FR 15825, April 9, 1996. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[63] CHSDA counties for the Sault Ste. Marie Tribe of Chippewa Indians, Michigan, were designated by regulation (42 CFR 136.22(a)(4)).

[64] The Shinnecock Indian Nation was Federally acknowledged in June 2010 as documented at 75 FR 34760, June 18, 2010. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[65] Lemhi County, ID, has historically been a part of the Fort Hall Service Unit population since 1979.

[66] The Snoqualmie Indian Tribe was Federally acknowledged in August 1997 as documented at 62 FR 45864, August 29, 1997. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[67] On December 30, 2011 the Office of Assistant Secretary-Indian Affairs reaffirmed the Federal recognition of the Tejon Indian Tribe. Kern County, CA, was designated administratively as part of the Tribe's CHSDA in addition to the CHSDA established by Congress for the State of California. Kern County was not covered when Congress originally established the State of California as a CHSDA excluding certain counties including Sacramento County (25 U.S.C. 1680).

[68] The counties listed are designated administratively as the SDA, to function as a PRC SDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[69] The Secretary acting through the Service is directed to provide contract health services to Turtle Mountain Band of Chippewa Indians that reside in Trenton Service Unit, North Dakota and Montana, in Divide, Mackenzie, and Williams counties in the state of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the state of Montana (Sec. 815, Public Law 94–437).

[70] Rapides County, LA, has historically been a part of the Tunica Biloxi Service Unit population since 1982.

[71] The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, Public Law 115–121, officially recognized the Upper Mattaponi Tribe as an Indian Tribe within the meaning of Federal law, and specified an area for the delivery of Federal services. The IHS administratively designated the Tribe's PRCDA, for the purposes of operating a PRC program, consistent with the Congressional intent expressed in the Recognition Act.

[72] According to Public Law 100–95, Sec. 12, members of the Wampanoag Tribe of Gay Head (Aquinnah) residing on Martha's Vineyard are deemed to be living on or near an Indian reservation for the purposes of eligibility for Federal services.

[73] The counties listed are designated administratively as the SDA, to function as a PRCDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Public Law 93–638.

[74] The Wilton Rancheria, California had Federal recognition restored in July 2009 as documented at 74 FR 33468, July 13, 2009. Sacramento County, CA, was designated administratively as part of the Rancheria's CHSDA in addition to the CHSDA established by Congress for the State of California. Sacramento County was not covered when Congress originally established the State of California as a CHSDA excluding certain counties including Sacramento County (25 U.S.C. 1680).

[75] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for "members of the Tribe" by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

**Michael D. Weahkee,**

*Assistant Surgeon General, RADM, U.S. Public Health Service, Director, Indian Health Service.*

[FR Doc. 2020–22719 Filed 10–13–20; 8:45 a.m.]

**BILLING CODE 4165–16–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Notice of Listing of Members of the Indian Health Service's Senior Executive Service Performance Review Board (PRB)

The Indian Health Service (IHS) announces the persons who will serve on the Indian Health Service's Senior Executive Service Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons may be named to serve on the Performance Review Boards from 2020 to 2022, which oversee the evaluation of performance appraisals and compensation for Senior Executive Service, Senior Level/Senior Technical, and Title 42 executive equivalent members of the Indian Health Service.

Buchanan, Chris
Cooper, Jennifer
Cotton, Beverly
Curtis, Jillian
Driving Hawk, James
Grinnell, Randy (Chair)
Gyorda, Lisa
LaRoche, Darrell
Redgrave, Bryce
Smith, Ben
Tso, Roselyn

For further information about the IHS Performance Review Board, contact Nathan Anderson, Office of Human Resources, Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857, Telephone 605–681–4940.

**Michael D. Weahkee,**

*RADM, Assistant Surgeon General, U.S. Public Health Service, Director, Indian Health Service.*

[FR Doc. 2020–22728 Filed 10–13–20; 8:45 am]

**BILLING CODE 4165–16–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Review.

*Date:* November 9, 2020.

*Time:* 2:30 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Charlene J. Repique, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7347, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *charlene.repique@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 7, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–22643 Filed 10–13–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health. The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The Open Session will be open to the public via NIH Videocast. The URL link to access this meeting is *https://videocast.nih.gov.*

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 Advisory Council for Complementary and Integrative Health.

*Date:* January 15, 2021.

Closed: 10:00 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

Open: 11:45 a.m. to 5:00 p.m.

*Agenda:* A report from the Director of the Center and Other Staff.

*Place:* National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

*Contact Person:* Partap Singh Khalsa, Ph.D., DC, Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892–5475, 301–594–3462, *khalsap@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Any member of the public may submit written comments no later than 15 days after the meeting.

Information is also available on the Institute's/Center's home page: *https://www.nccih.nih.gov/news/events/advisory-council-76th-meeting,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 7, 2020.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–22593 Filed 10–13–20; 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; Small Business: HIV/AIDS Innovative Research.

*Date:* November 5, 2020.

*Time:* 10:00 a.m. to 5:30 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:* Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9448, *shinako.takada@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

*Date:* November 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:* Shalanda A Bynum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7848, Bethesda, MD 20892, (301) 755–4355, *bynumsa@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

*Date:* November 12–13, 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:* Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: SBIR/STTR Commercialization Readiness Pilot (CRP) Program.

*Date:* November 12–13, 2020.

*Time:* 9:00 a.m. to 2:00 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:* Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology.

*Date:* November 12, 2020.

*Time:* 9:30 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:* David B Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Electronic Nicotine Delivery Systems (ENDS): Population, Clinical and Applied Prevention Research.

*Date:* November 12, 2020.

*Time:* 10:00 a.m. to 4:00 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:* Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 523–0646, *mintzermz@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: High-End or Shared Light Microscope Systems (S10).

*Date:* November 12–13, 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:* Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Shared and High-End Instruments: Mass Spectrometers.
*Date:* November 12–13, 2020.
*Time:* 10:30 a.m. to 1:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* C-L Albert Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7806, Bethesda, MD 20892, 301–435–1016, *wangca@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory and Memory Processes.
*Date:* November 12, 2020.
*Time:* 11:00 a.m. to 4:00 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:* 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.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; COVID–19 Digital Health Interventions.
*Date:* November 12, 2020.
*Time:* 12:00 p.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:* Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial Risks and Disease Prevention.
*Date:* November 12, 2020.
*Time:* 12:00 p.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:* Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 8, 2020.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–22652 Filed 10–13–20; 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; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 05, 2020, 08:00 a.m. to November 05, 2020, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on October 06, 2020, 85 FR 63123.

This notice is amended to change the meeting start time from 8:00 a.m. to 9:00 a.m. The meeting is closed to the public.

Dated: October 8, 2020.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–22653 Filed 10–13–20; 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; Emergency Awards: RADx-rad Predicting Viral-Associated Inflammatory Disease Severity in Children with Laboratory Diagnostics and Artificial Intelligence (PreVAIL kIds).
*Date:* October 29, 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:* Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry and Chemical Biology.
*Date:* November 9–10, 2020.
*Time:* 8:00 a.m. to 4:00 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 Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Special Topics: Noninvasive Neuromodulation and EEG/MEG Neuroimaging.
*Date:* November 10, 2020.
*Time:* 9:00 a.m. to 7:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 5104, Bethesda, MD 20892–5104, (301) 237–1487, *lowss@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA–RM–20–010: Research Education Program Grants for CryoEM and CryoET Curriculum Development.
*Date:* November 10, 2020.
*Time:* 10:00 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:* Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, (301) 435–0229, *kenneth.ryan@nih.hhs.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR–18–669: SPF Macaque Colonies.

*Date:* November 10, 2020.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 443–5779, *prasads@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 7, 2020.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–22644 Filed 10–13–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2020–0483]**

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0041

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0041, Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates; without change.

Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** You may submit comments to the Coast Guard and OIRA on or before November 13, 2020.

**ADDRESSES:** Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2020–0483]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0483], and must be received by November 13, 2020.

### Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0041.

### Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 46683, August 3, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

### Information Collection Request

*Title:* Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates.

*OMB Control Number:* 1625–0041.

*Summary:* Required by the adoption of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and other international treaties, these certificates and documents are evidence of compliance for U.S. vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port.

*Need:* Compliance with treaty requirements aids in the prevention of pollution from ships.

*Forms:*

• CG–16478, International Certificate on Inventory of Hazardous Materials (Statement of Voluntary Compliance).

*Respondents:* Owners, operators, or masters of vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden increases 16 hours; due to a new optional form—the International Certificate on Inventory of Hazardous Materials (Statement of Voluntary Compliance) (form CG–16478).

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: October 8, 2020.

**Kathleen Claffie,**

*Chief, Office of Privacy Management, U.S. Coast Guard.*

[FR Doc. 2020–22726 Filed 10–13–20; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2020–0016]**

### Meeting To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act; Correction

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Announcement of meeting; request for comments; correction.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) published a document in the **Federal Register** of October 8, 2020, concerning a meeting announcement and request for comments to implement the Voluntary Agreement for the *Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.* The document contained incorrect timeframes.

**FOR FURTHER INFORMATION CONTACT:** Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

**SUPPLEMENTARY INFORMATION:**

### Correction

In the **Federal Register** of October 8, 2020, in FR Doc. 2020–22149 on page 63567, in the second column, correct the ''Dates'' caption to read:

**DATES:** The meeting will take place on Tuesday, October 13, 2020, from 2:30 to 4:30 p.m. Eastern Time (ET). The first portion of the meeting, from approximately 2:30 to 3:30 p.m., will be open to the public. Written comments for consideration at the meeting must be submitted and received by 12:00 p.m. ET on Monday, October 12, 2020. To register to attend the meeting or to make remarks during the public comment period of the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below by 12:00 p.m. ET on Monday, October 12, 2020.

Dated: October 9, 2020.

**Shabnaum Q. Amjad,**

*Deputy Associate Chief Counsel, Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency.*

[FR Doc. 2020–22774 Filed 10–9–20; 11:15 am]

**BILLING CODE 9111–19–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2020–0024; OMB No. 1660–0149]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request; Requests for Special Priorities Assistance

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** 30 Day notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

**DATES:** Comments must be submitted on or before November 13, 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:** Requests for additional information or copies of the information collection should be made to Director, Information Management Division, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Office of Policy and Program Analysis, Marc Geier, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (telephone) 202–924–0196, or (email) *FEMA-DPA@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** This proposed information collection previously published in the **Federal Register** on August 3, 2020 at 85 FR 46688 with a 60-day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

### Collection of Information

*Title:* Requests for Special Priorities Assistance.

*Type of information collection:* Revision of a currently approved information collection.

*OMB Number:* 1660–0149.

*Form Titles and Numbers:* FEMA Form 009–0–142, Requests for Special Priorities Assistance.

*Abstract:* Contractors may request Special Priorities Assistance (SPA) when placing rated orders with suppliers, to obtain timely delivery of products, materials or services from suppliers, or for any other reason under the EMPAS, in support of approved national programs. Additionally, when responding to COVID–19, State and local governments, owners, operators, and the private sector may request SPA. FEMA Form 009–0–142 is used to apply for such assistance.

*Affected Public:* For-Profit Business; Private Non-Profit; State, local or Tribal government.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses:* 20.

*Estimated Total Annual Burden Hours:* 5.

*Estimated Total Annual Respondent Cost:* $288.

*Estimated Respondents' Operation and Maintenance Costs:* None.

*Estimated Respondents' Capital and Start-Up Costs:* None.

*Estimated Total Annual Cost to the Federal Government:* $52,857.

**Comments**

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Maile Arthur,**

*Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2020–22650 Filed 10–13–20; 8:45 am]

BILLING CODE 9111–19–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[201A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–NEW]**

### Agency Information Collection Activities; Enterprise License Agreement GIS Software User Information Collection

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before December 14, 2020.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the Office of Trust Services, Division of Land Titles and Records, Branch of Geospatial Support, 13922 Denver West Parkway Bldg. 54, Suite 300, Lakewood, CO 80401; or by email to *geospatial@bia.gov.* Please reference OMB Control Number 1076–NEW in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Peggy Deaton, Acting Branch Chief of BOGS by email at *geospatial@bia.gov,* or by telephone at 1–877–293–9494. You can also request additional information from Dawn Selwyn by telephone at 202–494–4688.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Bureau of Indian Affairs (BIA) Branch of Geospatial Support (BOGS) manages the Department of the Interior's (DOI) software Enterprise Licensing Agreement (ELA) with ESRI for Indian Affairs. A critical part of the ELA is for BOGS to keep accurate and up-to-date licensing counts for all ELA software users. Doing so provides BIA an accurate account of its total geographic information system (GIS) software user community, which in turn drives the overall cost of BIA's participation in this agreement. The forms in this collection are the method BIA uses to fulfill this requirement and provide accountability for the acquisition of the software.

*Title of Collection:* Enterprise License Agreement GIS Software User Information Collection.

*OMB Control Number:* 1076–NEW.

*Form Name:* Tribal Enterprise License Agreement Application Form, Tribal Enterprise License Agreement Order Form ArcGIS Pro, Enterprise License Agreement Order Form ArcGIS Pro, Enterprise License Agreement Order Form XTools Pro, and Enterprise License Agreement Reconciliation Form.

*Type of Review:* New.

*Respondents/Affected Public:* Tribal government employees.

*Total Estimated Number of Annual Respondents:* 2,201.

*Total Estimated Number of Annual Responses:* 2,201.

*Estimated Completion Time per Response:* 30 minutes.

*Total Estimated Number of Annual Burden Hours:* 1,101 hours.

*Respondent's Obligation:* Required to obtain a benefit.

*Frequency of Collection:* Annually.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2020–22682 Filed 10–13–20; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[212A2100DD/AAKC001030/ A0A51010.999900]**

### Land Acquisitions; Chickasaw Nation

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Assistant Secretary—Indian Affairs made a final agency determination to transfer 61.63 acres, more or less, of land near the City of

Kingston, Marshall County, Oklahoma, (Site) into trust for the Chickasaw Nation for gaming and other purposes.

**DATES:** This final determination was made on October 8, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Bureau of Indian Affairs, MS–3543 MIB, 1849 C Street NW, Washington, DC 20240, telephone (202) 219–4066, *paula.hart@bia.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1, and is published to comply with the requirements of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

On the date listed in the **DATES** section of this notice, the Assistant Secretary—Indian Affairs issued a decision to accept the Site, consisting of 61.63 acres, more or less, of land in trust for the Chickasaw Nation (Nation), under the authority of the Indian Reorganization Act, 25 U.S.C. 5108. The Assistant Secretary—Indian Affairs determined that Nation's request also meets the requirements of the Indian Gaming Regulatory Act's ''Oklahoma exception,'' 25 U.S.C. 2719(a)(2)(A)(i), to the general prohibition contained in 25 U.S.C. 2719(a) on gaming on lands acquired in trust after October 17, 1988.

The Assistant Secretary—Indian Affairs, on behalf of the Secretary of the Interior, will immediately acquire title to the Site in the name of the United States of America in trust for the Nation upon fulfillment of Departmental requirements.

The 61.63 acres, more or less, are located near the City of Kingston, Marshall County, Oklahoma, and are described as follows:

*PARCEL. ''1'' LEGAL DESCRIPTION: (As filed in Book 1088, Page 593 in the Office of the Marshall County Clerk)*

A tract of land lying in the Northwest Quarter of Section 36, Township 6 South, Range 6 East of the Indian Base and Meridian, Marshall County, State of Oklahoma, and being more particularly described as follows:

Commencing at the Northwest Corner of the said Northwest Quarter of Section 36; Thence South 00°34′27″ East, along the West line of the said Northwest Quarter of Section 36, a distance of 331.05 feet; Thence North 89°19′00″ East, a distance of 485.71 feet to the Point of Beginning; Thence North 15°41′02″ West, a distance of 92.52 feet to a point on the Southerly Right of Way line of U.S. Highway 70 as established by the Easement for Road or Street in favor of the State of Oklahoma recorded in Book 875, Page 465, Marshall County records; Thence Easterly, along said Right of Way line, on a non-tangent curve to the left having a radius of 5859.58 feet (said curve subtended by a chord which bears North 80°35′09″ East, a distance of 71.46 feet) for an arc distance of 71.46 feet to the intersection of said line with the Southerly Right of Way line as established by the Easement for Road or Street in favor of the State of Oklahoma recorded in Book 528, Page 502, Marshall County records; Thence Easterly, along said Right of Way line as established by said Easement, the following Three (3) courses:

1. South 73°25′43″ East, a distance of 102.56 feet,
2. Easterly along a non-tangent curve to the left having a radius of 5,889.58 feet (said curve subtended by a chord which bears North 73°09′14″ East, a distance of 214.52 feet) for an arc distance of 214.53,
3. North 60°53′14″ East, a distance of 210.44 feet to the intersection of said Right of Way line established by the above referenced Easement recorded in Book 875, Page 465,

Thence South 64°07′34″ East, along said Right of Way line, a distance of 125.82 feet, to the intersection of said line and the Right of Way line established by the Partial Release of Easement recorded in Book 877, Page 663 Marshall County records; Thence North 76°23′33″ East, along said Right of Way line as established by said Partial Release, a distance of 254.55 feet to the intersection of said line and the Right of Way line established by the above referenced Easement for Road or Street in favor of the State of Oklahoma recorded in Book 875, Page 465, Marshall County records, Thence North 47°34′54″ East, along said Right of Way line a distance of 158.34 feet to a point on the North line of the said Northwest Quarter of Section 36; Thence North 89°08′09″ East, along said North line a distance of 142.31 feet more or less to the 619 foot contour line; Thence Southeasterly, along said 619 foot contour line, a distance of 1,330 feet, more or less (Tie Line-South 41°16′52″ East, 1318.44 feet); Thence South 42°39′04″ West, a distance of 787.26 feet Thence North 47°20′56″ West, a distance of 570.39 feet; Thence South 89°25′33″ West, perpendicular to the West line of said Northwest Quarter of Section 36, a distance of 1,547.00 feet to a point on the West line of said Northwest Quarter; Thence North 00°34′27″ West, along said West line, a distance of 620.00 feet· Thence North 61°47′06″ East, a distance of 201.85 feet; Thence South 62°46′50″ East, a distance of 450.90 feet· Thence North 15°41′02″ West, a distance: of 352.83 feet to the Point of Beginning. Said tract of land containing 2,177,634 square feet or 49.9916 acres more or less. SURFACE ONLY.

*PARCEL ''1'' LEGAL DESCRIPTION: As surveyed in TRUE NORTH bearings, more particularly described as follows:*

A parcel of land situated in the Northwest Quarter (NW 1/4) of Section 36, Township 6 South, Range 6 East, Indian Meridian, Marshall County, Oklahoma, as described in Book No. 1088, Page No. 593, filed October 28, 2016, in the official records of Marshall County and being more particularly described as follows:

COMMENCING at the corner of Sections 25, 26, 35 and 36, marked with a brass cap marked U.S. Army Corp of Engineers, as filed in the Oklahoma Certified Corner Records in the Oklahoma Department of Libraries;

THENCE, South 00°11′54″ West, on the section line between Sections 35 and 36, a distance of 331.05 feet;

THENCE, South 89°54′40″ East, a distance of 485.71 to a ½ inch diameter iron rod with cap marked SRB CA3949 and the POINT OF BEGINNING of the herein described parcel;

THENCE, North 14°54′45″ West, a distance of 92.52 feet to a point on the southerly right of way line of U.S. Highway No. 70, as established by the Easement for Road or Street in favor of the State of Oklahoma, described in Book No. 875, Page No. 465, in the official records of Marshall County, Oklahoma, marked with a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, Easterly along aforesaid right-of-way line on a non-tangent curve to the left having a radius of 5,859.58 feet, (subtended by a chord which bears North 81°14′29″ East, a distance of 95.319 feet), an arc distance of 95.32 feet to the intersection of aforesaid line with the southerly right-of-way line as established by the EASEMENT FOR ROAD OR STREET in favor of the State of Oklahoma, recorded in Book 528, Page 502, in the official records of Marshall County, Oklahoma, marked with a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, Easterly along aforesaid right-of-way line as established by aforesaid easement, the following three (3) courses and distances:

1. South 72°39′22″ East, a distance of 72.72 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471,
2. Easterly along a non-tangent curve to the left having a radius of 5,889.58 feet, (subtended by a chord which bears North 77°31′01″ East, a distance of 216.158 feet), an arc distance of 216.17 feet to a ½ inch diameter iron rod with cap marked SRB CA3949,
3. North 61°39′34″ East, a distance of 210.44 feet to the intersection of aforesaid right-of-way line and the right-of-way line established by the above referenced easement recorded in Book 875, Page 465, in the official records of Marshall County, Oklahoma, marked with a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, South 63°21′14″ East, along aforesaid right-of-way line, a distance of 125.82 feet to the intersection of aforesaid line and the right-of-way line established by the PARTIAL RELEASE OF EASEMENT, recorded in Book 877, Page 663, in the official records of Marshall County, Oklahoma, marked with a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 77°09′53″ East, along aforesaid right-of-way line, as established by aforesaid PARTIAL RELEASE, a distance of 254.55 feet to the intersection of aforesaid line and the right-of-way line established by the above referenced EASEMENT FOR ROAD OR STREET in favor of the State of Oklahoma, recorded in Book 875, Page 465, in the official records of Marshall County, Oklahoma, marked with a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 48°21′14″ East, along aforesaid right-of-way line, a distance of 152.76 feet to a point on the section line of the west ½ between Sections 25 and 36, marked with a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, South 89°57′00″ East, on the line between Sections 25 and 36, a distance of 143.86 feet, to the 619 foot Mean Sea Level contour line, marked with a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, along the meanders of the 619 foot Mean Sea Level contour line, the following five (5) courses and distances:

1. South 20°49′37″ East, a distance of 41.93 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471,
2. South 38°36′09″ East, a distance of 242.78 feet to a l/2 inch diameter iron rod with cap marked BENNETT LS 1471,
3. South 31°40′00″ East, a distance of 204.26 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471,
4. South 39°37′22″ East, a distance of 298.04 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471,
5. South 46°54′25″ East, a distance of 538.74 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, South 43°25′24″ West, a distance of 784.44 feet to a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 46°34′36″ West, a distance of 570.39 feet to a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 89°48′06″ West, perpendicular to the north ½ of the section line between Sections 35 and 36, a distance of 1,547.00 feet to a point on the section line between Sections 35 and 36, marked with a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 00°11′54″ East, on the section line between Sections 35 and 36, a distance of 620.00 feet to a ½ inch diameter iron rod with cap marked SRB CA3949;

THENCE, North 62°33′26″ East, a distance of 201.85 feet to a ⅝ inch diameter iron rod with cap marked ENTZ PLS 319;

THENCE, South 62°00′30″ East, a distance of 450.90 feet to a ⅝ inch diameter iron rod;

THENCE, North 14°54′45″ West, a distance of 352.83 feet to a ½ inch diameter iron rod with cap marked SRB CA3949 being the POINT OF BEGINNING, containing 49.92 acres of land. BASIS OF BEARINGS: All bearings were derived from Global Positioning Systems (GPS), referenced to the true meridian. Meaning and intending to convey a parcel of land according to the survey by Obert D. Bennett, RPLS No. 1471 Oklahoma, dated August 16, 2017. SURFACE ONLY.

*PARCEL ''2'' LEGAL DESCRIPTION: (As filed in Book 1088, Page 593 in the Office of the Marshall County Clerk)*

A tract of land lying in the Northeast Quarter of Section 35, Township 6 South, Range 6 East of the Indian Base and Meridian, Marshall County, Oklahoma, and being more particularly described as follows:

Commencing at the Northwest Corner of the said Northeast Quarter of Section 35; Thence South 00°40′46″ East, along the West line of said Northeast Quarter, a distance of 1,384.74 feet to the Point of Beginning; Thence North 89°09′26″ East, a distance of 850.00 feet; Thence South 00°40′46″ East, a distance of 600.00 feet; Thence South 89°09′26″ West, a distance of 850.00 feet to a point on the West line of said Northeast Quarter; Thence North 00°40′46″ West, along said West line, a distance of 600.00 feet to the Point of Beginning. Said tract of land containing 510,000 square feet or 11.7080 acres more or less. SURFACE ONLY.

*PARCEL ''2'' LEGAL DESCRIPTION: As surveyed in TRUE NORTH bearings, more particularly described as follows:*

A parcel of land situated in the North Half (N ½) of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 35, Township 6 South, Range 6 East, Indian Meridian, Marshall County, Oklahoma, being that parcel of land described in Book No. 1088, Page No. 593, filed October 28, 2016, in the official records of Marshall County and being more particularly described as follows:

COMMENCING at the ¼ comer of Sections 26 and 35, marked with a 3 ½ inch diameter brass cap marked U.S. Army Corp of Engineers, as filed in the Oklahoma Certified Corner Records in the Oklahoma Department of Libraries;

THENCE, South 00°05′52″ West, on the north and south center line of Section 35, a distance of 1,384.74 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471 and the POINT OF BEGINNING of the herein described parcel;

THENCE, North 89°56′04″ East, a distance of 850.00 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, South 00°05′52″ West, a distance of 600.00 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471;

THENCE, South 89°56′04″ West, a distance of 850.00 feet to a point on the north and south center line of Section 35, marked with a ⅝ inch diameter iron rod with cap marked ENTZ PLS 3l9;

THENCE, North 00°05′52″ East on the north and south center line of Section 35, a distance of 600.00 feet to a ½ inch diameter iron rod with cap marked BENNETT LS 1471 being the POINT OF BEGINNING, containing 11.71 acres of land.

BASIS OF BEARINGS: All bearings were derived from Global Positioning Systems (GPS), referenced to the true meridian.

Meaning and intending to convey a parcel of land according to the survey by Obert D. Bennett, RPLS No. 1471 Oklahoma, August 16, 2017. SURFACE ONLY.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2020–22667 Filed 10–13–20; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**[212A2100DD; AAKC001030; A0A51010.999900]**

## Land Acquisitions; Chickasaw Nation

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Assistant Secretary—Indian Affairs made a final agency determination to transfer 248.09 acres, more or less, of land in the City of Ardmore, Carter County, Oklahoma, (Site) into trust for the Chickasaw Nation for gaming and other purposes.

**DATES:** This final determination was made on October 8, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Bureau of Indian Affairs, MS–3543 MIB, 1849 C Street NW, Washington, DC 20240, telephone (202) 219–4066, *paula.hart@bia.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1, and is published to comply with the requirements of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

On the date listed in the **DATES** section of this notice, the Assistant Secretary—Indian Affairs issued a decision to accept the Site, consisting of 248.09 acres, more or less, of land in trust for the Chickasaw Nation (Nation), under the authority of the Indian Reorganization Act, 25 U.S.C. 5108. The Assistant Secretary—Indian Affairs determined that Nation's request also meets the requirements of the Indian Gaming Regulatory Act's ''Oklahoma exception,'' 25 U.S.C. 2719(a)(2)(A)(i), to the general prohibition contained in 25 U.S.C. 2719(a) on gaming on lands acquired in trust after October 17, 1988.

The Assistant Secretary—Indian Affairs, on behalf of the Secretary of the Interior, will immediately acquire title to the Site in the name of the United States of America in trust for the Nation upon fulfillment of Departmental requirements.

The 248.09 acres, more or less, are located in the City of Ardmore, Carter County, Oklahoma, and are described as follows:

The East Half (E/2) of the Southwest Quarter (SW/4) and the East 495 feet of the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) and the East Half (E/2) of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) and the West Half (W/2) of the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) and a portion of the Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4) and a portion of the South Half (S/2) of the South Half (S/2) of the Northwest Quarter (NW/4), lying South of the

apparent South Right-of Way line of U.S. Highway 70, Section 8, Township 5 South, Range 2 East, Indian Meridian, Carter County, Oklahoma AND the Northwest Quarter (NW/4) of the Northeast Quarter (NE/4) of Section 17, Township 5 South, Range 2 East, Indian Meridian, Carter County, Oklahoma, more particularly described as follows:

BEGINNING from the Southwest Corner of the Northwest Quarter of said Section 8;

THENCE N00°09′28″ W along the West line of the Northwest Quarter, a distance of 289.13 feet to the Southwest Corner of a Tract recorded in Book 5917 on Page 297 in the Office of the Carter County Clerk;

THENCE along the boundary of said Tract for the following Two Courses;

1. Thence N89°50′32″ E, a distance of 172.75 feet;

2. Thence N00°09′28″ W, a distance of 300.12 feet to a point on the apparent South Right-of-Way line of U.S. Highway 70;

THENCE along the apparent South Right-of-Way of U.S. Highway 70 for the following Four (4) Courses;

1. Thence along a curve turning to the Right with a radius of 21345.92 feet, with an arc length of 615.66 feet, with a delta angle of 01°39′09″, with a chord bearing of S79°16′55″ E, with a chord length of 615.64 feet;

2. Thence S78°28′33″ E, a distance of 376.09 feet;

3. Thence S89°47′10″ E, a distance of 101.98 feet;

4. Thence S78°28′34″ E, a distance of 1428.93 feet to a point on the East line of the South Half of the South Half of the Northwest Quarter;

THENCE S00°03′18″ E along the East line thereof, a distance of 138.09 feet to the Northwest Corner of the Southeast Quarter;

THENCE S89°29′02″ E along the North line of the Southeast Quarter, a distance of 665.14 feet to the Northeast Corner of the West Half of the Northwest Quarter of the Southeast Quarter;

THENCE S00°00′21″ E passing thru the Northwest Corner of the Southeast Quarter of the Northwest Quarter of the Southeast Quarter at distance of 661.46 feet and continuing for a total distance of 672.22 feet to the Southwest Corner of a Tract recorded in Book 6125 on Page 177 in the Office of the Carter County Clerk;

THENCE S89°32′34″ E along the South line of said Tract, a distance of 664.56 feet to the Southeast Corner thereof, said point being 9.66 feet South of the Northeast Corner of the Southeast Quarter of the Northwest Quarter of the Southeast Quarter;

THENCE S00°02′37″ W along the East line thereof, a distance of 1975.93 feet to the Northeast Corner of the Northwest Quarter of the Northeast Quarter of Section 17;

THENCE S00°13′41″ E, a distance of 1322.54 feet to the Southeast Corner thereof;

THENCE N89°23′58″ W, a distance of 1325.60 feet to the Southwest Corner thereof;

THENCE N00°14′03″ W, a distance of 1323.88 feet to the Southeast Corner of the Southwest Quarter of Section 8;

THENCE N89°22′20″ W, a distance of 1981.20 feet to the Southwest Corner of the East Half of the Southwest Quarter of the Southwest Quarter;

THENCE N00°08′31″ W, a distance of 1320.19 feet to the Northwest Corner thereof;

THENCE S89°25′41″ E, a distance of 166.05 feet to the Southwest Corner of the East 495 feet of the Northwest Quarter of the Southwest Quarter;

THENCE N00°06′46″ W, a distance of 1320.35 feet to the Northwest Corner thereof, said point being on the South line of the South Half of the South Half of the Northwest Quarter;

THENCE N89°29′02″ W along said South line, a distance of 828.44 feet to the POINT OF BEGINNING, containing 248.09 Acres. All bearings contained in this legal description were based upon True North. Prepared on this date, June 10, 2019 by Obert D. Bennett, RPLS No. 1471 Oklahoma. SURFACE ONLY.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2020–22666 Filed 10–13–20; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[18X LLWO600000.L18200000.XP0000]**

### National Call for Nominations for Site-Specific Advisory Councils

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of call for nominations.

**SUMMARY:** The purpose of this notice is to request public nominations to four of the Bureau of Land Management (BLM) citizens' advisory committees affiliated with specific sites on the BLM's National Conservation Lands. The four advisory committees provide advice and recommendations to the BLM on the development and implementation of management plans in accordance with the statutes under which the sites were established.

**DATES:** All nominations must be received no later than November 13, 2020.

**ADDRESSES:** Nominations and completed applications should be sent to the appropriate BLM offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Carrie Richardson, BLM Office of Communications, 1849 C Street NW, Room 5614, Washington, DC 20240; email: *crichardson@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 Ms. Richardson during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act. The rules governing advisory councils are found at 43 CFR subpart 1784.

Individuals may nominate themselves or others for appointment by the Secretary. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the advisory council. Nominees should demonstrate a commitment to collaborative resource decision-making. Simultaneous with this notice, BLM State Offices will issue press releases providing additional information for submitting nominations.

Before including any address, phone number, email address, or other personal identifying information in the application, nominees should be aware this information may be made publicly available at any time. While the nominee can ask to withhold the personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

**Oregon/Washington**

*San Juan Islands National Monument Advisory Committee (MAC)*

Marcia deChadenèdes, BLM San Juan Islands National Monument Manager, P.O. Box 3, 37 Washburn Place, Lopez Island, WA 98261; Phone: (360) 468–3051.

*To Apply to the San Juan Islands MAC:* Nomination forms and instructions can be obtained online at *https://www.blm.gov/sites/blm.gov/files/sanjuan-mac-app.pdf.* All applications must be accompanied by letters of reference that describe the nominee's experience and qualifications to serve on the San Juan Islands MAC from any represented interests or organizations, a completed MAC application, and any other information that speaks to the nominee's qualifications. The MAC consists of 12 members that include two representatives of recreation and tourism interests; two representatives of wildlife and ecological interests; two representatives of cultural and heritage interests; two public-at-large representatives; one representative of Tribal interests; one representative of local government; one representative of education and interpretation interests; and one representative of private landowners.

*Steens Mountain Advisory Council (SMAC)*

Tara Thissell, BLM Burns District Office, 28910 Hwy 20 West, Hines, OR 97738; Phone: (541) 573–4519.

*To Apply to the SMAC:* Nomination forms and instructions can be obtained by mail through phone request or online at *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.* All applications must be accompanied by letters of reference that describe the nominee's experience and qualifications to serve on the SMAC from any represented interests or organizations, a completed SMAC application, and any other information that speaks to the nominee's qualifications. The SMAC consists of 13 members that include a private landowner in the Steens Mountain Cooperative Management and Protection Area (CMPA) appointed from nominees submitted by the County Court for Harney County, Oregon; two representatives who are grazing permittees on Federal lands in the CMPA, appointed from nominees submitted by the County Court for Harney County, Oregon; a representative interested in fish and recreational fishing in the CMPA, appointed from nominees submitted by the Governor of Oregon; a representative of the Burns Paiute Tribe, appointed from nominees submitted by the Burns Paiute Tribe; two representatives who are recognized environmental representatives, one of whom shall represent the State as a whole, and one of whom is from the local area, appointed from nominees submitted by the Governor of Oregon; a representative who participates in what is commonly called dispersed recreation, such as hiking, camping, nature viewing, nature photography, bird watching, horseback riding, or trail walking, appointed from nominees submitted by the Oregon State Director of BLM; a representative who is a recreational permit holder or is a representative of a commercial recreation operation in the CMPA, appointed from nominees submitted jointly by the Oregon State Director of BLM and the County Court for Harney County, Oregon; a representative who participates in what is commonly called mechanized or consumptive recreation, such as hunting, fishing, off-road driving, hang gliding, or parasailing, appointed from nominees submitted by the Oregon State Director of BLM; a representative with expertise and interest in wild horse management on Steens Mountain, appointed from nominees submitted by the Oregon State Director of BLM; a representative who has no financial interest in the CMPA to represent statewide interests, appointed from nominees submitted by the Governor of Oregon; and one non-voting representative nominated by the Governor of Oregon, to serve as the State government liaison to the Council.

**Utah**

*Bears Ears National Monument Advisory Committee (MAC)*

Lynn McAloon, BLM Canyon Country District Office, 82 East Dogwood, Moab, UT 84532; phone: (435) 259–2187.

*To Apply to the Bears Ears MAC:* Nomination forms and instructions are available online at *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.*

Nominees should note the interest area(s) they are applying to represent on their application. All applications must be accompanied by letters of reference that describe the nominee's experience and qualifications to serve on the Bears Ears MAC from any represented interests or organizations, a completed MAC application, and any other information that speaks to the nominee's qualifications. The MAC consists of 15 members that include an elected official from San Juan County representing the County; a representative of State government; a representative with paleontological expertise; a representative with archaeological or historic expertise; a representative of the conservation community; a representative of livestock grazing permittees within the Monument; two representatives of Tribal interests; two representatives of developed outdoor recreation, off-highway vehicle users, or commercial recreation activities, including, for example, commercial/charter or recreation fishing; a representative of dispersed recreational activities, including, for example, hunting and shooting sports; a representative of private landowners; a representative of local business owners; and, two representatives of the public-at-large, including, for example, sportsmen and sportswomen communities.

*Grand Staircase-Escalante National Monument Advisory Committee (MAC)*

David Hercher, BLM Paria River District Office, 669 South Highway 89A, Kanab, UT 84741; phone: (435) 644–1209.

*To Apply to the Grand Staircase–Escalante MAC:* Nomination forms and instructions are available online at *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.*

Nominees should note the interest area(s) they are applying to represent on their application. All applications must be accompanied by letters of reference that describe the nominee's experience and qualifications to serve on the Grand Staircase-Escalante MAC from any represented interests or organizations, a completed MAC application, and any other information that speaks to the nominee's qualifications. The MAC consists of 15 members that include an elected official from Garfield County representing the County; an elected official from Kane County representing the County; a representative of State government; a representative of Tribal government with ancestral interest in the Monument; a representative of the educational community; a representative of the conservation community; a representative of developed outdoor recreation, off-highway vehicle users, or commercial recreation activities, including, for example, an outfitter or guide operating within the monument; a representative of dispersed recreation; a livestock grazing permittee operating within the Monument to represent grazing permittees; a representative of private landowners; a representative of local business owners; and a representative of the public-at- large, including, for example, sportsmen and sportswomen communities. Additionally, three representatives are appointed as special Government employees, one for each of the following areas of expertise: a representative with expertise in systems ecology; a representative with expertise in paleontology; and a representative with expertise in archaeology or history.

As appropriate, certain MAC members may be appointed as special Government employees (SGEs). Please be aware that applicants selected to

serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following Web site: *https://www.doi.gov/ethics/oge-form-450.* Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact (202) 202–208–7960 or *DOI_Ethics@sol.doi.gov* with any questions about the ethics requirements for members appointed as SGEs.

(Authority: 43 CFR 1784.4–1)

**Matthew Buffington,**

*Assistant Director for Communications.*

[FR Doc. 2020–22701 Filed 10–13–20; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[18X LLWO600000.L18200000.XP0000]**

### FY2020 National Call for Nominations for Resource Advisory Councils

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of call for nominations.

**SUMMARY:** The purpose of this notice is to request public nominations for 11 of the Bureau of Land Management's (BLM) statewide and regional Resource Advisory Councils (RAC) located in the West that have vacant positions and/or members whose terms are scheduled to expire. These RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.

**DATES:** All nominations must be received no later than November 13, 2020.

**ADDRESSES:** Nominations and completed applications should be sent to the appropriate BLM offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Carrie Richardson, BLM Communications, 1849 C Street NW, Room 5614, Washington, DC 20240, email: *crichardson@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 Ms. Richardson during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784. The RACs include the following three membership categories:

*Category One*—Holders of Federal grazing permits or leases within the area for which the RAC is organized; represent interests associated with transportation or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities, including, for example, commercial/charter or recreational fishing; represent the commercial timber industry; or represent energy and mineral development.

*Category Two*—Representatives of nationally or regionally recognized environmental organizations; dispersed recreational activities, including, for example, hunting and shooting sports; archaeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups.

*Category Three*—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water, including, for example, State/local fire associations; represent Indian tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public at large, including, for example, sportsmen and sportswomen communities.

Individuals may nominate themselves or others. Nominees must be residents of the State in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The following must accompany all nominations:

—A completed RAC application, which can either be obtained through your local BLM office or online at: *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.*

—Letters of reference from represented interests or organizations; and

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM State Offices will issue press releases providing additional information for submitting nominations.

Before including any address, phone number, email address, or other personal identifying information in the application, nominees should be aware this information may be made publicly available at any time. While the nominee can ask to withhold the personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

Nominations and completed applications for RACs should be sent to the appropriate BLM offices listed below:

**Arizona**

*Arizona RAC*

Dolores Garcia, BLM Arizona State Office, 1 North Central Avenue, Suite 800, Phoenix, AZ 85004; Phone: (602) 417–9241.

**California**

*California Desert District Resource Advisory Council*

Michelle Van Der Linder, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553; Phone: (951) 567–1531.

*Northern California RAC*

Jeff Fontana, BLM Eagle Lake Field Office, 2550 Riverside Drive, Susanville, CA 96130; Phone: (530) 252–5332.

**Montana and Dakotas**

*Western Montana RAC*

David Abrams, BLM Western Montana District Office, 106 North Parkmont, Butte, MT 59701; Phone: (406) 533–7617.

**New Mexico**

*Southern New Mexico RAC*

Glen Garnand, BLM Roswell Field Office, 2909 West Second Street, Roswell, NM 88201; Phone: (575) 627–0209.

*Northern New Mexico RAC*

Jillian Aragon, BLM Farmington Field Office, 6251 College Boulevard, Suite A, Farmington, NM 87402; Phone: (505) 564–7722.

**Oregon/Washington**

*Eastern Washington RAC*

Jeff Clark, BLM Spokane District Office, 1103 North Fancher Road, Spokane, WA 99212; Phone: (509) 536–1297.

*John Day-Snake RAC*

Larisa Bogardus, BLM Baker Field Office, 3100 H Street, Baker City, OR 97754; Phone: (541) 219–6863.

*Southeast Oregon RAC*

Lisa McNee, BLM Lakeview District Office, 1301 South G Street, Lakeview, OR 97630; Phone: (541) 947–6811.

*Western Oregon RAC*

Kyle Sullivan, BLM Medford District Office, 3040 Biddle Road, Medford, OR 97501; Phone: (541) 618–2340.

**Wyoming**

*Wyoming RAC*

Brad Purdy, BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009; Phone: (307) 775–6328.

**Authority:** 43 CFR 1784.4–1.

**Matthew Buffington,**

*Assistant Director for Communications.*

[FR Doc. 2020–22702 Filed 10–13–20; 8:45 am]

BILLING CODE 4310–84–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NRNHL–DTS#–30990; PPWOCRADI0, PCU00RP14.R50000]**

## National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting electronic comments on the significance of properties nominated before September 26, 2020, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted electronically by October 29, 2020.

**ADDRESSES:** Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September 26, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

**CALIFORNIA**

**Sutter County**

Vernon School (Asian Americans and Pacific Islanders in California, 1850–1970 MPS) Jct. of Garden Hwy. and Vernon Rd., Verona vicinity, MP100005737

**NEW HAMPSHIRE**

**Belknap County**

Colonial Theatre Complex, 609–621 Main St. and 21–31 Canal St., Laconia, SG100005742

**NEW MEXICO**

**Bernalillo County**

Downtowner Motor Inn, 717 Central Ave. NW, Albuquerque, SG100005731

**Torrance County**

Duran Historic District, Roughly bounded by NM 3, Vidal and East Sts., and Park Ave., Duran, SG100005733

**NEW YORK**

**Albany County**

National Biscuit Company Complex, 221–225 North Pearl St. and 75 Livingston Ave., Albany, SG100005744

**PUERTO RICO**

**Cayey Municipality**

Carretera #4, PR–15, from km. 0 in Guayama to km. 25.7 in Cayey, Cayey vicinity, SG100005741

**Guayama Municipality**

Carretera #4, PR–15, from km. 0 in Guayama to km. 25.7 in Cayey, Guayama vicinity, SG100005741

**Authority:** Section 60.13 of 36 CFR part 60.

Dated: September 29, 2020.

**Sherry A. Frear,**

*Chief, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2020–22651 Filed 10–13–20; 8:45 am]

BILLING CODE 4312–52–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–1546–1549 (Preliminary)]**

## Institution of Anti-Dumping Duty Investigations and Scheduling of Preliminary Phase Investigations; Thermal Paper From Germany, Japan, Korea, and Spain

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty Investigation Nos. 731–TA–1546–1549 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of thermal paper from Germany, Japan, Korea, and Spain, provided for in subheadings 4811.90.80 and 4811.90.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by November 23, 2020. The Commission's views must be transmitted to Commerce within five business days thereafter, or by December 1, 2020.

**DATES:** October 7, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ahdia Bavari, ((202) 205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility

impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to petitions filed on October 7, 2020, by Appvion Operations, Inc. (Appleton, Wisconsin) and Domtar Corporation (Fort Mill, South Carolina).

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

*Participation in the investigation and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission is conducting the staff conference through video conferencing on Wednesday, October 28, 2020. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before Monday, October 26, 2020. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission's Daily Calendar. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

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.

*Written submissions.*—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 2, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also 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 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 investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Certification.*—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

*Authority:* These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.
Issued: October 8, 2020.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2020–22658 Filed 10–13–20; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–718]**

### Bulk Manufacturer of Controlled Substances Application: Synthcon, LLC

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Synthcon, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 14, 2020. Such persons may also file a written request for a hearing on the application on or before December 14, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this

is notice that on June 18, 2020, Synthcon, LLC, 770 Wooten Road, Suite 101, Colorado Springs, Colorado 80915–3538, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Isotonitrazene | 9614 | I |
| Etonitazene | 9624 | I |
| Butyryl Fentanyl | 9822 | I |
| 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide) | 9824 | I |
| Isobutyryl fentanyl | 9827 | I |
| Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide) | 8366 | II |

The company plans to manufacture the above-listed controlled substances as analytical reference materials for distribution to its customers. No other activities for these drug codes are authorized for this registration.

**William T. McDermott,**

*Assistant Administrator.*

[FR Doc. 2020–22690 Filed 10–13–20; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–729]**

### Bulk Manufacturer of Controlled Substances Application: Euticals, Inc.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Euticals Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 14, 2020. Such persons may also file a written request for a hearing on the application on or before December 14, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on September 21, 2020, Euticals Inc., 2460 West Bennett Street, Springfield, Missouri 65807–1229, applied to be registered as an bulk manufacturer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Marihuana | 7360 | I |

The company plans to manufacture synthetic Cannabidiol to be distributed as an Active Pharmaceutical Ingredient (API) to its customers. No other activity for these drug codes is authorized for this registration.

**William T. McDermott,**

*Assistant Administrator.*

[FR Doc. 2020–22692 Filed 10–13–20; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Veterans' Employment and Training Service

### Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

**AGENCY:** Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

**ACTION:** Notice of virtual open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the DOL core programs and services that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for individuals or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green at *ACVETEO@dol.gov.* Additional information regarding the Committee, including its charter, current membership list, annual reports, meeting minutes, and meeting updates may be found at *https://www.dol.gov/agencies/vets/about/advisorycommittee.* This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

**DATES:** Wednesday, November 4, 2020 beginning at 9:00 a.m. and ending at approximately 12:00 p.m.(EST).

**ADDRESSES:** This ACVETEO meeting will be held via WebEx video and teleconference. Meeting information will be posted at the link below under the Meeting Updates tab. *https://www.dol.gov/agencies/vets/about/advisorycommittee.*

*Notice of Intent To Attend the Meeting:* All meeting participants should submit a notice of intent to attend by Monday, October 26, 2020, via email to Mr. Gregory Green at *ACVETEO@dol.gov,* subject line ''November 2020 ACVETEO Meeting.''

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Wednesday, October 21, 2020 by contacting Mr. Gregory Green at *ACVETEO@dol.gov.* Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Green, Designated Federal Official for the ACVETEO, *ACVETEO@dol.gov,* (202) 693–4734.

**SUPPLEMENTARY INFORMATION:** The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary for Veterans' Employment and Training Service, with respect to outreach activities and employment and training needs of veterans; and carrying out such other activities necessary to

make required reports and recommendations. The ACVETEO meets at least quarterly.

**Agenda**

9:00 a.m. Welcome and remarks, John Lowry, Assistant Secretary, Veterans' Employment and Training Service
9:10 a.m. Administrative Business, Gregory Green, Designated Federal Official
9:15 a.m. Discussion on Fiscal Year 2020 Report Recommendations, Committee Chairperson, Kayla Williams
9:30 a.m. Veterans' Employment and Training Service programs update
10:30 a.m. Subcommittee Discussion/Assignments, Committee Chairperson, Kayla Williams
11:30 a.m. Public Forum, Gregory Green, Designated Federal Official
12:00 p.m. Adjourn

Signed in Washington, DC, this 7th day of October 2020.

**John Lowry,**

*Assistant Secretary, Veterans' Employment and Training Service.*

[FR Doc. 2020–22588 Filed 10–13–20; 8:45 am]

**BILLING CODE 4510–79–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act: Notice of Agency Meeting

**TIME AND DATE:** 10:00 a.m., Thursday, October 15, 2020.

**PLACE:** Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.ncua.gov.*) and access the provided webcast link.

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

1. Board Briefing, Cybersecurity Considerations for Boards of Directors During COVID–19.
2. NCUA Rules and Regulations, Derivatives.
3. NCUA Rules and Regulations, Corporate Credit Unions.
4. Request for Information, Supervisory Guidance Review and Improvements in Communications.

**CONTACT PERSON FOR MORE INFORMATION:** Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

**Melane Conyers-Ausbrooks,**

*Secretary of the Board.*

[FR Doc. 2020–22748 Filed 10–9–20; 11:15 am]

**BILLING CODE 7535–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Federal Council on the Arts and the Humanities

### Arts and Artifacts International Indemnity Panel Meeting

**AGENCY:** Federal Council on the Arts and the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts International Indemnity Panel.

**DATES:** The meeting will be held on Tuesday, November 17, 2020, from 12:00 p.m. until adjourned.

**ADDRESSES:** The meeting will be held by videoconference originating at the National Endowment for the Arts, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506, (202) 606–8322; *evoyatzis@neh.gov.*

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after January 1, 2021. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of Title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: October 7, 2020.

**Caitlin Cater,**

*Attorney-Advisor, National Endowment for the Humanities.*

[FR Doc. 2020–22655 Filed 10–13–20; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meeting of Humanities Panel

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Endowment for the Humanities (NEH) will hold seventeen meetings, by videoconference, of the Humanities Panel, a federal advisory committee, during November 2020. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

**DATES:** See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. DATE: November 4, 2020

This video meeting will discuss applications on the topics of History and Studies of the Americas, for the Kluge Fellowships, submitted to the Division of Research Programs.

2. DATE: November 5, 2020

This video meeting will discuss applications on the topics of History and Studies of Africa, Asia, and Europe, for the Kluge Fellowships, submitted to the Division of Research Programs.

3. DATE: November 5, 2020

This video meeting will discuss applications on the topic of U.S. History (Social), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

4. DATE: November 6, 2020

This video meeting will discuss applications on the topics of Literature, Communication, and the Arts, for the Kluge Fellowships, submitted to the Division of Research Programs.

5. DATE: November 6, 2020

This video meeting will discuss applications on the topic of Western History, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

6. DATE: November 9, 2020

This video meeting will discuss applications on the topics of Arts and Culture, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

7. DATE: November 10, 2020

This video meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

8. DATE: November 10, 2020

This video meeting will discuss applications on the topic of Indigenous Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

9. DATE: November 12, 2020

This video meeting will discuss applications on the topic of Local History, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

10. DATE: November 12, 2020

This video meeting will discuss applications on the topic of Ethnography, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

11. DATE: November 13, 2020

This video meeting will discuss applications on the topic of New World Archaeology, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

12. DATE: November 13, 2020

This video meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

13. DATE: November 13, 2020

This video meeting will discuss applications on the topics of History of Science and Medicine, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

14. DATE: November 16, 2020

This video meeting will discuss applications on the topic of American Studies, for the Public Humanities Projects: Exhibitions (Planning) grant program, submitted to the Division of Public Programs.

15. DATE: November 17, 2020

This video meeting will discuss applications on the topic of Old World Archaeology, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

16. DATE: November 17, 2020

This video meeting will discuss applications on the topic of U.S. History (Military and Political), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

17. DATE: November 24, 2020

This video meeting will discuss applications on the topic of World Studies (Modern Era), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: October 8, 2020.

**Caitlin Cater,**

*Attorney-Advisor, National Endowment for the Humanities.*

[FR Doc. 2020–22657 Filed 10–13–20; 8:45 am]

BILLING CODE 7536–01–P

## NATIONAL LABOR RELATIONS BOARD

### Notice of Appointments of Individuals To Serve as Members of Performance Review Boards

**AGENCY:** National Labor Relations Board.

**ACTION:** Notice; appointment to serve as members of performance review boards.

**SUMMARY:** The National Labor Relations Board is issuing this notice that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2019 and ending September 30, 2020.

**FOR FURTHER INFORMATION CONTACT:** Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, (202) 273–1940 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

**Name and Title**

Alice B. Stock—Deputy General Counsel, Office of the General Counsel

Elizabeth Tursell—Associate to the General Counsel, Division of Operations Management

Mark Arbesfeld—Director, Office of Appeals

Richard Bock—(Alternate)—Associate General Counsel, Division of Advice

John D. Doyle, Jr.—(Alternate)—Deputy Associate to the General Counsel, Division of Operations Management

Christine B. Lucy—Executive Assistant to the Chairman (Chief of Staff), Office of the Chairman

Roxanne L. Rothschild—Executive Secretary, Office of the Executive Secretary

Fred B. Jacob—(Alternate)—Solicitor, Office of the Solicitor

**Authority:** 5 U.S.C. 4314(c)(4)

Dated: October 8, 2020.

By Direction of the Board

**Roxanne L. Rothschild,**

*Executive Secretary.*

[FR Doc. 2020–22679 Filed 10–13–20; 8:45 am]

BILLING CODE 7545–01–P

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting; National Science Board

The National Science Board's Awards and Facilities Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

**TIME AND DATE:** Tuesday, October 20, 2020 from 11:30 a.m.–1:00 p.m. EDT.

**PLACE:** This meeting will be held by teleconference through the National Science Foundation.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** The agenda of the teleconference is: Committee Chair's Opening Remarks; Discussion of future MREFC account planning.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Michelle McCrackin, *mccrack@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website *www.nsf.gov/nsb* for general information.

**Chris Blair,**

*Executive Assistant to the National Science Board Office.*

[FR Doc. 2020–22847 Filed 10–9–20; 4:15 pm]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Notice of Intent To Seek Approval To Extend a Current Information Collection

**AGENCY:** National Center for Science and Engineering Statistics, National Science Foundation.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) is announcing plans to request renewal of the Survey of Earned Doctorates (OMB No. 3145–0019). In accordance with the requirements of the Paperwork Reduction Act of 1995, NCSES is providing opportunity for public comment on this action. After obtaining and considering public comments, NCSES will prepare the submission requesting that OMB approve clearance of this collection for three years.

**DATES:** Written comments on this notice must be received by December 14, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Survey of Earned Doctorates.

*OMB Control Number:* 3145–0019.

*Expiration Date of Current Approval:* April 30, 2022.

*Type of Request:* Intent to seek approval to extend an information collection for three years.

*Abstract:* Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the NSF Act of 1950, as amended, the NCSES serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Survey of Earned Doctorates (SED) is part of NCSES' survey system that collects data on individuals in an effort to provide information on science and engineering education and careers in the United States. The SED has been conducted annually since 1958 and is jointly sponsored by four Federal agencies (NSF/NCSES, National Institutes of Health, U.S. Department of Education/National Center for Education Statistics, and National Endowment for the Humanities) to avoid duplication of effort in collecting such data. It is an accurate, timely source of information on one of our Nation's most important resources—highly educated individuals. This request to extend the information collection for three years is to cover the 2022 and 2023 SED survey cycles.

Data are obtained primarily via Web survey from each person earning a research doctorate at the time they receive the degree. Data are collected on their field of specialty, educational background, sources of support in graduate school, debt level, postgraduation plans, and demographic characteristics. NCSES publishes statistics from the survey in several reports. The survey will be collected in conformance with the Privacy Act of 1974. Responses from individuals are voluntary. NCSES will ensure that all individually identifiable information collected will be kept strictly confidential and will be used only for research or statistical purposes.

*Use of the Information:* The Federal government, universities, researchers, policy makers, and others use the information extensively. Results from the SED are used to assess characteristics of the doctorate population and trends in doctoral education and degrees. Data from the survey are published annually on the NCSES website in a publication series reporting on all fields of study, titled *Doctorate Recipients from U.S. Universities.* Information from the SED is also included in other series available online: *Science and Engineering Indicators;* and *Women, Minorities, and Persons with Disabilities in Science and Engineering.* In addition, access to tabular data from selected variables is available through the Integrated Data Tool, an online table-generating tool on the NCSES website.

*Expected Respondents:* The SED is a census of all individuals receiving a research doctorate from an accredited U.S. academic institution in the academic year beginning 1 July and ending 30 June of the subsequent year. As such, the population for the 2022 SED consists of all individuals receiving a research doctorate in the 12-month period beginning 1 July 2021 and ending 30 June 2022. Likewise, the population for the 2023 SED consists of all individuals receiving a research doctorate in the 12-month period beginning 1 July 2022 and ending 30 June 2023. A research doctorate is a doctoral degree that (1) requires completion of an original intellectual contribution in the form of a dissertation or an equivalent culminating project (*e.g.,* musical composition) and (2) is not primarily intended as a degree for the practice of a profession. The most common research doctorate degree is the Ph.D. Recipients of professional doctoral degrees, such as MD, DDS, JD, DPharm, and PsyD, are not included in the SED. The 2022 and 2023 SED are expected to include about 600 separately reporting schools with eligible research doctoral programs from among about 454 doctorate-granting institutions. Based on the historical trend, NCSES expects that approximately 57,000 individuals will receive a research doctorate from U.S. institutions in 2022, and approximately 58,000 in 2023.

In addition to the questionnaire for individuals receiving their research doctorates, the SED requires the collection of administrative data such as graduation lists from participating academic institutions. The Institutional Coordinator at the institution helps distribute the Web survey link, track survey completions, and submit information to the SED survey contractor.

*Estimate of Burden:* A total response rate of 92% of the 55,703 persons who earned a research doctorate from a U.S. institution was obtained in academic

year 2019. This level of response rate has been consistent for several years. Using the past response rate, the number of SED respondents in 2022 is estimated to be 52,440 (57,000 doctorate recipients × 0.92 response rate). Similarly, the number of respondents in 2023 is estimated to be 53,360 (58,000 × 0.92).

Based on the average Web survey completion time for the 2020 SED (19 minutes), NCSES estimates that, on average, 20 minutes per respondent will be required to complete the 2022 or 2023 SED Web survey. The annual respondent burden for completing the SED is therefore estimated at 17,480 hours in 2022 (52,440 respondents × 20 minutes) and 17,787 hours in 2023 (based on 53,360 respondents).

Based on focus groups conducted with Institutional Coordinators, it is estimated that the SED demands no more than 1% of the Institutional Coordinator's time over the course of a year, which computes to 20 hours per year per Institutional Coordinator (40 hours per week × 50 weeks per year × .01). With about 600 schools expected to participate in the SED in 2022 and 2023, the estimated annual burden to Institutional Coordinators of administering the SED is 12,000 hours.

Therefore, the total information burden for the SED is estimated to be 29,480 (17,480 + 12,000) hours in the 2022 survey cycle and 29,787 (17,787 + 12,000) hours in the 2023 survey cycle. NCSES estimates that the average annual burden for the 2022 and 2023 survey cycles over the course of the three-year OMB clearance period will be no more than 19,756 hours [(29,480 hours + 29,787 hours)/3 years].

*Comments:* Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) 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.

Dated: October 7, 2020.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2020–22626 Filed 10–13–20; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[[NRC–2020–0001]**

## Sunshine Act Meetings

**TIME AND DATE:** Weeks of October 12, 19, 26, November 2, 9, 16, 2020.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

### Week of October 12, 2020

There are no meetings scheduled for the week of October 12, 2020.

### Week of October 19, 2020—Tentative

*Wednesday, October 21, 2020*

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting)
(Contact: Randi Neff: 301–287–0583)

*Additional Information:* The meeting scheduled on October 21, 2020 at 9:30 a.m., Briefing on Human Capital and Equal Employment Opportunity, was previously scheduled to start at 10 a.m. Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the web address—*https://www.nrc.gov/.*

1:00 p.m. All Employees Meeting with the Commissioners (Public Meeting)
(Contact: Maria Arribas-Colon: 301–415–6026)

*Additional Information:* Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the web address—*https://www.nrc.gov/.*

### Week of October 26, 2020—Tentative

There are no meetings scheduled for the week of October 26, 2020.

### Week of November 2, 2020—Tentative

*Thursday, November 5, 2020*

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Nuclear Materials Users Business Lines (Public Meeting)
(Contact: Celimar Valentin-Rodriguez: 301–415–7124)

*Additional Information:* Due to COVID–19, there will be no physical public attendance.

The public is invited to attend the Commission's meeting live by webcast at the web address—*https://www.nrc.gov/.*

### Week of November 9, 2020—Tentative

There are no meetings scheduled for the week of November 9, 2020.

### Week of November 16, 2020—Tentative

*Wednesday, November 18, 2020*

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting)
(Contact: Kellee Jamerson: 301–415–7408)

*Additional Information:* Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the web address—*https://www.nrc.gov/.*

**CONTACT PERSON FOR MORE INFORMATION:** For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: October 8, 2020.

For the Nuclear Regulatory Commission.

**Denise L. McGovern,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2020–22737 Filed 10–9–20; 11:15 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2020–0194]**

## Development of NRC's Strategic Plan for Fiscal Years 2022 Through 2026

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Extension of comment period.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is requesting comments on its update of the NRC's Fiscal Years (FYs) 2022–2026 Strategic Plan. Specifically, the NRC would like input on the agency's strategic goals, actions to realize those goals, and how to address key challenges and external factors as described in the current agency's Strategic Plan, NUREG 1614, Volume 7, ''Strategic Plan Fiscal Years 2018–2022.'' The information will be used to inform the development of the NRC's FYs 2022–2026 Strategic Plan framework and evidence building and evaluation activities. The public comment period was originally scheduled to close on October 13, 2020. The NRC will extend the public comment period to allow more time for members of the public to develop and submit their comments.

**DATES:** The due date of comments requested in the document published on September 11, 2020 (85 FR 56275) is extended. Submit comments by November 13, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0194. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Branch.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Carla Roque-Cruz, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1455, email: *Carla.Roque-Cruz@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2020–0194, when contacting the NRC about the information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0194.
- *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.*

*B. Submitting Comments*

Please include Docket ID NRC–2020–0194 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

### II. Discussion

On September 11, 2020, the NRC solicited comments to gather information that will permit the NRC staff to develop the FYs 2022–2026 Strategic Plan framework (85 FR 56275). The Strategic Plan describes how the agency intends to achieve its two strategic goals: (1) Ensure the safe use of radioactive materials, and (2) ensure the secure use of radioactive materials. The plan provides an overview of the NRC's responsibilities and lays out the objectives, strategies, and key activities that will be used to achieve the agency's strategic goals.

The public comment period was originally scheduled to close on October 13, 2020. The NRC received an email from an external stakeholder (ADAMS Accession No. ML20275A405) requesting the comment period for this activity be extended by an additional 30 days to permit adequate stakeholder engagement on this topic. The NRC will extend the public comment period until November 13, 2020 to allow more time for members of the public to develop and submit their comments.

Dated: October 7, 2020.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Executive Director for Operations.*

[FR Doc. 2020–22638 Filed 10–13–20; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2019–0257]**

## Information Collection: Nondiscrimination in Federally Assisted Programs or Activities Receiving Assistance From the Commission

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of submission to the Office of Management and Budget; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Nondiscrimination in Federally Assisted Programs or Activities Receiving Assistance from the Commission.''

**DATES:** Submit comments by November 13, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice 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.

**FOR FURTHER INFORMATION CONTACT:** David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *InfoCollects.Resource@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2019–0257 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0257.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement, burden spreadsheet, and NRC Forms 781 and 782 are available in ADAMS under Accession Nos. ML20224A170, ML20224A168, ML20224A166, and ML20224A167.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

### *B. Submitting Comments*

Please include Docket ID NRC–2019–0257 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a renewal of an existing collection of information to OMB for review entitled, 10 CFR part 4, ''Nondiscrimination in Federally Assisted Programs or Activities Receiving Assistance from the Commission.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 8, 2020, (85 FR 34768).

1. *The title of the information collection:* 10 CFR part 4, Nondiscrimination in Federally Assisted Commission Programs or Activities Receiving Assistance from the Commission.
2. *OMB approval number:* 3150–0053.
3. *Type of submission:* Extension.
4. *The form number if applicable:* NRC Forms 781 and 782.
5. *How often the collection is required or requested:* On occasion. NRC Form 781, ''SBCR Compliance Review'' is a required form that should be submitted by the recipient upon initiation or modification of a program, during the pre-award and post-award stage, periodic monitoring, and, if a complaint is being processed during the pre-award application phase and upon request from an authorized NRC official during the post-award review phase. NRC Form 782, ''Complaint Form'' is submitted on occasion, if any person believes himself or any specific class of individuals have been subjected to discrimination prohibited by 10 CFR part 4, ''Subpart A—Regulations Implementing Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974 Discrimination Prohibited,'' on behalf of the primary funding recipient or any other recipient that received NRC Federal financial assistance through the primary funding recipient. Self-evaluations are performed throughout the duration of obligation based on 10 CFR 4.231, ''Responsibility of applicants and recipients.''
6. *Who will be required or asked to respond:* Recipients of Federal financial assistance provided by the NRC (including Educational Institutions, Other Non-profit Organizations receiving Federal financial assistance, and Agreement States).
7. *The estimated number of annual responses:* 502 (102 reporting responses + 200 recordkeeping responses + 200 third-party disclosure responses).
8. *The estimated number of annual respondents:* 200.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 802 hours (102 hours reporting + 650 hours recordkeeping + 50 hours third-party disclosure).
10. *Abstract:* All recipients of Federal financial assistance from the NRC are subject to the provisions of 10 CFR part 4, ''Nondiscrimination in Federally Assisted Programs or Activities Receiving Assistance from the Commission.'' Respondents must notify participants, beneficiaries, applicants, and employees of nondiscrimination practices and keep records of Federal financial assistance and of their own self-evaluations of policies and practices. NRC Form 781, ''SBCR Compliance Review'' is a required form that should be submitted by the recipient upon initiation or modification of a program, during the pre-award and post-award stage, periodic monitoring, and, if a complaint is being processed during the pre-award application phase and upon request from an authorized NRC official during the post-award review phase. This information is necessary for determining whether any persons are or will be denied such services provided by the primary funding recipient on the basis of prohibited discrimination. In the event that discrimination is alleged in NRC-conducted and Federal financially assisted programs and activities, it may be reported using NRC Form 782.

Dated: October 7, 2020.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2020–22610 Filed 10–13–20; 8:45 am]

BILLING CODE 7590–01–P

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2021–12 and CP2021–12; MC2021–13 and CP2021–13; MC2021–14 and CP2021–14]**

## New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* October 16, 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).:* MC2021–12 and CP2021–12; *Filing Title:* USPS Request to Add Priority Mail Contract 673 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 7, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis Kidd; *Comments Due:* October 16, 2020.

2. *Docket No(s).:* MC2021–13 and CP2021–13; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 174 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 7, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis Kidd; *Comments Due:* October 16, 2020.

3. *Docket No(s).:* MC2021–14 and CP2021–14; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 120 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 7, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Curtis Kidd; *Comments Due:* October 16, 2020.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2020–22656 Filed 10–13–20; 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. 34–90136; File No. SR–NYSEARCA–2020–89)**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12–E

October 8, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 6, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot related to the market-wide circuit breaker in Rule 7.12–E. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 7.12–E provides a methodology for determining when to halt trading in all stocks due to extraordinary market

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 7.12–E was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12–E to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The Exchange now proposes to amend Rule 7.12–E to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 7.12–E.

The market-wide circuit breaker under Rule 7.12–E provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12–E, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange and its Affiliate SROs[11] filed rule changes to that effect in March 2020,[12] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14]

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEArca–2011–68).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEArca–2011–68) (Approval Order); and 68785 (January 31, 2013), 78 FR 8646 (February 6, 2013) (SR–NYSEArca–2013–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to Exchange Rule 7.12–E).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85561 (April 9, 2019), 84 FR 15262 (April 15, 2019) (SR–NYSEArca–2019–23).

[9] *See* Securities Exchange Act Release No. 87017 (September 19, 2019), 84 FR 50543 (September 25, 2019) (SR–NYSEArca–2019–66).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] The ''Affiliate SROs'' are the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[12] *See* Securities Exchange Act Release Nos. 88402 (March 17, 2020), 85 FR 16436 (March 23, 2020) (SR–NYSE–2020–20); 88407 (March 18, 2020), 85 FR 16690 (March 24, 2020) (SR–NYSEAMER–2020–20); 88414 (March 18, 2020), 85 FR 16707 (March 24, 2020) (SR–NYSEArca–2020–23); 88410 (March 18, 2020), 85 FR 16693 (March 24, 2020) (SR–NYSECHX–2020–08); 88411 (March 18, 2020), 85 FR 16710 (March 24, 2020) (SR–NYSENAT–2020–11).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 7.12–E is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12–E should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2020–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2020–89. 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

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Reference Room, 100 F Street NE, Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSEARCA–2020–89 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22717 Filed 10–13–20; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90127; File No. SR–CboeEDGA–2020–026]**

## Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 11.16

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (''EDGA'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposal to extend the pilot related to the market-wide circuit breaker in Rule 11.16. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

EDGA Rules 11.16(a) through (d), (f) and (g) describe the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, *i.e.,* market-wide circuit breakers. The market-wide circuit breaker (''MWCB'') mechanism was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan. In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[6] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.16 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[7] The Exchange subsequently amended Rule 11.16 to extend the pilot's effectiveness for an additional year to the close of business on October 18, 2020.[8] The Exchange now proposes to amend Rule 11.16 to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 11.16.

The market-wide circuit breaker under Rule 11.16 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[9] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.16, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[7] *See* Securities Exchange Act Release No. 85668 (April 16, 2019), 84 FR 16743 (April 22, 2019) (SR–CboeEDGA–2019–006).

[8] *See* Securities Exchange Act Release No. 87335 (October 17, 2019), 84 FR 56858 (October 23, 2019) (SR–CboeEDGA–2019–016).

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening process. The Exchange and its Affiliate SROs [10] filed rule changes to that effect in March 2020,[11] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 11.16 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.16 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) [15] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[16]

[10] The ''Affiliate SROs'' are the Exchange's affiliated equities exchanges, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., and Cboe EDGX Exchange, Inc.

[11] *See* Securities Exchange Act Release Nos. 88417 (March 18, 2020), 85 FR 16702 (March 24, 2020) (SR–CboeBZX–2020–025); 88416 (March 18, 2020), 85 FR 16699 (March 24, 2020) (SR–CboeBYX–2020–009); 88420 (March 18, 2020), 85 FR 16696 (March 24, 2020) (SR–CboeEDGX–2020–012); 88419 (March 18, 2020), 85 FR 16716 (March 24, 2020) (SR–CboeEDGA–2020–008).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2020–026 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–CboeEDGA–2020–026. 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 and on its internet website. 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–CboeEDGA–2020–026 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[17] *Id.*

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90137; File No. SR–NYSENAT–2020–31]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize Rules 10.9261 and 10.9830 With Recent Changes by the Financial Industry Regulatory Authority, Inc.

October 8, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 29, 2020, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to harmonize Rules 10.9261 and 10.9830 with recent changes by the Financial Industry Regulatory Authority, Inc. (''FINRA'') that temporarily grants the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing novel coronavirus (''COVID–19'') pandemic. As proposed, these temporary amendments would be in effect through December 31, 2020. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to harmonize Rules 10.9261 (Evidence and Procedure in Hearing) and 10.9830 (Hearing) with recent changes by FINRA to its Rules 9261 and 9830 that temporarily grants to the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing COVID–19 pandemic. As proposed, these temporary amendments would be in effect through December 31, 2020.[4]

Background

In 2018, NYSE National adopted disciplinary rules that are, with certain exceptions, substantially the same as the disciplinary rules of its affiliate NYSE American LLC, which are in turn substantially similar to the FINRA Rule 8000 Series and Rule 9000 Series, and which set forth rules for conducting investigations and enforcement actions.[5]

In adopting disciplinary rules modeled on FINRA's rules, NYSE National adopted the hearing and evidentiary processes set forth in Rule 10.9261 and in Rule 10.9830 for hearings in matters involving temporary and permanent cease and desist orders under the Rule 9800 Series. As adopted, the text of Rule 10.9261 and Rule 10.9830 are substantially the same as the FINRA rules with certain modifications.[6]

In view of the ongoing spread of COVID–19 and its effect on FINRA's adjudicatory functions nationwide, FINRA recently filed a temporary rule change to grant FINRA's Office of Hearing Officers (''OHO'') and the National Adjudicatory Council (''NAC'') the authority to conduct certain hearings by video conference, if warranted by the current COVID–19-related public health risks posed by in-person hearings. Among the rules FINRA amended were Rules 9261 and 9830.[7]

FINRA represented in its filing that its protocol for conducting hearings by video conference would ensure that such hearings maintain fair process for the parties by, among other things, FINRA's use of a high quality, secure and user-friendly video conferencing service and provide thorough instructions, training and technical support to all hearing participants.[8] According to FINRA, the proposed changes were a reasonable interim solution to allow FINRA's critical adjudicatory processes to continue to function while protecting the health and safety of hearing participants as FINRA works towards resuming in-person hearings in a manner that is compliant with the current guidance of public health authorities.[9]

Pursuant to a regulatory services agreement (''RSA''), FINRA's OHO will administer all aspects of adjudications, including assigning hearing officers to serve as NYSE National hearing officers. A hearing officer from OHO will, among other things, preside over the disciplinary hearing, select and chair the hearing panel, and prepare and issue written decisions. The Chief or Deputy Hearing Officer for all Exchange disciplinary hearings are currently drawn from OHO and are all FINRA employees. The Exchange believes that OHO will utilize the same video conference protocol and processes for Exchange matters under the RSA as it proposes for FINRA matters.

Given that FINRA and its OHO administers disciplinary hearings on the Exchange's behalf, and given that the public health concerns addressed by FINRA's amendments apply equally to the Exchange's disciplinary hearings, the Exchange proposes to temporarily amend its disciplinary rules to allow FINRA to conduct virtual hearings on its behalf.

Proposed Rule Change

Rule 10.9261(b) states that if a disciplinary hearing is held, a party shall be entitled to be heard in-person, by counsel, or by the party's representative. Absent an agreement by all parties to proceed in another manner, Exchange disciplinary hearings are in-person. As noted, the Chief and Deputy Hearing Officers for all Exchange and cross-market matters are supplied by OHO and are FINRA employees. Accordingly, absent an agreement by all parties to proceed in another manner, under Rule 10.9261(b) the Chief or Deputy Hearing Officer conducts disciplinary hearings in-person.

Similarly, Rule 10.9830 outlines the requirements for hearings for temporary and permanent cease and desist orders. Rule 10.9830(a), however, does not specify that a party shall be entitled to be heard in-person, by counsel, or by the party's representative.

Consistent with FINRA's temporary amendment to FINRA Rules 9261 and 9830, the Exchange proposes to temporarily grant the Chief or Deputy Chief Hearing Officer temporary authority to order, upon consideration of the current COVID–19-related public health risks presented by an in-person hearing, that a hearing under those rules be conducted by video conference. The proposed rule change will permit OHO to make an assessment, based on critical COVID–19 data and criteria and the guidance of health and security consultants, whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference. As noted, FINRA has adopted a detailed and thorough protocol to ensure that hearings conducted by video conference will maintain fair process for the parties.[10] The Exchange believes that this is a reasonable procedure to follow in hearings under Rules 10.9261 and 10.9830 chaired by a FINRA employee.[11]

[4] The Exchange may submit a separate rule filing to extend the expiration date of the proposed temporary amendments if the Exchange requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020. The amended NYSE National rules will revert back to their current state at the conclusion of the temporary relief period and any extension thereof.

[5] *See* Securities Exchange Act Release Nos. 83289 (May 17, 2018), 83 FR 23968, 23976 (May 23, 2018) (SR–NYSENAT–2018–02) (''2018 Approval Order'').

[6] *See id.*

[7] *See* Securities Exchange Act Release Nos. 83289 (September 2, 2020), 85 FR 55712 (September 9, 2020) (SR–FINRA–2020–027) (''FINRA Filing''). FINRA also proposed to temporarily amend FINRA Rules 1015 and 9524. FINRA Rule 1015 governs the process by which an applicant for new or continuing membership can appeal a decision rendered by FINRA's Department of Member Supervision under FINRA Rule 1014 or 1017 and request a hearing which would be conducted by a subcommittee of the NAC. *See id.* at 55714. The Exchange has not adopted FINRA Rule 1015. FINRA Rule 9524 governs the process by which a statutorily disqualified member firm or associated person can appeal the Department's recommendation to deny a firm or sponsoring firm's application to the NAC. *See id.* Under the Exchange's version of Rule 10.9524, if the Exchange's Chief Regulatory Officer rejects the application, the ETP Holder or applicant may request a review by the Exchange Board of Directors. This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors.

[8] *See* FINRA Filing, 85 FR at 55713.

[9] *See id.*

[10] *See* FINRA Filing, 85 FR at 55713.

[11] The Exchange notes, as did FINRA, that SEC's Rules of Practice pertaining to temporary cease-and-desist orders provide that parties and witnesses may participate by telephone or, in the Commission's discretion, through the use of alternative technologies that allow remote access, such as a video link. *See* SEC Rule of Practice 511(d)(3); Comment (d); *see* FINRA Filing, 85 FR at 55714, n. 21.

To effectuate these changes, the Exchange proposes to add the following sentence to Rule 10.9261(b):

> Upon consideration of the current public health risks presented by an in-person hearing, the Chief Hearing Officer or Deputy Chief Hearing Officer may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

The proposed text is identical to the language adopted by FINRA.[12]

Similarly, the Exchange proposes to add the following text to Rule 10.9830(a):

> Upon consideration of the current public health risks presented by an in-person hearing, the Chief Hearing Officer or Deputy Chief Hearing Officer may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

Once again, the proposed language is identical to the language adopted by FINRA.[13]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5),[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.[16]

The Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. As previously noted, the text of Rule 10.9261 and Rule 10.9830 are substantially the same as FINRA's rule. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed temporary rule change will permit the Exchange to effectively conduct hearings during the COVID–19 pandemic in situations where in-person hearings present likely public health risks. The ability to conduct hearings by video conference will thereby permit the adjudicatory functions of the Exchange's disciplinary rules to continue unabated, thereby avoiding protracted delays. The Exchange believes that this is especially important in matters where temporary and permanent cease and desist orders are sought because the proposed rule change would enable those hearings to proceed without delay, thereby enabling the Exchange to take immediate action to stop significant, ongoing customer harm, to the benefit of the investing public.

Conducting hearings via video conference will give the parties and adjudicators simultaneous visual and oral communication without the risks inherent in physical proximity during a pandemic. Temporarily permitting hearings for disciplinary matters to proceed by video conference maintains fair process by providing respondents a timely opportunity to address and potentially resolve any allegations of misconduct.

As noted, FINRA will use a high quality, secure video conferencing technology with features that will allow the parties to reasonably approximate those tasks that are typically performed at an in-person hearing, such as sharing documents, marking documents, and utilizing breakout rooms. FINRA will also provide training for participants on how to use the video conferencing platform and detailed guidance on the procedures that will govern such hearings. Moreover, the Chief or Deputy Chief Hearing Officer may take into consideration, among other things, a hearing participant's access to connectivity and technology in scheduling a video conference hearing and can also, at their discretion, allow a party or witness to participate by telephone, if necessary, to address such access issues.[17]

For the same reasons, the Exchange believes that the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.[18] The Exchange believes that the temporary proposed rule change strikes an appropriate balance between providing fair process and enabling the Exchange to fulfill its statutory obligations to protect investors and maintain fair and orderly markets while accounting for the significant health and safety risks of in-person hearings stemming from the outbreak of COVID–19.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but is rather intended solely to provide temporary relief given the impacts of the COVID–19 pandemic. In its filing, FINRA provides an abbreviated economic impact assessment maintaining that the changes are necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rules 1015, 9261, 9524 and 9830 in response to the impacts of the COVID–19 pandemic that is equally applicable to the changes the Exchange proposes.[19] The Exchange accordingly incorporates FINRA's abbreviated economic impact assessment by reference.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[12] *See* FINRA Filing, 85 FR at 55712.

[13] *Id.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(7) and 78f(d).

[17] *See* text accompanying notes 9–10, *supra.*

[18] 15 U.S.C. 78f(b)(7) and 78f(d).

[19] FINRA Filing, 85 FR at 55716.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6).

of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–31 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2020–31. 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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2020–31 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22718 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90111; File No. SR–NYSE–2020–80]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Temporary Commentary .10 Under NYSE Rule 1210

October 7, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 25, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE Rule 1210 (Registration Requirements) applicable to member organizations. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE Rule 1210 (Registration Requirements) applicable to member organizations.[4] The proposed rule change would extend the 120-day period that certain individuals can function as a principal without having successfully passed an appropriate qualification examination through December 31, 2020,[5] and would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. This proposed rule change is based on a filing recently submitted by the Financial Regulatory Authority, Inc. (''FINRA'') [6] and is intended to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''member organization'' means a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the ''Act''), including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability corporations, approved by the Exchange pursuant to Rule 311. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. *See* Rule 2(b)(i). The term ''member organization'' also includes any registered broker or dealer which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate. *See* Rule 2(b)(ii).

[5] If NYSE seeks to provide additional temporary relief from the rule requirements identified in this proposed rule change beyond December 31, 2020, NYSE will submit a separate rule filing to further extend the temporary extension of time.

[6] *See* Securities Exchange Act Release No. 89732 (September 1, 2020), 85 FR 55535 (September 8, 2020) (SR–FINRA–2020–026) (the ''FINRA Filing''). The Exchange notes that the FINRA Filing also provides temporary relief to individuals registered

harmonize the Exchange's registration rules with those of FINRA so as to promote uniform standards across the securities industry.

In response to COVID–19, earlier this year FINRA began providing temporary relief by way of frequently asked questions (''FAQs'')[7] to address disruptions to the administration of FINRA qualification examinations caused by the pandemic that have significantly limited the ability of individuals to sit for examinations due to Prometric test center capacity issues.[8]

FINRA published the first FAQ on March 20, 2020, providing that individuals who were designated to function as principals under FINRA Rule 1210.04[9] prior to February 2, 2020, would be given until May 31, 2020, to pass the appropriate principal qualification examination.[10] On May 19, 2020, FINRA extended the relief to pass the appropriate examination until June 30, 2020. Most recently, on June 29, 2020, FINRA again extended the temporary relief providing that individuals who were designated to function as principals under FINRA Rule 1210.04 prior to May 4, 2020, would be given until August 31, 2020, to pass the appropriate principal qualification examination.

One of the impacts of COVID–19 continues to be serious interruptions in the administration of FINRA qualification examinations at Prometric test centers and the limited ability of individuals to sit for the examinations.[11] Although Prometric has begun reopening test centers, Prometric's safety practices mean that currently not all test centers are open, some of the open test centers are at limited capacity, and some open test centers are delivering only certain examinations that have been deemed essential by the local government.[12] Furthermore, Prometric has had to close some reopened test centers due to incidents of COVID–19 cases. The initial nationwide closure in March along with the inability to fully reopen all Prometric test centers due to COVID–19 have led to a significant backlog of individuals who are waiting to sit for FINRA examinations.[13]

In addition, firms are continuing to experience operational challenges with much of their personnel working from home due to shelter-in-place orders, restrictions on businesses and social activity imposed in various states, and adherence to other social distancing guidelines consistent with the recommendations of public health officials.[14] As a result, firms continue to face potentially significant disruptions to their normal business operations that may include a limitation of in-person activities and staff absenteeism as a result of the health and welfare concerns stemming from COVID–19. Such potential disruptions may be further exacerbated and may even affect client services if firms cannot continue to keep principal positions filled as they may have difficulty finding other qualified individuals to transition into these roles or may need to reallocate employee time and resources away from other critical responsibilities at the firm.

These ongoing, extenuating circumstances make it impracticable for member organizations to ensure that the individuals whom they have designated to function in a principal capacity, as set forth in NYSE Rule 1210.03, are able to successfully sit for and pass an appropriate qualification examination within the 120-calendar day period required under the rule, or to find other qualified staff to fill this position. The ongoing circumstances also require individuals to be exposed to the health risks associated with taking an in-person examination, because the General Securities Principal examination is not available online.

Therefore, NYSE is proposing to continue the temporary relief provided through the FINRA FAQs by adopting Rule 1210.10 to extend the 120-day period during which an individual can function as a principal before having to pass an applicable qualification examination until December 31, 2020.[15] The proposed rule change would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. Any individuals designated to function as a principal on or after September 3, 2020, would need to successfully pass an appropriate qualification examination within 120 days.

NYSE believes that this proposed continued extension of time is tailored to address the needs and constraints on a member organization's operations during the COVID–19 pandemic, without significantly compromising critical investor protection. The proposed extension of time will help to minimize the impact of COVID–19 on member organizations by providing continued flexibility so that member organizations can ensure that principal positions remain filled. The potential risks from the proposed extension of the 120-day period are mitigated by the member organization's continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to minimize the impact of COVID–19 on member organization operations by extending the 120-day period certain individuals may function as a principal without having successfully passed an appropriate qualification examination under NYSE Rule 1210.03 until December 31, 2020. The proposed rule

with FINRA as Operations Professionals under FINRA Rule 1220. The Exchange does not have a registration category for Operations Professionals and therefore, the Exchange is not proposing to adopt that aspect of the FINRA Filing.

[7] *See https://www.finra.org/rules-guidance/key-topics/covid-19/faq#qe.*

[8] At the outset of the COVID–19 pandemic, all FINRA qualification examinations were administered at test centers operated by Prometric. Based on the health and welfare concerns resulting from COVID–19, in March Prometric closed all of its test centers in the United States and Canada and began to slowly reopen some of them at limited capacity in May. At this time, not all of these Prometric test centers have reopened at full capacity.

[9] NYSE Rule 1210.03 is the corresponding rule to FINRA Rule 1210.04.

[10] FINRA Rule 1210.04 (Requirements for Registered Persons Functioning as Principals for a Limited Period) allows a member firm to designate certain individuals to function in a principal capacity for 120 calendar days before having to pass an appropriate principal qualification examination. NYSE Rule 1210.03 provides the same allowance to member organizations.

[11] Information about the continued impact of COVID–19 on FINRA-administered examinations is available at *https://www.finra.org/rules-guidance/keytopics/covid-19/exams.*

[12] Information from Prometric about its safety practices and the impact of COVID–19 on its operations is available at *https://www.prometric.com/corona-virus-update. See also supra* note 11.

[13] Although an online test delivery service has been launched to help address the backlog, the General Securities Principal Examination (Series 24) is not available online. *See supra* note 11.

[14] *See, e.g.,* Centers for Disease Control and Prevention, How to Protect Yourself & Others, *https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/prevention.html.*

[15] *See supra* note 5.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

change does not relieve member organizations from maintaining, under the circumstances, a reasonably designed system to supervise the activities of their associated persons to achieve compliance with applicable securities laws and regulations, and with applicable NYSE rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID–19 pandemic, NYSE believes that the proposed rule change is a sensible accommodation that will continue to afford member organizations the ability to ensure that critical positions are filled and client services maintained, while continuing to serve and promote the protection of investors and the public interest in this unique environment.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to provide temporary relief given the impacts of the COVID–19 pandemic crisis and to also maintain consistency with the rules of other self-regulatory organizations (''SROs'') with respect to the registration requirements applicable to member organizations and their registered personnel. In that regard, the Exchange believes that any burden on competition would be clearly outweighed by providing member organizations with temporary relief in this unique environment while also ensuring clear and consistent requirements applicable across SROs and mitigating any risk of SROs implementing different standards in these important areas. In its filing, FINRA provides an abbreviated economic impact assessment maintaining that the changes are necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rule 1210 in response to the impacts of the COVID–19 pandemic that is equally applicable to the changes the Exchange proposes.[18] The Exchange accordingly incorporates FINRA's abbreviated economic impact assessment by reference.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

[18] FINRA Filing, 85 FR at 55537.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. As noted above, NYSE stated that the temporary proposed rule change is based on a recent rule change by FINRA and is intended to harmonize NYSE's registration rules with those of FINRA to promote uniform standards across the securities industry.[21] NYSE states that it will also help minimize the impact of the COVID–19 outbreak on NYSE member organizations' operations by allowing them to keep principal positions filled and minimizing disruptions to client services and other critical responsibilities. The ongoing extenuating circumstances of the COVID–19 pandemic make it impractical to ensure that individuals designated to act in principal capacities are able to take and pass the appropriate qualification examination during the 120-calendar day period required under the rules. Shelter-in-place orders, quarantining, restrictions on business and social activity and adherence to other social distancing guidelines consistent with the recommendation of public officials remain in place in various states.[22] Further, NYSE states that Prometric test centers have experienced serious interruptions in the administration of FINRA qualification examinations, resulting in a backlog of individuals waiting to take these examinations. Following a nationwide closure of all test centers earlier in the year, some test centers have re-opened, but are operating at limited capacity or are only delivering certain examinations that have been deemed essential by the local government.[23] FINRA has launched an online test delivery service to help address this backlog. However, the General Securities Principal (Series 24) Examination is not available online. NYSE states that the temporary proposed rule change will provide needed flexibility to ensure that these positions remain filled and is tailored to address the constraints on member organizations' operations during the COVID–19 pandemic without significantly compromising critical investor protection.[24]

The Commission also notes that the proposal provides only temporary relief from the requirement to pass certain qualification examinations within the 120-day period in the rules. As proposed, this relief would extend the 120-day period that certain individuals can function as principals through December 31, 2020. NYSE has also stated that if it requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020, it may submit a separate rule filing to extend the effectiveness of the temporary relief under these rules.[25] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.[26] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE has satisfied this requirement.

[21] *See supra* note 6.

[22] *See supra* note 14.

[23] *See supra* notes 11 and 12. NYSE states that Prometric has also had to close some reopened test centers due to incidents of COVID–19 cases.

[24] NYSE states that member organizations remain subject to the continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE rules.

[25] *See supra* note 5.

[26] As noted above by the Exchange, this proposed temporary change is based on a recent filing by FINRA that the Commission approved with a waiver of the 30-day operative delay. *See supra* note 6, 85 FR at 55538.

[27] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–80 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–80. 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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSE–2020–80 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22631 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[28] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90122; File No. SR–CboeBYX–2020–029]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase Maker Transaction Fees

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its fee schedule. [3]

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[4] no single registered equities exchange has more than 19% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Taker-Maker'' model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fees Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, for securities at or above $1.00, the Exchange provides a standard rebate of $0.0005 per share for orders that remove liquidity and assesses a fee of $0.0019 per share for orders that add liquidity. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on October 1, 2020 (SR–CboeBYX–2020–026). On October 5, 2020, the Exchange withdrew that filing and submitted SR–CboeBYX–2020–027. On October 6, 2020 the Exchange withdrew that filing and submitted this filing.

[4] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (September 28, 2020), available at *https://markets.cboe.com/us/equities/market_statistics/.*

constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

As stated above, the Exchange currently provides a standard fee of $0.0019 per share for liquidity adding orders (*i.e.,* those yielding fee codes B, V, Y) in securities priced at or above $1.00. The Exchange now proposes to modestly increase the current standard fee of $0.00190 per share to $0.00200 per share for orders that add liquidity for securities priced at or above $1.00. The Exchange notes that although this proposed standard fee for liquidity adding orders is higher than the current standard fee for such orders, the proposed fee is in line with similar fees for liquidity adding orders in place on other exchanges. [5]

The Exchange next proposes to amend the fee for non-displayed orders that add liquidity using the Mid-Point Peg order type [6] and yield fee code ''MM'', [*sic*] Currently, orders yielding fee code'' MM'' are assessed a fee of $0.00050 in securities priced at or above $1.00. Orders yielding fee code ''MM'' in securities priced below $1.00 are not assessed a fee. The Exchange now proposes to increase the current fee of $0.00050 per share to $0.00100 per share for orders yielding fee code ''MM'' in securities priced at or above $1.00. Orders yield fee code ''MM'' in securities priced below $1.00 would continue to be free. The Exchange notes that the proposed fee is lower than fees assessed on similar liquidity adding orders on other equities exchanges. [7]

The Exchange lastly notes that the Standard Rate Table in the Exchange's fees schedule currently lists the standard fee and rebates using only four decimals for orders priced at or above $1.00 that (1) add liquidity, (2) remove liquidity or (3) route and remove liquidity, whereas the Fee Codes and Associated Fees table in the fees schedule lists fees and rebates using five decimals. To add consistency to the fees schedule and alleviate potential confusion, the Exchange proposes to update the fees and rebates in the Standard Rates table to 5 decimals. The Exchange does not believe this update is a substantive change, but rather maintains clarity in the fees schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient.

In particular, the Exchange believes that the proposed fee changes are reasonable, equitable and non-discriminatory because the proposed changes both represent a modest fee increase and such fees are equally applicable to all Members of the Exchange. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Moreover, the proposed standard fees for adding liquidity orders and non-displayed orders that add liquidity using the Mid-Point Peg order are still lower than those offered at other Taker-Maker exchanges for similar transactions, respectively.[11]

The Exchange lastly believes the proposed change to update the fees and rebate in the Standard Rates table to use five decimals instead of four decimals to match the fees and rebates listed in the Fee Codes and Associated Fees table provides consistency in the fees schedule and alleviates potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes apply to all displayed liquidity adding orders in securities at or above $1.00 equally and all non-displayed liquidity adding midpoint peg orders in securities at or above $1.00 equally, and thus applies to all Members equally. Additionally, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purpose of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other equities exchanges and off-exchange venues and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 19% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current

[5] *See* Nasdaq BX, Inc. Pricing List, ''Charge for providing liquidity through Nasdaq BX Equities System,'' which assesses a standard fee of $0.0030 per share for displayed orders that add liquidity. *See also,* Cboe EDGA Exchange, Inc., Fees Schedule, which also assesses a standard fee of $0.0030 per share for displayed orders that add liquidity.

[6] *See* Rule 11.9(c)(9), which states that a Mid-Point Peg order is a limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.

[7] *See* Nasdaq BX, Inc. Pricing List, ''Charge for providing liquidity through Nasdaq BX Equities System'', which assesses a standard fee of $0.0015 per share for non-displayed orders that add liquidity using midpoint pegging.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f.(b)(5).

[11] *See supra* notes 4 and 5.

regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2020–029 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2020–029 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22705 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90116; File No. SR–FINRA–2020–020]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Adopt FINRA Rule 3241 (Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer)

October 7, 2020.

**I. Introduction**

On June 23, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt FINRA Rule 3241 (Registered Person Being Named a Customer's Beneficiary or Holding a Position of Trust for a Customer). The proposed rule was published for comment in the **Federal Register** on July 9, 2020.[3] On August 18, 2020, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule, disapprove the proposed rule, or institute proceedings to determine whether to approve or disapprove the proposed rule to October 7, 2020.[4] On October 6, 2020, FINRA responded to the comment letters received in response to the Notice.[5] This order approves the proposed rule.

**II. Description of the Proposed Rule**

The proposed rule would address the conflicts of interest that result from registered representatives being named beneficiaries of a customer or holding positions of trust on behalf of a customer for personal monetary gain.[6] Specifically, the proposed rule would

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 89218 (July 2, 2020), 85 FR 41249 (July 9, 2020) (File No. SR–FINRA–2020–020) (''Notice'').

[4] *See* letter from Jeanette Wingler, Associate General Counsel, Office of General Counsel, FINRA, to Lourdes Gonzalez, Assistant Chief Counsel, Division of Trading and Markets, Commission, dated August 18, 2020.

[5] *See* letter from Jeanette Wingler, Associate General Counsel, Office of General Counsel, FINRA, to Vanessa Countryman, Secretary, Commission, dated October 6, 2020 (''FINRA Letter''). The FINRA Letter is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA, on the Commission's website at *https://www.sec.gov/comments/sr-finra-2020-020/srfinra2020-020.htm,* and at the Commission's Public Reference Room.

[6] Notice at 41250.

require a registered representative to decline being named a beneficiary of a customer's estate or receiving a bequest from a customer's estate unless she notifies her employer in writing and receives written approval from the broker-dealer prior to being named a beneficiary of a customer's estate or receiving a bequest from a customer's estate.[7] The proposed rule would also require a registered representative to decline being named as an executor or trustee or holding a power of attorney or similar position for or on behalf of a customer unless: (1) She provides written notice to her employer and receives written approval from the broker-dealer prior to acting in such capacity or receiving any fees, assets or other benefit in relation to acting in such capacity; and (2) she does not derive financial gain from acting in such capacity other than from fees or other charges that are reasonable and customary for acting in such capacity.[8] The proposed rule would not apply where the customer[9] is a member of the registered representative's immediate family.[10]

*Registered Representative's Knowledge*

The proposed rule would require that a registered representative have knowledge that she was named as a beneficiary or to a position of trust. A registered representative who was named to such a capacity without her knowledge generally would not violate the new rule.[11] Similarly, a registered representative cannot evade the rule by instructing or asking a customer to name another person, such as the registered representative's spouse or child, to be a beneficiary of the customer's estate or to receive a bequest from the customer's estate.[12]

*Broker-Dealer Notice and Approval*

As stated above, the proposed rule would require a registered representative to notify, and receive prior approval from, her employer if she is named as a beneficiary or to a position of trust by her customer. Similarly, if a registered representative was named as a beneficiary or to a position of trust prior to the registered representative's association with the FINRA member broker-dealer, the proposed rule would require her, within 30 calendar days of becoming associated, to provide notice to and receive approval from, the broker-dealer to maintain the beneficiary status or position of trust.[13] Furthermore, if a registered representative was named as a beneficiary or to a position of trust prior to the registered representative establishing a customer relationship with the individual, the registered representative and her broker-dealer employer would need to comply with the proposed new rule.[14]

The proposed rule does not prescribe any specific form of written notice but instead would permit a FINRA member broker-dealer to specify the required form of written notice for its registered representatives.[15] Upon receipt of the written notice, the proposed rule would require the broker-dealer to: (1) Perform a reasonable assessment of the risks created by the registered representative's assuming such status or acting in such capacity, including, but not limited to, an evaluation of whether it would interfere with or otherwise compromise the registered representative's responsibilities to the customer; and (2) make a reasonable determination of whether to approve the registered representative's assuming such status or acting in such capacity, to approve it subject to specific conditions or limitations, or to disapprove it.[16]

If a FINRA member broker-dealer approves a registered representative assuming such status or acting in such capacity, the broker-dealer assumes supervisory responsibilities following approval.[17] The proposed rule would require a member firm to establish and maintain written procedures to comply with the proposed new rule's requirements.[18] The proposed rule also would require FINRA member broker-dealers to preserve the written notice and approval for at least three years after the date that the beneficiary status or position of trust has terminated or the bequest received or for at least three years, whichever is earlier, after the registered representative's association with the firm has terminated.[19]

*Reasonable Assessment and Determination*

The proposed rule would not prohibit a registered representative from being named a beneficiary of, or receiving a bequest from, a customer's estate. However, given the potential conflicts of interest such arrangements create, the proposed rule would require a FINRA member broker-dealer to reasonably assess the risks created by the registered representative's assuming such status or acting in such capacity, taking into consideration several factors, including, but not limited to: (1) Any potential conflicts of interest created by the registered representative being named a beneficiary or holding a position of trust; (2) the length and type of relationship between the customer and registered representative; (3) the customer's age; (4) the size of any bequest relative to the size of a customer's estate; (5) whether the registered representative has received other bequests or been named a beneficiary on other customer accounts; (6) whether, based on the facts and circumstances observed in the broker-dealer's business relationship with the customer, the customer has a mental or physical impairment that renders the customer unable to protect his or her

[7] *Id.*

[8] *Id.*

[9] For purposes of the proposed rule, the word ''customer'' would include any customer that has, or in the previous six months had, a securities account assigned to the registered representative at any FINRA member broker-dealer. Notice at 41252.

[10] Notice at 41250. FINRA stated that the risk that a registered representative misused her role in the broker-customer relationship to be named a beneficiary or hold a position of trust is reduced when the customer is an immediate family member. *See* Notice at 41255. Over the past five years, FINRA stated that more than 85% of such requests by registered representatives have been on behalf of immediate family members. *See* Notice at 41253.

For purposes of the proposed rule, the term ''immediate family'' would mean parents, grandparents, mother-in-law or father-in-law, spouse or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person who resides in the same household as the registered representative who the registered representative financially supports, directly or indirectly, to a material extent. The term would also include step and adoptive relationships. Notice at 41250.

[11] Notice at 41251. As described further below, the registered representative with knowledge that she has been named to a position of trust or as a beneficiary to the customer's estate would need to provide notice to her member broker-dealer and receive approval from the member broker-dealer before she may assume such status or act in such capacity.

[12] Notice at 41252.

[13] *Id.*

[14] *Id.*

[15] Notice at 41251.

[16] *Id.*

[17] *Id.* If the FNRA member broker-dealer imposes conditions or limitations on its approval, the broker-dealer would be required to reasonably supervise the registered representative's compliance with the conditions or limitations. Moreover, where a registered representative is knowingly named a beneficiary, executor, or trustee or holds a power of attorney or a similar position for or on behalf of a customer account at the firm with which the registered representative is associated and the firm has approved the registered representative assuming such status or position, the firm must supervise the account in accordance with FINRA Rule 3110, including the longstanding obligation to follow-up on ''red flags'' indicating problematic activity. If a registered representative is approved to hold (and receive compensation for) a position of trust for a customer away from the FINRA member broker-dealer, the requirements of both the proposed rule and FINRA Rule 3270 regarding outside business activities would apply to the activities away from the firm. Notice at 41251.

[18] *Id.*

[19] *Id.*

own interests; (7) any indicia of improper activity or conduct with respect to the customer or the customer's account; and (8) any indicia of customer vulnerability or undue influence of the registered representative over the customer.[20]

*Timing*

The proposed rule would apply if the registered representative is named a beneficiary or receives a bequest from a customer's estate after the effective date of the proposed new rule. For the non-beneficiary positions, the proposed rule would apply to positions that the registered representative was named to prior to the rule becoming effective only if the initiation of the customer relationship between the registered representative and the customer occurred after the effective date of the proposed rule.[21]

## III. Discussion and Commission Findings

After careful review of the proposed rule, the comment letters, and FINRA's responses to the comments, the Commission finds that the proposed rule is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[22] Specifically, the Commission finds that the proposed rule is consistent with Section 15A(b)(6) of the Exchange Act,[23] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

FINRA's proposed rule aims to address concerns related to conflicts of interest created when registered representatives are named beneficiaries of a customer or hold positions of trust on behalf of a customer for personal monetary gain. FINRA stated that these conflicts of interest can take many forms and include a registered representative benefiting from the use of undue and inappropriate influence over important financial decisions to the detriment of a customer.[24] The proposed rule would establish a uniform, national standard that is designed to protect investors from registered representatives who might exploit their relationships with their customers. The proposed rule would also establish a consistent approach to addressing these concerns across FINRA member broker-dealers' policies and procedures.[25] The Commission believes that the proposed rule requiring a registered representative to notify her employer prior to entering into such relationships with her customers, as well as requiring the firm to approve and supervise the proposed relationship after reasonable analysis of the risks will lead to greater oversight of registered representatives' activities, thereby reducing the potential risk of customer harm.[26]

Two commenters support the proposed rule, believing it will serve to protect investors and mitigate potential conflicts of interests that can arise from having a customer name their registered representative as a beneficiary or to a position of trust.[27] One commenter stated that the proposed rule would help promote trust and confidence in the securities industry by ensuring that broker-dealers establish appropriate policies that will protect their senior and vulnerable customers.[28] The second commenter viewed the proposed rule as ''an important and necessary step in fighting a particular form of abuse—where registered representatives take advantage of customers to have themselves installed as the customers' beneficiaries or trustees over the clients' assets.'' [29] However, the latter commenter also stated that further action was necessary. Specifically, the commenter recommended that FINRA adopt a uniform written notice rather than permitting broker-dealers specify the required form of written notice for their respective registered representatives. The commenter believes that this amendment to the proposed rule would add yet another procedural safeguard that would help protect investors.[30]

As described in the Notice, FINRA considered adopting a uniform written notice for its member broker-dealers.[31] FINRA decided, however, that it was important to provide its members with a level of flexibility that a uniform written notice could not give them.[32] Because the proposed rule would require each broker-dealer to perform a reasonable assessment and make a determination of whether to approve or disapprove a proposed arrangement, FINRA believes it is important for each firm to decide for itself the type and amount of information needed to perform the required assessment and make the related determination.[33] Accordingly, FINRA declined to amend the proposed rule in response to the comment.

The Commission recognizes the possible costs to customers associated with the proposed rule (for example, less customer choice in identifying a person to serve in a capacity of trust).[34] The Commission also believes, however, that a customer may benefit if a registered representative's status as trustee or beneficiary are disclosed to the firm and the risks of undue influence are sufficiently mitigated. Moreover, the proposed rule does not prescribe any specific form of written notice, giving firms the flexibility to specify the required form of written notice for its registered representatives based on a firm's specific business model and resources.[35] Accordingly, the Commission believes that the proposed rule strikes a balance by allowing a firm to reasonably assess the risks to customers associated with those conflicts of interest and permitting a registered representative to be named a beneficiary of a customer or hold a position of trust on behalf of a customer

[20] Notice at 41251. FINRA stated that while a listed factor may not be applicable to a particular situation, the factors that a FINRA member broker-dealer considers should allow for a reasonable assessment of the associated risks so that the firm can make a reasonable determination of whether to approve the registered representative's assuming a status or acting in a capacity. *Id.*

[21] Notice at 41252.

[22] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78*o*–3(b)(6).

[24] *See* Notice at 41250.

[25] The inconsistent approach among firms currently allows registered representatives to circumvent firms' policies and procedures, for example by resigning as a customer's registered representative, transferring the customer to another registered representative, or having the customer name the registered representative's spouse or child as the customer's beneficiary. *See id.* The proposed rule change is intended to cover these situations. *See* Notice at 41257.

[26] *See* letter from Samuel B. Edwards, President, Public Investors Advocate Bar Association, dated July 30, 2002 (''PIABA Letter'') (finding meaningful benefit in a firm having more information available when supervising transactions in an account for which the firm is on notice the registered representative has a financial interest).

[27] *See* letter from Lisa Bleier, Managing Director, Securities Industry and Financial Markets Association (''SIFMA''), to Matthew DeLesDernier, Assistant Secretary, Commission, dated July 30, 2020 (''SIFMA Letter'') and PIABA Letter.

[28] SIFMA Letter.

[29] PIABA Letter.

[30] *Id.*

[31] *See* FINRA Letter (stating that regardless of its format, the notice should provide a broker-dealer sufficient information about the proposed relationship upon which to perform the required assessment and make the related determination); *see also* Notice at 41256.

[32] *See* FINRA Letter; *see also* Notice at 41256.

[33] *Id.*

[34] *See* Notice at 41253 and FINRA Letter. There may also be costs to a customer to amend estate or other legal documents if the broker-dealer disapproves a registered representative being named a beneficiary, executor, or trustee or holding a power of attorney or a similar position for or on behalf of the customer.

[35] *See* Notice at 41251.

for personal monetary gain if the firm reasonably determines the risks are acceptable. For these reasons, the Commission finds that the proposed rule will provide additional investor protections, especially for broker-dealers who do not currently have policies and procedures in place to address these scenarios, or have such policies and procedures that are either less restrictive than the proposed rule change or are applied inconsistently.[36]

One commenter stated that it applauded FINRA for recognizing the need for controls in this area, but it maintained that registered persons should be unconditionally prohibited from being named as beneficiaries or appointed to positions of trust by any customer other than immediate family members.[37] In response, FINRA stated that it considered an outright prohibition of some or all positions of trust, but declined to adopt a prohibition, believing that some positions of trust may benefit customers [38] and the proposed rule would establish safeguards to protect investors, including: Requiring disclosure of the proposed relationship to the registered representative's employer broker-dealer, requiring the firm to assess the risks of the proposed arrangement, requiring the firm to affirmatively approve or deny the proposed arrangement, and reaffirming the firm's obligation to maintain records regarding, and supervise, the arrangement.[39]

The Commission shares the commenter's concern that certain conflicts of interest create high-pressure situations for registered representatives to engage in conduct contrary to the best interest of their customer.[40] As stated above, however, the Commission also sees value for customers to be able to appoint their registered representatives to a position of trust if the risks can be properly mitigated. The Commission believes the proposed rule would help mitigate the risks by requiring a broker-dealer to reasonably assess a proposed relationship based on detailed disclosure of the relationship by the registered representative, and, based on its assessment, whether to approve or disapprove the proposed relationship, or approve the arrangement subject to additional conditions or limitations.[41]

A commenter also asked FINRA to apply the proposed rule to preexisting beneficiary designations or designated positions of trust. In particular, the commenter believes that more investors should benefit from the proposed rule's protections.[42] In response, FINRA stated that many of its member broker-dealers already have policies and procedures prohibiting or imposing limitations on being named as a beneficiary or to a position of trust when there is not a familial relationship. Accordingly, many preexisting beneficiary designations or positions of trust have already been addressed by their respective firms.[43] Moreover, FINRA believes that it would be challenging and time-consuming for broker-dealers to conduct a full-scale retroactive review of all accounts across an organization to determine whether the arrangements currently in place are consistent with the proposed requirements.[44] In addition, customers may have relied on a broker-dealer's approval of arrangements currently in place in drafting estate or other legal documents, handling their assets or performing some duties (*e.g.,* a registered representative may have been named a customer's trustee in reliance on the firm's prior approval). As such, FINRA states that retroactively applying the obligations of the proposed rule would further compound the challenge for broker-dealers, registered representatives and customers.[45]

The Commission acknowledges that if applied retroactively the proposed rule's protections could benefit more customers who designated their registered representative a beneficiary or to hold a position of trust. However, the Commission also acknowledges the resources (financial and time) firms would expend to retroactively apply the proposed rule to existing customers, as well as the potential disruption to customers who have relied on existing arrangements with their registered representatives. Accordingly, the Commission believes that it is appropriate only to apply the rule prospectively. To the extent a registered representative was named by a customer as a beneficiary or to a position of trust prior to the effective date of the proposed rule, if that registered representative takes a job with, and moves the customer's account to, a new broker-dealer following the effective date, she and her new firm would be subject to the proposed rule's obligations.

As stated above, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act.[46] The Commission believes that establishing a uniform, baseline standard will help broker-dealers protect their customers from those registered representatives who might exploit their relationships with their customers. Specifically, requiring a registered representative to notify her employer prior to being named a beneficiary of a customer or holding positions of trust on behalf of a customer for personal monetary gain, as well as requiring the firm to approve and supervise the proposed relationship after reasonable analysis of the risks, will lead to greater oversight of registered representatives' activities, thereby helping to mitigate the potential risk of customer harm.[47]

## IV. Conclusion

*It is therefore ordered* pursuant to Section 19(b)(2) of the Exchange Act [48]

[36] *See* Notice at 41252.

[37] *See* letter from Christopher Gerold, President, North American Securities Administrators Association, Inc., to J. Matthew DeLesDernier, Assistant Secretary, Commission, dated July 30, 2020 (''NASAA Letter'').

[38] FINRA stated that it has observed that investment professionals, including registered persons, often develop close and trusted relationships with their customers, which in some instances have resulted in the investment professional being named the customer's beneficiary. However, being a customer's beneficiary may present significant conflicts of interest. FINRA would not expect a registered person's assertion that a customer has no viable alternative person to be named a beneficiary or to serve in a position of trust to be dispositive in the member firm's assessment. *See* Notice at 41251–2. However, according to FINRA, there may be circumstances where the registered representative represents a better alternative to the customer than other available options. Assuming a broker-dealer has done a reasonable assessment of the potential conflicts of interest before making a reasonable determination to approve the arrangement, a registered representative with financial acumen and knowledge of a customer's financial circumstances may be better positioned to serve in a position of trust than other alternatives available to the customer. *See* Notice at 41253, 41255–6.

[39] *See* FINRA Letter; *see also* Notice at 41254.

[40] *See* NASAA Letter.

[41] Proposed Rule 3241(b). The Commission notes that the proposed rule represents the minimum a broker-dealer must do when a registered representative is named a beneficiary of a customer or holds a position of trust on behalf of a customer for personal monetary gain. The broker-dealer may choose to go beyond the proposed rule by: (1) Requiring notification and approval when a registered person is named a beneficiary or to a position of trust for immediate family members; or (2) completely prohibiting the practice. *See* FINRA Letter.

[42] *See* NASAA Letter.

[43] *See* FINRA Letter and Notice at 41257.

[44] *See* FINRA Letter (citing a letter to FINRA commenting on Regulatory Notice 19–36 (November 2019) from the Securities Industry and Financial Markets Association, a United States industry trade group representing securities firms, banks, and asset management); *see also* Notice at 41257.

[45] *See* FINRA Letter.

[46] 15 U.S.C. 78*o*–3(b)(6).

[47] Further, FINRA stated that it would assess registered representatives' and broker-dealers' conduct under the rule to determine its effectiveness in addressing potential conflicts of interest and evaluate whether additional rulemaking or other action is appropriate. *See* Notice at 41254.

[48] 15 U.S.C. 78s(b)(2).

that the proposed rule (SR–FINRA–2020–020) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22636 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90103; File No. SR–CBOE–2020–089]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fees Schedule With Respect to Its Strategy Fee Cap

October 7, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on September 30, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule with respect to its strategy fee cap. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fees Schedule in connection with its strategy order fee cap, effective September 30, 2020.

Effective September 1, 2020, the Exchange amended Footnote 13 to provide that market-maker, Clearing Trading Permit Holder, JBO participant, broker-dealer and non-Trading Permit Holder market-maker transaction fees are capped at $0.00 for all merger, short stock interest, reversal, conversion and jelly roll strategies executed in open outcry on the same trading day in the same option class across all symbols.[3] Essentially, that rule change removed three previous strategy fee cap amounts, and, instead, adopted a $0.00 cap for strategies executed in open outcry in all classes (*i.e.,* all strategies transacted on the trading floor will be free). The Exchange proposes to explicitly clarify in Footnote 13 that in order for a strategy transaction to be eligible for the fee cap (*i.e.,* not be assessed transaction fees), TPHs must mark such strategy orders with a code approved by the Exchange identifying the orders as eligible for the fee cap.[4] The Exchange also proposes to provide that strategy orders executed during September 2020 will be eligible for the fee cap notwithstanding not being marked, provided that a TPH submits a rebate request with supporting documentation for such orders to the Exchange within 3 business days of September 30, 2020 (*i.e.,* October 5, 2020).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes making it clear and explicit in its fees schedule that TPHs must mark strategy orders with a code approved by the Exchange in order to receive the fee cap is reasonable as it reduces the risk of orders not receiving the current fee cap that would otherwise be entitled to it by ensuring TPHs are aware of the marking requirement. Additionally, the clarification provides transparency in the fees schedule and alleviates potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. The Exchange also believes the marking requirement is equitable and not unfairly discriminatory as it applies uniformly to all TPHs.

The Exchange also believes it's reasonable to provide TPHs the option of submitting a written rebate request to qualify strategy orders executed in September 2020 for the fee cap as it provides TPHs who did not know to mark their orders an opportunity to receive the fee cap for strategies that would otherwise qualify. Particularly, the Exchange notes it operates in highly competitive market. To respond to this competitive marketplace, the Exchange adopted a fee cap of $0.00 for all strategy orders, effective September 1, 2020, which was designed to incentivize Trading Permit Holders to increase their strategy orders submitted to and executed on the Exchange's trading floor, which can benefit all markets

[49] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89831 (September 11, 2020) 85 FR 58096 (September 17, 2020) (SR–CBOE–2020–084).

[4] The Exchange notes that its billing system is unable to recognize that an order is a strategy order absent such order being explicitly marked as a strategy order.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

participants. The Exchange believes that as a result of that change, TPHs did in fact send more strategy orders to the Exchange. However, due to the Exchange's inadvertent omission to explicitly state in the fees schedule that such orders must be marked to qualify for the fee cap, some TPHs were not aware of the requirement and did not mark their orders as strategy orders at the time of entry. As such, absent the proposed rule change, such orders submitted this month would not be eligible to receive the fee cap, notwithstanding the fact that such orders were strategy orders that otherwise could have qualified. The Exchange lastly believes allowing TPHs to submit documentation in order to qualify for the strategy order is equitable and not unfairly discriminatory as it applies uniformly to all TPHs who submitted strategy orders this month.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies uniformly to all TPHs and still provides for TPHs an opportunity to receive the above described fee cap. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because it only applies to trading on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and paragraph (f) of Rule 19b–4 [9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–CBOE–2020–089 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–CBOE–2020–089.* 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–CBOE–2020–089* and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22629 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90135; File No. SR–NYSEAMER–2020–74]**

## Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12E

October 8, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 6, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to extend the pilot related to the market-wide circuit breaker in Rule 7.12E. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 7.12E provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 7.12E was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12E to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The Exchange now proposes to amend Rule 7.12E to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 7.12E.

The market-wide circuit breaker under Rule 7.12E provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12E, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange and its Affiliate SROs[11] filed rule changes to that effect in March 2020,[12] and successfully tested

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEAmex–2011–73).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEAmex–2011–73) (Approval Order); and 68787 (January 31, 2013), 78 FR 8615 (February 6, 2013) (SR–NYSEMKT–2013–08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to Exchange Rule 80B–Equities).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85564 (April 9, 2019), 84 FR 15269 (April 15, 2019) (SR–NYSEAMER–2019–14).

[9] *See* Securities Exchange Act Release No. 87025 (September 19, 2019), 84 FR 50527 (September 25, 2019) (SR–NYSEAMER–2019–37).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] The ''Affiliate SROs'' are the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[12] *See* Securities Exchange Act Release Nos. 88402 (March 17, 2020), 85 FR 16436 (March 23, 2020) (SR–NYSE–2020–20); 88407 (March 18, 2020), 85 FR 16690 (March 24, 2020) (SR–NYSEAMER–2020–20); 88414 (March 18, 2020), 85

Continued

the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 7.12E is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12E should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2020–74 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2020–74. 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

FR 16707 (March 24, 2020) (SR–NYSEArca–2020–23); 88410 (March 18, 2020), 85 FR 16693 (March 24, 2020) (SR–NYSECHX–2020–08); 88411 (March 18, 2020), 85 FR 16710 (March 24, 2020) (SR–NYSENAT–2020–11).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSEAMER–2020–74 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22716 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[21] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90121; File No. SR–CboeBYX–2020–028]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 11.18

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposal to extend the pilot related to the market-wide circuit breaker in Rule 11.18. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

BYX Rules 11.18(a) through (d), (f) and (g) describe the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, *i.e.,* market-wide circuit breakers. The market-wide circuit breaker (''MWCB'') mechanism was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan. In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[6] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.18 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[7] The Exchange subsequently amended Rule 11.18 to extend the pilot's effectiveness for an additional year to the close of business on October 18, 2020.[8] The Exchange now proposes to amend Rule 11.18 to extend the pilot to the close of business on October 18, 20201. This filing does not propose any substantive or additional changes to Rule 11.18.

The market-wide circuit breaker under Rule 11.18 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[9] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[7] *See* Securities Exchange Act Release No. 85665 (April 16, 2019), 84 FR 16749 (April 22, 2019) (SR–CboeBYX–2019–004).

[8] *See* Securities Exchange Act Release No. 87343 (October 18, 2019), 84 FR 57104 (October 24, 2019) (SR–CboeBYX–2019–017).

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex-2011–73; SR–NYSEArca-2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening process. The Exchange and its Affiliate SROs [10] filed rule changes to that effect in March 2020, [11] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 11.18 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.18 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) [15] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii)

[10] The ''Affiliate SROs'' are the Exchange's affiliated equities exchanges, Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.

[11] *See* Securities Exchange Act Release Nos. 88417 (March 18, 2020), 85 FR 16702 (March 24, 2020) (SR–CboeBZX–2020–025); 88416 (March 18, 2020), 85 FR 16699 (March 24, 2020) (SR–CboeBYX–2020–009); 88420 (March 18, 2020), 85 FR 16696 (March 24, 2020) (SR–CboeEDGX–2020–012); 88419 (March 18, 2020), 85 FR 16716 (March 24, 2020) (SR–CboeEDGA–2020–008).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[16] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[17] *Id.*

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBYX–2020–028 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–028. 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 and on its internet website. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CboeBYX–2020–028 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22704 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[20] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90124; File No. SR–PEARL–2020–20]**

## Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Exchange Rule 2622

October 8, 2020.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to extend the pilot related to the market-wide circuit breaker mechanism in Rule 2622.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 2622 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism was approved by the Commission to operate on a pilot basis set to expire on at the close of business on October 18, 2020.[3] The Exchange now proposes to amend Rule 2622 to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 2622.

The MWCB mechanism under Rule 2622 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to MWCBs in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[4] MWCBs provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 2622, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. Rule 2622 reflects this change.[5]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed 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. The MWCB mechanism under Rule 2622 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the MWCB pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule

[3] *See* Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR–PEARL–2020–03) (''Equities Approval Order'').

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[5] *See* Equities Approval Order *supra* note 3. *See also* Amendment No. 1 to SR–PEARL–2020–03 *available at https://www.sec.gov/comments/sr-pearl-2020-03/srpearl202003-7168815-216600a.pdf.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

2622 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the MWCB pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [8] of the Act and Rule 19b–4(f)(6) [9] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2020–20 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–PEARL–2020–20. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–PEARL–2020–20 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[11] *Id.*

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90134; File No. SR–NYSE–2020–84]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12

October 8, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the

[1] 15 U.S.C.78s(b)(1).

''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on Monday October 6, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot related to the market-wide circuit breaker in Rule 7.12. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 7.12 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism, originally under Rule 80B, was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 80B to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange subsequently amended Rule 80B and the corresponding Pillar rule, Rule 7.12, to extend the pilot's effectiveness for an additional year to the close of business on October 18, 2020.[9]

The Exchange now proposes to amend Rule 7.12 [10] to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 7.12.

The market-wide circuit breaker under Rule 7.12 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[11] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSE–2011–48).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSE–2011–48) (Approval Order); and 68784 (January 31, 2013), 78 FR 8662 (February 6, 2013) (SR–NYSE–2013–10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to NYSE Rule 80B).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85560 (April 9, 2019), 84 FR 15247 (April 15, 2019) (SR–NYSE–2019–19). At that time, Rule 7.12 existed but was not operative with respect to Exchange-listed securities and was not amended to extend its effectiveness through October 18, 2019. Subsequently, all Exchange-listed securities transitioned to the Pillar trading platform. *See* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR–NYSE–2019–05).

[9] *See* Securities Exchange Act Release No. 87016 (September 19, 2019), 84 FR 50502 (September 25, 2019) (SR–NYSE–2019–51).

[10] Rule 80B is no longer operative. *See* Securities Exchange Act Release No. 88402 (March 17, 2020), 85 FR 16436 (March 23, 2020) (SR–NYSE–2020–20).

[11] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange and its Affiliate SROs [12] filed rule changes to that effect in March 2020,[13] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 7.12 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [16] of the Act and Rule 19b–4(f)(6) [17] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the

[12] The ''Affiliate SROs'' are the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[13] *See* Securities Exchange Act Release Nos. 88402 (March 17, 2020), 85 FR 16436 (March 23, 2020) (SR–NYSE–2020–20); 88407 (March 18, 2020), 85 FR 16690 (March 24, 2020) (SR–NYSEAMER–2020–20); 88414 (March 18, 2020), 85 FR 16707 (March 24, 2020) (SR–NYSEArca–2020–23); 88410 (March 18, 2020), 85 FR 16693 (March 24, 2020) (SR–NYSECHX–2020–08); 88411 (March 18, 2020), 85 FR 16710 (March 24, 2020) (SR–NYSENAT–2020–11).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] *Id.*

[20] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–84 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–84. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSE–2020–84 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90113; File No. SR–NYSEARCA–2020–87]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Temporary Commentary .10 Under NYSE Arca Rule 2.1210

October 7, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 25, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE Arca Rule 2.1210 (Registration Requirements) applicable to Equity Trading Permit (''ETP'') Holders, Options Trading Permit (''OTP'') Holders or OTP Firms. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE Arca Rule 2.1210 (Registration Requirements) applicable to ETP Holders, OTP Holders or OTP Firms (collectively, ''Members'').[4] The proposed rule change would extend the 120-day period that certain individuals can function as a principal without having successfully passed an appropriate qualification

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''ETP Holder'' refers to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an ETP. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. *See* Rule 1.1(o). The term ''ETP'' refers to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's Trading Facilities. *See* Rule 1.1(n). The term ''OTP Holder'' refers to a natural person, in good standing, who has been issued an OTP. An OTP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. Under the Exchange's rules, an OTP Holder has the status as a ''member'' of the Exchange as that term is defined in Section 3 of the Act. *See* Rule 1.1(nn). The term ''OTP'' refers to an Options Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's Trading Facilities. *See* Rule 1.1(mm). The term ''OTP Firm'' refers to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing who holds an OTP or upon whom an individual OTP Holder has conferred trading privileges on the Exchange's Trading Facilities pursuant to and in compliance with Exchange rules. An OTP Firm must be a registered broker or dealer pursuant to Section 15 of the Act. *See* Rule 1.1(oo).

examination through December 31, 2020,[5] and would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. This proposed rule change is based on a filing recently submitted by the Financial Regulatory Authority, Inc. (''FINRA'')[6] and is intended to harmonize the Exchange's registration rules with those of FINRA so as to promote uniform standards across the securities industry.

In response to COVID–19, earlier this year FINRA began providing temporary relief by way of frequently asked questions (''FAQs'')[7] to address disruptions to the administration of FINRA qualification examinations caused by the pandemic that have significantly limited the ability of individuals to sit for examinations due to Prometric test center capacity issues.[8]

FINRA published the first FAQ on March 20, 2020, providing that individuals who were designated to function as principals under FINRA Rule 1210.04[9] prior to February 2, 2020, would be given until May 31, 2020, to pass the appropriate principal qualification examination.[10] On May 19, 2020, FINRA extended the relief to pass the appropriate examination until June 30, 2020. Most recently, on June 29, 2020, FINRA again extended the temporary relief providing that individuals who were designated to function as principals under FINRA Rule 1210.04 prior to May 4, 2020, would be given until August 31, 2020, to pass the appropriate principal qualification examination.

One of the impacts of COVID–19 continues to be serious interruptions in the administration of FINRA qualification examinations at Prometric test centers and the limited ability of individuals to sit for the examinations.[11] Although Prometric has begun reopening test centers, Prometric's safety practices mean that currently not all test centers are open, some of the open test centers are at limited capacity, and some open test centers are delivering only certain examinations that have been deemed essential by the local government.[12] Furthermore, Prometric has had to close some reopened test centers due to incidents of COVID–19 cases. The initial nationwide closure in March along with the inability to fully reopen all Prometric test centers due to COVID–19 have led to a significant backlog of individuals who are waiting to sit for FINRA examinations.[13]

In addition, firms are continuing to experience operational challenges with much of their personnel working from home due to shelter-in-place orders, restrictions on businesses and social activity imposed in various states, and adherence to other social distancing guidelines consistent with the recommendations of public health officials.[14] As a result, firms continue to face potentially significant disruptions to their normal business operations that may include a limitation of in-person activities and staff absenteeism as a result of the health and welfare concerns stemming from COVID–19. Such potential disruptions may be further exacerbated and may even affect client services if firms cannot continue to keep principal positions filled as they may have difficulty finding other qualified individuals to transition into these roles or may need to reallocate employee time and resources away from other critical responsibilities at the firm.

These ongoing, extenuating circumstances make it impracticable for Members to ensure that the individuals whom they have designated to function in a principal capacity, as set forth in NYSE Arca Rule 2.1210.03, are able to successfully sit for and pass an appropriate qualification examination within the 120-calendar day period required under the rule, or to find other qualified staff to fill this position. The ongoing circumstances also require individuals to be exposed to the health risks associated with taking an in-person examination, because the General Securities Principal examination is not available online. Therefore, NYSE Arca is proposing to continue the temporary relief provided through the FINRA FAQs by adopting Rule 2.1210.10 to extend the 120-day period during which an individual can function as a principal before having to pass an applicable qualification examination until December 31, 2020.[15] The proposed rule change would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. Any individuals designated to function as a principal on or after September 3, 2020, would need to successfully pass an appropriate qualification examination within 120 days.

NYSE Arca believes that this proposed continued extension of time is tailored to address the needs and constraints on a Member's operations during the COVID–19 pandemic, without significantly compromising critical investor protection. The proposed extension of time will help to minimize the impact of COVID–19 on Members by providing continued flexibility so that Members can ensure that principal positions remain filled. The potential risks from the proposed extension of the 120-day period are mitigated by the Member's continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE Arca rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with

[5] If NYSE Arca seeks to provide additional temporary relief from the rule requirements identified in this proposed rule change beyond December 31, 2020, NYSE Arca will submit a separate rule filing to further extend the temporary extension of time.

[6] *See* Securities Exchange Act Release No. 89732 (September 1, 2020), 85 FR 55535 (September 8, 2020) (SR–FINRA–2020–026) (the ''FINRA Filing''). The Exchange notes that the FINRA Filing also provides temporary relief to individuals registered with FINRA as Operations Professionals under FINRA Rule 1220. The Exchange does not have a registration category for Operations Professionals and therefore, the Exchange is not proposing to adopt that aspect of the FINRA Filing.

[7] *See https://www.finra.org/rules-guidance/key-topics/covid-19/faq#qe.*

[8] At the outset of the COVID–19 pandemic, all FINRA qualification examinations were administered at test centers operated by Prometric. Based on the health and welfare concerns resulting from COVID–19, in March Prometric closed all of its test centers in the United States and Canada and began to slowly reopen some of them at limited capacity in May. At this time, not all of these Prometric test centers have reopened at full capacity.

[9] NYSE Arca Rule 2.1210.03 is the corresponding rule to FINRA Rule 1210.04.

[10] FINRA Rule 1210.04 (Requirements for Registered Persons Functioning as Principals for a Limited Period) allows a member firm to designate certain individuals to function in a principal capacity for 120 calendar days before having to pass an appropriate principal qualification examination. NYSE Arca Rule 2.1210.03 provides the same allowance to Members.

[11] Information about the continued impact of COVID–19 on FINRA-administered examinations is available at *https://www.finra.org/rules-guidance/keytopics/covid-19/exams.*

[12] Information from Prometric about its safety practices and the impact of COVID–19 on its operations is available at *https://www.prometric.com/corona-virus-update. See also supra* note 11.

[13] Although an online test delivery service has been launched to help address the backlog, the General Securities Principal Examination (Series 24) is not available online. *See supra* note 11.

[14] *See, e.g.,* Centers for Disease Control and Prevention, How to Protect Yourself & Others, *https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/prevention.html.*

[15] *See supra* note 5.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to minimize the impact of COVID–19 on Member operations by extending the 120-day period certain individuals may function as a principal without having successfully passed an appropriate qualification examination under NYSE Arca Rule 2.1210.03 until December 31, 2020. The proposed rule change does not relieve Members from maintaining, under the circumstances, a reasonably designed system to supervise the activities of their associated persons to achieve compliance with applicable securities laws and regulations, and with applicable NYSE Arca rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID–19 pandemic, NYSE Arca believes that the proposed rule change is a sensible accommodation that will continue to afford Members the ability to ensure that critical positions are filled and client services maintained, while continuing to serve and promote the protection of investors and the public interest in this unique environment.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to provide temporary relief given the impacts of the COVID–19 pandemic crisis and to also maintain consistency with the rules of other self-regulatory organizations (''SROs'') with respect to the registration requirements applicable to Members and their registered personnel. In that regard, the Exchange believes that any burden on competition would be clearly outweighed by providing Members with temporary relief in this unique environment while also ensuring clear and consistent requirements applicable across SROs and mitigating any risk of SROs implementing different standards in these important areas. In its filing, FINRA provides an abbreviated economic impact assessment maintaining that the changes are necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rule 1210 in response to the impacts of the COVID–19 pandemic that is equally applicable to the changes the Exchange proposes.[18] The Exchange accordingly incorporates FINRA's abbreviated economic impact assessment by reference.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6)[20] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE Arca has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. As noted above, NYSE Arca stated that the temporary proposed rule change is based on a recent rule change by FINRA and is intended to harmonize NYSE Arca's registration rules with those of FINRA to promote uniform standards across the securities industry.[21] NYSE Arca states that it will also help minimize the impact of the COVID–19 outbreak on NYSE Arca Members' operations by allowing them to keep principal positions filled and minimizing disruptions to client services and other critical responsibilities. The ongoing extenuating circumstances of the COVID–19 pandemic make it impractical to ensure that individuals designated to act in principal capacities are able to take and pass the appropriate qualification examination during the 120-calendar day period required under the rules. Shelter-in-place orders, quarantining, restrictions on business and social activity and adherence to other social distancing guidelines consistent with the recommendation of public officials remain in place in various states.[22] Further, NYSE Arca states that Prometric test centers have experienced serious interruptions in the administration of FINRA qualification examinations, resulting in a backlog of individuals waiting to take these examinations. Following a nationwide closure of all test centers earlier in the year, some test centers have re-opened, but are operating at limited capacity or are only delivering certain examinations that have been deemed essential by the local government.[23] FINRA has launched an online test delivery service to help address this backlog. However, the General Securities Principal (Series 24) Examination is not available online. NYSE Arca states that the temporary proposed rule change will provide needed flexibility to ensure that these positions remain filled and is tailored to address the constraints on Members' operations during the COVID–19 pandemic without significantly compromising critical investor protection.[24]

The Commission also notes that the proposal provides only temporary relief from the requirement to pass certain qualification examinations within the 120-day period in the rules. As proposed, this relief would extend the 120-day period that certain individuals can function as principals through December 31, 2020. NYSE Arca has also stated that if it requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020, it may submit a separate rule filing to extend the effectiveness of the temporary relief under these rules.[25] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.[26] Accordingly, the Commission hereby waives the 30-day operative delay and

[18] FINRA Filing, 85 FR at 55537.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Arca has satisfied this requirement.

[21] *See supra* note 6.

[22] *See supra* note 14.

[23] *See supra* notes 11 and 12. NYSE Arca states that Prometric has also had to close some reopened test centers due to incidents of COVID–19 cases.

[24] NYSE Arca states that Members remain subject to the continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE Arca rules.

[25] *See supra* note 5.

[26] As noted above by the Exchange, this proposed temporary change is based on a recent filing by FINRA that the Commission approved with a waiver of the 30-day operative delay. *See supra* note 6, 85 FR at 55538.

designates the proposal operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2020–87 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2020–87. 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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2020–87 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22632 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[27] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90129; File No. SR–FINRA–2020–024]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Delete the FINRA Order Audit Trail System (OATS) Rules

October 8, 2020.

On August 14, 2020, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 proposal to eliminate the Order Audit Trail System (''OATS'') rules in the FINRA Rule 7400 Series and FINRA Rule 4554 (Alternative Trading Systems—Recording and Reporting Requirements of Order and Execution Information for NMS Stocks) once members are effectively reporting to the consolidated audit trail (''CAT'') and the CAT's accuracy and reliability meet certain standards. The proposed rule change was published for comment in the **Federal Register** on September 1, 2020.[3] The Commission has received three comments on the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is October 16, 2020.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates November 30, 2020 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–FINRA–2020–024).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22712 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89679 (August 26, 2020), 85 FR 54461.

[4] *See* Letters from William J. Leahy, Head of Regulatory Compliance, Refinitiv Wealth Management, September 22, 2020; Howard Meyerson, Managing Director, Financial Information Forum, dated September 22, 2020; and Ellen Greene, Managing Director, Equity & Options Market Structure, dated September 24, 2020.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[7] 17 CFR 200.30–3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90125; File No. SR–LTSE–2020–18]**

## Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Date of the Pilot Related to the Market-Wide Circuit Breaker in Rule 11.280

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes a rule change to extend the pilot related to the market-wide circuit breaker in Rule 11.280.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 11.280 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[3] including any extensions to the pilot period for the LULD Plan. In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[4] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.280 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2020.[5]

The Exchange now proposes to amend Rule 11.280 to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 11.280.

The market-wide circuit breaker under Rule 11.280 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[6] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.280, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[4] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[5] *See* Securities Exchange Act Release No. 87357 (Oct. 18, 2019), 84 FR 57070 (Oct. 24, 2019) (SR–LTSE–2019–03).

[6] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex-2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange filed a rule change to that effect in March 2020,[7] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The market-wide circuit breaker mechanism under Rule 11.280 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.280 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(6)[11] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[15]

[7] *See* Securities Exchange Act Release No. 88427 (March 19, 2020), 85 FR 16985 (March 25, 2020) (SR–LTSE–2020–07).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[13] *Id.*

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also

Continued

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2020–18 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–LTSE–2020–18. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange and on its internet website at *https://longtermstockexchange.com/.* 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–LTSE–2020–18 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90117; File No. SR–NYSENAT–2020–30]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Temporary Commentary .10 Under NYSE National Rule 2.1210

October 7, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 25, 2020, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes a rule change to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE National Rule 2.1210 (Registration Requirements) applicable to ETP Holders. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt temporary Commentary .10 (Temporary Extension of the Limited Period for Registered Persons to Function as Principals) under NYSE National Rule 2.1210 (Registration Requirements) applicable to ETP Holders.[4] The proposed rule change would extend the 120-day period that certain individuals can function as a principal without having successfully passed an appropriate qualification examination through December 31, 2020,[5] and would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. This proposed rule change is based on a filing recently submitted by the Financial Regulatory Authority, Inc. (''FINRA'')[6] and is intended to harmonize the Exchange's registration

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''ETP Holder'' means the Exchange-approved holder of an ETP. *See* Rule 1.1(i). The term ''ETP'' refers to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange. *See* Rule 1.1(h).

[5] If NYSE National seeks to provide additional temporary relief from the rule requirements identified in this proposed rule change beyond December 31, 2020, NYSE National will submit a separate rule filing to further extend the temporary extension of time.

[6] *See* Securities Exchange Act Release No. 89732 (September 1, 2020), 85 FR 55535 (September 8, 2020) (SR–FINRA–2020–026) (the ''FINRA Filing''). The Exchange notes that the FINRA Filing also provides temporary relief to individuals registered with FINRA as Operations Professionals under FINRA Rule 1220. The Exchange does not have a registration category for Operations Professionals and therefore, the Exchange is not proposing to adopt that aspect of the FINRA Filing.

rules with those of FINRA so as to promote uniform standards across the securities industry.

In response to COVID–19, earlier this year FINRA began providing temporary relief by way of frequently asked questions (''FAQs'')[7] to address disruptions to the administration of FINRA qualification examinations caused by the pandemic that have significantly limited the ability of individuals to sit for examinations due to Prometric test center capacity issues.[8]

FINRA published the first FAQ on March 20, 2020, providing that individuals who were designated to function as principals under FINRA Rule 1210.04[9] prior to February 2, 2020, would be given until May 31, 2020, to pass the appropriate principal qualification examination.[10] On May 19, 2020, FINRA extended the relief to pass the appropriate examination until June 30, 2020. Most recently, on June 29, 2020, FINRA again extended the temporary relief providing that individuals who were designated to function as principals under FINRA Rule 1210.04 prior to May 4, 2020, would be given until August 31, 2020, to pass the appropriate principal qualification examination.

One of the impacts of COVID–19 continues to be serious interruptions in the administration of FINRA qualification examinations at Prometric test centers and the limited ability of individuals to sit for the examinations.[11] Although Prometric has begun reopening test centers, Prometric's safety practices mean that currently not all test centers are open, some of the open test centers are at limited capacity, and some open test centers are delivering only certain examinations that have been deemed essential by the local government.[12] Furthermore, Prometric has had to close some reopened test centers due to incidents of COVID–19 cases. The initial nationwide closure in March along with the inability to fully reopen all Prometric test centers due to COVID–19 have led to a significant backlog of individuals who are waiting to sit for FINRA examinations.[13]

In addition, firms are continuing to experience operational challenges with much of their personnel working from home due to shelter-in-place orders, restrictions on businesses and social activity imposed in various states, and adherence to other social distancing guidelines consistent with the recommendations of public health officials.[14] As a result, firms continue to face potentially significant disruptions to their normal business operations that may include a limitation of in-person activities and staff absenteeism as a result of the health and welfare concerns stemming from COVID–19. Such potential disruptions may be further exacerbated and may even affect client services if firms cannot continue to keep principal positions filled as they may have difficulty finding other qualified individuals to transition into these roles or may need to reallocate employee time and resources away from other critical responsibilities at the firm.

These ongoing, extenuating circumstances make it impracticable for ETP Holders to ensure that the individuals whom they have designated to function in a principal capacity, as set forth in NYSE National Rule 2.1210.03, are able to successfully sit for and pass an appropriate qualification examination within the 120-calendar day period required under the rule, or to find other qualified staff to fill this position. The ongoing circumstances also require individuals to be exposed to the health risks associated with taking an in-person examination, because the General Securities Principal examination is not available online. Therefore, NYSE National is proposing to continue the temporary relief provided through the FINRA FAQs by adopting Rule 2.1210.10 to extend the 120-day period during which an individual can function as a principal before having to pass an applicable qualification examination until December 31, 2020.[15] The proposed rule change would apply only to those individuals who were designated to function as a principal prior to September 3, 2020. Any individuals designated to function as a principal on or after September 3, 2020, would need to successfully pass an appropriate qualification examination within 120 days.

NYSE National believes that this proposed continued extension of time is tailored to address the needs and constraints on a ETP Holder's operations during the COVID–19 pandemic, without significantly compromising critical investor protection. The proposed extension of time will help to minimize the impact of COVID–19 on ETP Holders by providing continued flexibility so that ETP Holders can ensure that principal positions remain filled. The potential risks from the proposed extension of the 120-day period are mitigated by the ETP Holder's continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE National rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to minimize the impact of COVID–19 on ETP Holder operations by extending the 120-day period certain individuals may function as a principal without having successfully passed an appropriate qualification examination under NYSE National Rule 2.1210.03 until December 31, 2020. The proposed rule change does not relieve ETP Holders from maintaining, under the circumstances, a reasonably designed system to supervise the activities of their associated persons

[7] *See https://www.finra.org/rules-guidance/key-topics/covid-19/faq#qe.*

[8] At the outset of the COVID–19 pandemic, all FINRA qualification examinations were administered at test centers operated by Prometric. Based on the health and welfare concerns resulting from COVID–19, in March Prometric closed all of its test centers in the United States and Canada and began to slowly reopen some of them at limited capacity in May. At this time, not all of these Prometric test centers have reopened at full capacity.

[9] NYSE National Rule 2.1210.03 is the corresponding rule to FINRA Rule 1210.04.

[10] FINRA Rule 1210.04 (Requirements for Registered Persons Functioning as Principals for a Limited Period) allows a member firm to designate certain individuals to function in a principal capacity for 120 calendar days before having to pass an appropriate principal qualification examination. NYSE National Rule 2.1210.03 provides the same allowance to ETP Holders.

[11] Information about the continued impact of COVID–19 on FINRA-administered examinations is available at *https://www.finra.org/rules-guidance/keytopics/covid-19/exams.*

[12] Information from Prometric about its safety practices and the impact of COVID–19 on its operations is available at *https://www.prometric.com/corona-virus-update. See also supra* note 11.

[13] Although an online test delivery service has been launched to help address the backlog, the General Securities Principal Examination (Series 24) is not available online. *See supra* note 11.

[14] *See, e.g.,* Centers for Disease Control and Prevention, How to Protect Yourself & Others, *https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/prevention.html.*

[15] *See supra* note 5.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

to achieve compliance with applicable securities laws and regulations, and with applicable NYSE National rules that directly serve investor protection. In a time when faced with unique challenges resulting from the COVID–19 pandemic, NYSE National believes that the proposed rule change is a sensible accommodation that will continue to afford ETP Holders the ability to ensure that critical positions are filled and client services maintained, while continuing to serve and promote the protection of investors and the public interest in this unique environment.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to provide temporary relief given the impacts of the COVID–19 pandemic crisis and to also maintain consistency with the rules of other self-regulatory organizations (''SROs'') with respect to the registration requirements applicable to ETP Holders and their registered personnel. In that regard, the Exchange believes that any burden on competition would be clearly outweighed by providing ETP Holders with temporary relief in this unique environment while also ensuring clear and consistent requirements applicable across SROs and mitigating any risk of SROs implementing different standards in these important areas. In its filing, FINRA provides an abbreviated economic impact assessment maintaining that the changes are necessary to temporarily rebalance the attendant benefits and costs of the obligations under FINRA Rule 1210 in response to the impacts of the COVID–19 pandemic that is equally applicable to the changes the Exchange proposes.[18] The Exchange accordingly incorporates FINRA's abbreviated economic impact assessment by reference.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE National has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. As noted above, NYSE National stated that the temporary proposed rule change is based on a recent rule change by FINRA and is intended to harmonize NYSE National's registration rules with those of FINRA to promote uniform standards across the securities industry.[21] NYSE National states that it will also help minimize the impact of the COVID–19 outbreak on NYSE National ETP Holders' operations by allowing them to keep principal positions filled and minimizing disruptions to client services and other critical responsibilities. The ongoing extenuating circumstances of the COVID–19 pandemic make it impractical to ensure that individuals designated to act in principal capacities are able to take and pass the appropriate qualification examination during the 120-calendar day period required under the rules. Shelter-in-place orders, quarantining, restrictions on business and social activity and adherence to other social distancing guidelines consistent with the recommendation of public officials remain in place in various states.[22] Further, NYSE National states that Prometric test centers have experienced serious interruptions in the administration of FINRA qualification examinations, resulting in a backlog of individuals waiting to take these examinations. Following a nationwide closure of all test centers earlier in the year, some test centers have re-opened, but are operating at limited capacity or are only delivering certain examinations that have been deemed essential by the local government.[23] FINRA has launched an online test delivery service to help address this backlog. However, the General Securities Principal (Series 24) Examination is not available online. NYSE National states that the temporary proposed rule change will provide needed flexibility to ensure that these positions remain filled and is tailored to address the constraints on ETP Holders' operations during the COVID–19 pandemic without significantly compromising critical investor protection.[24]

The Commission also notes that the proposal provides only temporary relief from the requirement to pass certain qualification examinations within the 120-day period in the rules. As proposed, this relief would extend the 120-day period that certain individuals can function as principals through December 31, 2020. NYSE National has also stated that if it requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020, it may submit a separate rule filing to extend the effectiveness of the temporary relief under these rules.[25] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.[26] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[18] FINRA Filing, 85 FR at 55537.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE National has satisfied this requirement.

[21] *See supra* note 6.

[22] *See supra* note 14.

[23] *See supra* notes 11 and 12. NYSE National states that Prometric has also had to close some reopened test centers due to incidents of COVID–19 cases.

[24] NYSE National states that ETP Holders remain subject to the continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE National rules.

[25] *See supra* note 5.

[26] As noted above by the Exchange, this proposed temporary change is based on a recent filing by FINRA that the Commission approved with a waiver of the 30-day operative delay. *See supra* note 6, 85 FR at 55538.

[27] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–30 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2020–30. 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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NYSE National. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSENAT–2020–30 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22637 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[28] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90126; File No. SR–CboeBZX–2020–074]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Related to the Market-wide Circuit Breaker in Rule 11.18

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposal to extend the pilot related to the market-wide circuit breaker in Rule 11.18. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

BZX Rules 11.18(a) through (d), (f) and (g) describe the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, *i.e.,* market-wide circuit breakers. The market-wide circuit breaker (''MWCB'') mechanism was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan. In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[6] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.18 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[7] The Exchange subsequently amended Rule 11.18 to extend the pilot's effectiveness for an additional year to the close of business on October 18, 2020.[8] The Exchange now proposes to amend Rule 11.18 to extend the pilot to the close of business on October 18, 2021. This filing does

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[7] *See* Securities Exchange Act Release No. 85689 (April 18, 2019), 84 FR 17217 (April 24, 2019) (SR–CboeBZX–2019–028).

[8] *See* Securities Exchange Act Release No. 87336 (October 17, 2019), 84 FR 56868 (October 23, 2019) (SR–CboeBZX–2019–088).

not propose any substantive or additional changes to Rule 11.18.

The market-wide circuit breaker under Rule 11.18 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[9] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening process. The Exchange and its Affiliate SROs[10] filed rule changes to that effect in March 2020,[11] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 11.18 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.18 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[10] The ''Affiliate SROs'' are the Exchange's affiliated equities exchanges, Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.

[11] *See* Securities Exchange Act Release Nos. 88417 (March 18, 2020), 85 FR 16702 (March 24, 2020) (SR–CboeBZX–2020–025); 88416 (March 18, 2020), 85 FR 16699 (March 24, 2020) (SR–CboeBYX–2020–009); 88420 (March 18, 2020), 85 FR 16696 (March 24, 2020) (SR–CboeEDGX–2020–012); 88419 (March 18, 2020), 85 FR 16716 (March 24, 2020) (SR–CboeEDGA–2020–008).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) [15] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–074 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–2020–074. 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 and on its internet website. 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–2020–074 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22709 Filed 10–13–20; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[17] *Id.*

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90133; File No. SR–NYSENAT–2020–33]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 7.12

October 8, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

notice is hereby given that on October 6, 2020, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot related to the market-wide circuit breaker in Rule 7.12. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 7.12 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 7.12 was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The Exchange now proposes to amend Rule 7.12 to extend the pilot to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 7.12. The Exchange will use the extension period to develop with the other SROs rules and procedures that would allow for the periodic testing of the performance of the MWCB mechanism, with industry member participation in such testing. The extension will also permit the exchanges to consider enhancements to the MWCB processes such as modifications to the Level 3 process.

The market-wide circuit breaker under Rule 7.12 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NSX–2011–11) (approving amendments to Rule 11.20A). Rule 7.12 replaced Rule 11.20A without any substantive differences. *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR–NYSENAT–2018–02).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NSX–2011–11) (Approval Order); and 68779 (January 31, 2013), 78 FR 8638 (February 6, 2013) (SR–NSX–2013–04) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Operative Date of Rule 11.20A).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85572 (April 9, 2019), 84 FR 15257 (April 15, 2019) (SR–NYSENAT–2019–08).

[9] *See* Securities Exchange Act Release No. 87077 (September 24, 2019), 84 FR 51671 (September 30, 2019) (SR–NYSENAT–2019–21).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked CME to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange and its Affiliate SROs [11] filed rule changes to that effect in March 2020,[12] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed 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. The market-wide circuit breaker mechanism under Rule 7.12 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. Extending the market-wide circuit breaker pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12 should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, the Exchange understands that FINRA and other national securities exchanges will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while the Exchange, FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the

[11] The ''Affiliate SROs'' are the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[12] *See* Securities Exchange Act Release Nos. 88402 (March 17, 2020), 85 FR 16436 (March 23, 2020) (SR–NYSE–2020–20); 88407 (March 18, 2020), 85 FR 16690 (March 24, 2020) (SR–NYSEAMER–2020–20); 88414 (March 18, 2020), 85 FR 16707 (March 24, 2020) (SR–NYSEArca–2020–23); 88410 (March 18, 2020), 85 FR 16693 (March 24, 2020) (SR–NYSECHX–2020–08); 88411 (March 18, 2020), 85 FR 16710 (March 24, 2020) (SR–NYSENAT–2020–11).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change to be operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–33 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2020–33. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSENAT–2020–33 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90123; File No. SR–CboeBZX–2020–073]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Rebate Tiers in the Fee Schedule

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to amend certain Step-Up Tiers.[3]

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, for orders priced at or above $1.00, the Exchange provides a standard rebate of $0.0020 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on October 1, 2020.

discounts for satisfying increasingly more stringent criteria.

One of the tiered pricing models is set forth in Footnote 2 of the fee schedule (Step-Up Tiers), which provides Members an opportunity to qualify for an enhanced rebate on their orders that add liquidity where they increase their relative liquidity each month over a predetermined baseline. Tier 1 of the Step-Up Tiers provides an enhanced rebate of $0.0030 per share for Members with Step-Up Add TCV[4] from April 2019 equal to or greater than 0.05%. Tier 2 of the Step-Up Tiers provides an enhanced rebate of $0.0032 per share for Members that have an MPID that (1) has a Step-Up Add TCV from May 2019 equal to or greater than 0.10% and (2) has an ADAV[5] as a percentage of TCV equal or greater than 0.25%. Lastly, Step-Up Tier 3 provides an enhanced rebate of $0.0033 per share where a Member has a Step-Up Add TCV from April 2020 equal to or greater than 0.30%. The Exchange notes that step-up tiers are designed to encourage Members that provide displayed liquidity on the Exchange to increase their order flow, which would benefit all Members by providing greater execution opportunities on the Exchange.

The Exchange first proposes to eliminate Step-Up Tier 1. The Exchange no longer wishes to, nor is it required to, maintain such tier and therefore proposes to eliminate Step-Up Tier 1 from the fee schedule and re-number Step-Up Tiers 2 and 3 to reflect the elimination of Step-Up Tier 1. Specifically, the proposed rule change removes this tier as the Exchange would rather redirect resources and funding into other programs and tiers intended to incentivize increased order flow. The Exchange next proposes to amend one of the criteria required under current Step-Up Tier 2 (proposed to be renumbered to Step-Up Tier 1). Particularly, the Exchange proposes to change the threshold of ADAV (*i.e.,* add volume) as a percentage of TCV requirement in the second prong to a threshold of ADV[6] (*i.e.,* add and remove volume) of TCV and also change the threshold amount from 0.25% to 0.50%. (*i.e.,* the second prong will require that a Member's MPID increase their overall order flow, both adding and removing liquidity, as a percentage greater than or equal to 0.50% of the TCV). The Exchange believes the proposed change incentivizes increased overall order flow to the Book, which may contribute to a deeper, more liquid market to the benefit of all market participants by creating a more robust and well-balanced market ecosystem. Additionally, to achieve the Step-Up Tier 2, even as modified (to be renumbered to Step-Up Tier 1), Members are still required to increase the amount of liquidity that they provide on BZX on an MPID basis, thereby contributing to a deeper and more liquid market, which benefits all market participants. The Exchange also notes that Step-Up 2 tier (to be renumbered to Step-Up Tier 1), as modified, continues to be available to all Members and provide Members an opportunity to receive an enhanced rebate, albeit using a more stringent criteria. Moreover, the amount of the current enhanced rebates under Step-Up Tiers 2 and 3 (to be renumbered to Step-Up Tiers 1 and 2) are not changing (*i.e.,* the Exchange proposes to change only the criteria under current Step-Up Tier 2).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members, issuers and other persons using its facilities. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed amendment to remove Step-Up Tier 1 is reasonable because the Exchange is not required to maintain this tier and Members still have a number of other opportunities and a variety of ways to receive enhanced rebates for displayed liquidity adding orders, including via the existing Step-Up Tiers 2 and 3 (to be renumbered to Step-Up Tiers 1 and 2). The Exchange believes the proposal to eliminate this tier is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.,* the tier won't be available for any Member). The Exchange notes that in the past several members satisfied Step-Up Tier 1, but that more recently one Member satisfied Step-Up Tier 1. The Exchange also notes that the proposed change does not preclude any Member, including the Member that was receiving the rebate under Step-Up Tier 1, from achieving the remaining Step-Up tiers to qualify for the remaining enhanced rebates or other available enhances rebates under other incentive tiers.[9] Additionally, that Member is still entitled to a rebate for its displayed orders adding liquidity (*i.e.,* the standard rebate), albeit a rebate that is lower than the amount under Step-Up Tier 1. The proposed rule change merely results in a Member not receiving a particular enhanced rebate, which as noted above, the Exchange is not required to offer or maintain. Additionally, as noted above, the Member, along with all Members, are eligible to qualify for the remaining Step-Up Tier rebates should they satisfy the respective criteria.

The Exchange believes that the proposed modification to the criteria in Step-Up Tier 2 (to be renumbered to Step-Up Tier 1) is reasonable because the tier continues to provide an opportunity for Members to receive an enhanced rebate (which amount is not changing), albeit using more stringent criteria. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[10] including the Exchange,[11] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of 16 equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply

[4] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[5] ''ADAV'' means average daily added volume calculated as the number of shares added per day.

[6] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] *See e.g.,* Cboe BYX Equities Fee Schedule, Footnote 1, which provides various Add/Remove Volume Tiers applicable to fee codes B, V, and Y.

[10] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step Up Tiers.

[11] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 2, Step-Up Tiers 1–3.

based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[12]

Moreover, the Exchange believes the Step-Up Tier 2 (to be renumbered Step-Up Tier 1) continues to be a reasonable means to encourage Members to increase their liquidity on the Exchange based on increasing their relative volume above a predetermined baseline on an MPID basis and now will also incentivize increased overall order flow on an MPID basis. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that the enhanced corresponding rebate is still reasonable based on the difficulty of satisfying the tier's criteria, even as modified, and appropriately reflects the incremental difficulty to achieve the existing Step-Up Tiers.

The Exchange believes that the proposed change to Step-Up Tier 2 (to be renumbered Step-Up Tier 1) represents an equitable allocation of fees and is not unfairly discriminatory because all Members will be eligible for the tier, even as modified, and the corresponding enhanced rebate will apply uniformly to all Members that reach the proposed tier criteria. That is, the proposed tier is designed as an incentive to any and all Members interested in meeting the tier criteria to submit additional order flow to the Exchange and each will receive the proposed enhanced rebate if the tier criteria is met. Additionally, the Exchange believes that a couple of Members have a reasonable opportunity to satisfy the tier's criteria, even as modified. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Member qualifying for the proposed tier, the Exchange anticipates at least two to three Members meeting, or being reasonably able to meet, the proposed criteria; however, the proposed tier is open to any Member that satisfies the tier's criteria. The Exchange also notes that the proposed change will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive the corresponding enhanced rebate.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will not impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage increased overall order flow to the Book, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [13]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes apply to all Members equally and all Members are eligible for the enhanced rebates offered for Step-Up Tiers 2 and 3 (to be renumbered to Step-Up Tiers 1 and 2, respectively) and will all receive the enhanced rebate if such criteria is met. Additionally, the proposed change is designed to attract additional adding and removing order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other equities exchanges and off-exchange venues, including 32 alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 19% of the market share.[14] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[16] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

[12] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step Up Tiers which offers rebates between $0.0022—$0.0034 per share if the corresponding required criteria per tier is met.

[13] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[14] *See* Cboe Global Markets U.S. Equities Market Volume Summary (September 28, 2020), available at *http://markets.cboe.com/us/equities/market_share/.*

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[16] NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–073 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–2020–073. 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–2020–073 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–22706 Filed 10–13–20; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90128; File No. SR–IEX–2020–17]**

## Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rule 11.280 To Extend the Pilot Period for the Market-Wide Circuit Breaker to the Close of Business on October 18, 2021

October 8, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 5, 2020, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rule 11.280 to extend the pilot period for the market-wide circuit breaker to the close of business on October 18, 2021. IEX has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act [6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Paragraphs (a) through (d) and (f) of Rule 11.280 describe the methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 11.280 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[8] including any extensions to the pilot period for the LULD Plan. In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). An amendment to the LULD Plan adding IEX as a Participant was filed with the Commission on August 11, 2016, and became effective upon filing pursuant to Rule 608(b)(3)(iii) of the Act. *See* Securities Exchange Act Release No. 78703 (August 26, 2016), 81 FR 60397 (September 1, 2016) (File No. 4–631).

permanent, rather than pilot, basis.[9] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.280 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[10] The Exchange subsequently amended Rule 11.280 to extend the pilot's effectiveness for an additional year to the close of business on October 18, 2020.[11]

The purpose of this proposed rule change is to amend Rule 11.280(a) to extend the pilot period for the MWCB, set forth in paragraphs (a) through (d) and (f),[12] to the close of business on October 18, 2021. This filing does not propose any substantive or additional changes to Rule 11.280.

MWCBs under Rule 11.280 provide an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when securities markets experience extreme broad-based declines. All SROs have rules relating to MWCBs, which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[13] MWCBs provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.280(a) through (d) and (f), a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: A 7% market decline (Level 1), a 13% market decline (Level 2), and a 20% market decline (Level 3). A market decline that triggers a Level 1 or Level 2 circuit breaker after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 circuit breaker, at any time during the trading day, would halt market-wide trading for the remainder of the trading day.

Since the MWCB pilot was last extended in October 2019, the MWCB mechanism has proven itself to be an effective tool for protecting markets through turbulent times. In the Spring of 2020, at the outset of the worldwide COVID–19 pandemic, U.S. equities markets experienced four MWCB Level 1 halts, on March 9, 12, 16, and 18, 2020. In each instance, the markets halted as intended upon a 7% drop in the S&P 500 Index, and resumed as intended 15 minutes later.

In response to these events, the previously-convened MWCB Taskforce (''Taskforce'') reviewed the March 2020 halts and considered whether any immediate changes to the MWCB mechanism should be made. The Taskforce, consisting of representatives from equities exchanges, futures exchanges, FINRA, broker-dealers, and other market participants, had been assembled in early 2020 to consider more generally potential changes to the MWCB mechanism. The Taskforce held ten meetings in the Spring and Summer of 2020 that were attended by Commission staff to consider, among other things: (1) Whether to retain the S&P 500 Index as the standard for measuring market declines; (2) whether halts that occur shortly after the 9:30 a.m. market open cause more harm than good; and (3) what additional testing of the MWCB mechanism should be done.

After considering data and anecdotal reports of market participants' experiences during the March 2020 MWCB events, the Taskforce did not recommend immediate changes be made to the use of the S&P 500 Index as the reference price against which market declines are measured, or to the current MWCB mechanism which permits halts even shortly after the 9:30 a.m. market open. The Taskforce recommended creating a process for a backup reference price in the event that the S&P 500 Index becomes unavailable, and enhancing functional MWCB testing. The Taskforce also asked the Chicago Mercantile Exchange, Inc. to consider modifying its rules to enter into a limit-down state in the futures pre-market after a 7% decline instead of 5%.

On September 17, 2020, the Director of the Commission's Division of Trading and Markets requested that the equities exchanges and FINRA prepare a more complete study of the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

In addition to the work of the Taskforce, the equities exchanges also moved forward in 2019 and 2020 with a plan to normalize their Day 2 opening procedures after a Level 3 MWCB halt, such that all exchanges would reopen on Day 2 with a standard opening auction. The Exchange filed a rule change to that effect in March 2020,[14] and successfully tested the implementation of those changes on September 12, 2020.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Sections 6(b)[15] and 6(b)(5) of the Act,[16] in particular, in that it is designed 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. The MWCB mechanism under Rule 11.280 is an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when securities markets experience extreme broad-based declines. Extending the MWCB pilot for an additional year would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. equity markets while the Exchange, with the other SROs, studies the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020. Based on the results of that study, the Exchange expects to work with the Commission, FINRA, the other exchanges, and market participants to determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants.

[9] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (''LULD Plan Amendment 18 Approval Order'').

[10] *See* Securities Exchange Act Release No. 85576 (April 9, 2019), 84 FR 15237 (April 15, 2019) (SR–IEX–2019–04).

[11] *See* Securities Exchange Act Release No. 87298 (October 15, 2019), 84 FR 56255 (October 21, 2019) (SR–IEX–2019–11).

[12] Rule 11.280(f) also relates to the MWCB because it specifies the time zone for all times referenced in Rule 11.280(a) and (b).

[13] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[14] *See* Securities Exchange Act Release No. 88421 (March 18, 2020), 85 FR 16720 (March 24, 2020) (SR–IEX–2020–04).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

The Exchange also believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.280(a) through (d) and (f) should continue on a pilot basis because the MWCB will promote fair and orderly markets, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

IEX does not believe that the proposed rule change implicates any competitive issues because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across the U.S. markets while the Exchange, in conjunction with the other SROs, studies the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, IEX understands that the other SROs will file proposals to extend their rules regarding the MWCB pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [17] of the Act and Rule 19b–4(f)(6) [18] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot, while FINRA, and the other exchanges conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2020–17 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2020–17. This file number should be included in 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 Section, 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 will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* 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–IEX–2020–17 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[20] Id.

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[24] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–90132; File No. SR–CBOE–2020–091]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 5.1

October 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 5.1. The text of the proposed rule change is provided below.

(additions are *italics;* deletions are [bracketed])

* * * * *

**Rules of Cboe Exchange, Inc.**

* * * * *

**Rule 5.1. Trading Days and Hours**

(a) No change.

(b) *Regular Trading Hours.*

(1) No change.

(2) *Index Options.* Except as otherwise set forth in the Rules or under unusual conditions as may be determined by the Exchange, Regular Trading Hours for transactions in index options are from 9:30 a.m. to 4:15 p.m., except as follows:

(A) Regular Trading Hours for the following index options are from 9:30 a.m. to 4:00 p.m.:

*S&P 500 ESG Index (SPESG)*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Recently, the Exchange proposed to amend certain rules in connection with the Exchange's plans to list S&P 500 ESG Index options (''SPESG options''), which options first listed for trading on September 21, 2020. The S&P 500 ESG Index is a broad-based, market-capitalization-weighted index that is designed to measure the performance of securities meeting sustainability criteria, while maintaining similar overall industry group weights as the S&P 500. Each constituent of a S&P 500 ESG Index is a constituent of the S&P 500 Index. S&P Dow Jones Indices' (''S&P DJI'') assigns constituents to a S&P 500 ESG Index based on S&P DJI ESG Scores and other environmental, social and governance (''ESG'') data to select companies, targeting 75% of the market capitalization of each global industry classification standard (''GICS'') industry group within the S&P 500. In addition to the exclusion of companies with S&P DJI ESG Scores in the bottom 25% of companies globally within their GICS industry groups, the S&P 500 ESG Index excludes tobacco, controversial weapons and other companies not in compliance with the UN Global Compact.

Currently, pursuant to Rule 5.1(b)(2), SPESG options trade on the Exchange from 9:30 a.m. until 4:15 p.m. Eastern time. In connection with the listing of SPESG options, the Exchange proposes to amend Rule 5.1(b)(2)(A) to add SPESG options to the list of index options that may trade on the Exchange from 9:30 a.m. until 4:00 p.m. Eastern time. The Exchange understands that market participants, including appointed Market-Makers that trade SPESG options generally use futures on the index to price index options, as they do for other options such as options on the S&P 500 Index. The e-mini S&P 500 ESG Index futures currently trade on the Chicago Mercantile Exchange (''CME'') and close for trading at 4:00 p.m. Eastern time each day, unlike the e-mini S&P 500 Index futures, which currently trade on CME and close for trading at 4:15 p.m. Eastern time. Closing trading in SPESG options at the same time the futures end regular trading[5] will provide investors with access to robust pricing of the futures they use to price the options, thus reducing investors' price risk. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, closing trading in SPESG options at the same time the futures on the same index close for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] While the futures may continue to trade in an aftermarket trading session on CME exchanges, there is less liquidity in aftermarket trading, which generally leads to wider spreads and more volatile pricing.

[6] *See* Rule 5.1(b)(2)(A) (pursuant to which options on the various S&P Select Sector Indexes may trade, the components of each of which are similarly comprised of stocks that are included in the S&P 500 Index).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

regular trading will provide investors with access to robust pricing of the futures they use to price the options for the entirety of the trading day, which protects investors by reducing their price risk. The Exchange believes lack of futures pricing may cause Market-Makers to widen their quote spreads and reduce their quote sizes for the part of the options trading day during which the futures pricing is not available. The Exchange believes the proposed rule change will, therefore, help maintain meaningful liquidity for the entirety of the SPESG options trading day, which liquidity may otherwise be impacted if appointed Market-Makers quote during times when futures pricing is not available. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time, including options on the various S&P Select Sector Indexes, the components of each of which are comprised of stocks that are included in the S&P 500 Index (similar to the S&P 500 ESG Index).[10]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because all market participants will be able to trade SPESG options during the same trading hours. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time, including options on the various S&P Select Sector Indexes, the components of each of which are comprised of stocks that are included in the S&P 500 Index (similar to the S&P 500 ESG Index).[11] The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and may promote competition, because the proposed rule change will align the trading hours for SPESG options with the trading hours of the e-mini S&P 500 ESG Index futures. Additionally, SPESG options trade exclusively on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any novel or unique issues not previously considered by the Commission. The Exchange notes that the proposed rule change applies to SPESG options trading hours currently applicable to other index options and related futures products, like the e-mini S&P 500 ESG Index futures. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby waives the operative delay and designates the proposal as operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–091 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–CBOE–2020–091. 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

[10] *See* Rule 5.1(b)(2)(A).

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CBOE–2020–091 and should be submitted on or before November 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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[17] 17 CFR 200.30–3(a)(12).

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36444]**

### Grafton and Upton Railroad Company—Acquisition and Operation Exemption—CSX Transportation, Inc.

Grafton and Upton Railroad Company (G&U), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by easement and operate approximately 8.4 miles of rail line (known as the Milford Secondary) between milepost QVG 0 and milepost QVG 8.4 in Milford, Bellingham, and Franklin, Mass. (the Line), which is owned by CSX Transportation, Inc. (CSXT).

The verified notice states that G&U will operate and exclusively provide all common carrier freight service to shippers served by the Line pursuant to an Easement Agreement and related agreements with CSXT. According to G&U, the agreements provide for an initial term of ten years, subject to three five-year extensions if certain conditions are met.

G&U certifies that its projected annual revenues as a result of this transaction will not exceed $5 million or the threshold required to qualify as a Class III carrier. G&U also certifies that the proposed transaction does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after October 28, 2020, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 21, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36444, 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 G&U's representative, James E. Howard, 57 Via Buena Vista, Monterey, CA 93940.

According to G&U, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 7, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Regena Smith-Bernard,**

*Clearance Clerk.*

[FR Doc. 2020–22654 Filed 10–13–20; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36438]**

### Watco Holdings, Inc.—Continuance in Control Exemption—Elwood Joliet & Southern Railroad, L.L.C.

Watco Holdings, Inc. (Watco), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Elwood Joliet & Southern Railroad, L.L.C. (EJSR), a noncarrier controlled by Watco, upon EJSR's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Elwood Joliet & Southern Railroad, L.L.C.—Lease and Operation Exemption—Wisconsin Central Ltd.,* Docket No. FD 36437, in which EJSR seeks to lease from Wisconsin Central Ltd. (WCL) and operate approximately 1.2 miles of rail line extending from a point immediately east of a switch that lies 0.1 mile west of the switch at WCL milepost 2.4/ Phoenix milepost 0.0 at Sprague, in Crest Hill, Ill., to Phoenix milepost 1.1 in Joliet, Ill.

The transaction may be consummated on or after October 28, 2020, the effective date of the exemption.

According to the verified notice of exemption, Watco currently controls indirectly 38 Class III railroads [1] and one Class II railroad, collectively operating in 28 states.[2] For a complete list of these rail carriers and the states in which they operate, see the Appendix to Watco's September 24, 2020 verified notice of exemption. The verified notice is available at *www.stb.gov.*

Watco represents that: (1) The rail line to be operated by EJSR does not connect with the rail lines of any of the rail carriers controlled by Watco; (2) this transaction is not part of a series of anticipated transactions that would connect EJSR with any railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2). Watco states that the transaction will allow it to exercise common control of its existing rail carrier subsidiaries and EJSR and that, in turn, the control exemption will allow EJSR to proceed with the lease and operation of the line as contemplated in Docket No. FD 36437.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of one Class II and one or more Class III rail carriers, the transaction is subject to the labor protection requirements of 49 U.S.C. 11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad,* 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption

[1] Watco's list of carriers states that Geaux Geaux Railroad (GGRR) is a trade name for Bogalusa Bayou Railroad, L.L.C. (BBRR). (*See also* Watco Letter 1–2 (stating that GGRR is a trade name of BBRR).) Some previous Watco filings in other dockets had suggested that GGRR was an additional, distinct carrier controlled by Watco. *See* Watco Notice of Exemption 8–9, *Watco Holdings, Inc.—Continuance in Control Exemption—Savannah & Old Fort R.R.,* FD 36337 (listing ''Geaux Geaux River'' as an additional Watco carrier); Watco Notice of Exemption 8–9, *Watco Holdings, Inc.—Continuance in Control Exemption—Ithaca Cent. R.R.,* FD 36243 (same); Watco Notice of Exemption 8–9, *Watco Holdings, Inc.—Continuance in Control Exemption—Decatur & E. Ill. R.R.,* FD 36209 (same). Watco now states that that is not the case. Rather, Geaux Geaux Railroad, L.L.C.—an entity distinct from BBRR and not affiliated with Watco—acquired a line and later granted BBRR operating rights over it, which BBRR has carried out under the trade name GGRR. *See Geaux Geaux R.R.—Acquis. & Operation Exemption—Ill. Cent. R.R.,* FD 35826 (STB served May 23, 2014); *Bogalusa Bayou R.R. d/b/a Geaux Geaux R.R.—Operation Exemption—Geaux Geaux R.R.,* FD 35904 (STB served Feb. 13, 2015).

[2] Although Watco's verified notice states that the carriers it controls operate in 27 states, the notice lists 28 different states.

is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 21, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36438, 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, one copy of each pleading must be served on Watco's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to Watco, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 8, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2020–22688 Filed 10–13–20; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36437]**

### Elwood Joliet & Southern Railroad, L.L.C.—Lease and Operation Exemption—Wisconsin Central Ltd.

Elwood Joliet & Southern Railroad, L.L.C. (EJSR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Wisconsin Central Ltd. (WCL) and operate approximately 1.2 miles of rail line extending from a point immediately east of a switch that lies 0.1 mile west of the switch at WCL milepost 2.4/Phoenix milepost 0.0 at Sprague, in Crest Hill, Ill., to Phoenix milepost 1.1 in Joliet, Ill. (Phoenix Line).

This transaction is related to a concurrently filed verified notice of exemption in *Watco Holdings, Inc.—Continuance in Control Exemption—Elwood Joliet & Southern Railroad, L.L.C.,* Docket No. FD 36438, in which Watco Holdings, Inc., seeks to continue in control of EJSR upon EJSR's becoming a Class III rail carrier.

EJSR states that it and WCL will shortly execute agreements pursuant to which EJSR will lease the Phoenix Line from WCL and will be the operator of the Phoenix Line. EJSR further states that the proposed agreements between EJSR and WCL do not contain any provision limiting EJSR's future interchange of traffic on the Phoenix Line with a third-party connecting carrier.

EJSR certifies that its projected annual revenues as a result of this transaction will not result in EJSR's becoming a Class II or Class I rail carrier. EJSR further certifies that its projected annual revenue will not exceed $5 million.

The transaction may be consummated on or after October 28, 2020, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 21, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36437, 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 EJSR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to EJSR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 8, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2020–22693 Filed 10–13–20; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2020–0986]**

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Helicopter Air Ambulance Operator Reports

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the requirement for Helicopter Air Ambulance Operators to report certain information to the FAA. The FAA collects 14 pieces of data from helicopter air ambulance operators, 8 of which are mandated in the report to Congress. We collect data on the following: number of helicopters, helicopter base locations, number of hours the helicopters are flown, number of patients transported, number of transportation requests accepted or denied, number of accidents, number of instrument flight hours flown, number of night flight hours flown, number of incidents, and the rate of accidents or incidents per 100,000 flight hours. The information to be collected will be used in helping the FAA develop risk mitigation strategies and provide information to Congress.

**DATES:** Written comments should be submitted by December 14, 2020.

**ADDRESSES:** Please send written comments:

*By Electronic Docket: www.regulations.gov* (Enter docket number into search field).

*By mail:* Sandra Ray, Federal Aviation Administration, Policy Integration Branch AFS–270, 1187 Thorn Run Road, Suite 200, Coraopolis, PA 15108.

*By fax:* 412–239–3063.

**FOR FURTHER INFORMATION CONTACT:** Tom Luipersbeck by email at: *Thomas.A.Luipersbeck@faa.gov;* phone: 615–202–9683.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0761.

*Title:* Helicopter Air Ambulance Operator Reports.

*Form Numbers:* 2120–0756.

*Type of Review:* Renewal of an information collection.

*Background:* The FAA Modernization and Reform Act of 2012 (The Act)

mandates that all helicopter air ambulance operators must begin reporting the number of flights and hours flown, along with other specified information, during which helicopters operated by the certificate holder were providing helicopter air ambulance services. See Public Law 112–95, Sec. 306, 49 U.S.C. 44731. The Act further mandates that not later than 2 years after the date of enactment, and annually thereafter, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing a summary of the data collected.

The helicopter air ambulance operational data provided to the FAA will be used by the agency as background information useful in the development of risk mitigation strategies to reduce the helicopter air ambulance accident rate, and to meet the mandates set by Congress. The information requested is limited to the minimum necessary to fulfill these new reporting requirements mandated by the Act and as developed by FAA. The amount of data required to be submitted is proportional to the size of the operation.

*Respondents:* 62 Helicopter Air Ambulance Operators.

*Frequency:* Annually.

*Estimated Average Burden per Response:* Varies per size of operation.

*Estimated Total Annual Burden:* 738 Hours for all operators.

Issued in Washington, DC, on October 8, 2020.

**Sandra L. Ray,**

*Aviation Safety Inspector, FAA, Policy Integration Branch, AFS–270.*

[FR Doc. 2020–22694 Filed 10–13–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Summer 2021 Scheduling Season

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

**ACTION:** Notice of submission deadline.

**SUMMARY:** Under this notice, the FAA announces the submission deadline of October 15, 2020, for Summer 2021 flight schedules at Chicago O'Hare International Airport (ORD), John F. Kennedy International Airport (JFK), Los Angeles International Airport (LAX), Newark Liberty International Airport (EWR), and San Francisco International Airport (SFO).

**DATES:** Schedules should be submitted by October 15, 2020.

**ADDRESSES:** Schedules may be submitted to the Slot Administration Office by email to: *7-AWA-slotadmin@faa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Al Meilus, Manager, Slot Administration, AJR–G, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *Al.Meilus@faa.gov.*

**SUPPLEMENTARY INFORMATION:** This document provides routine notice to carriers serving capacity-constrained airports in the United States, including Chicago O'Hare International Airport (ORD), John F. Kennedy International Airport (JFK), Los Angeles International Airport (LAX), Newark Liberty International Airport (EWR), and San Francisco International Airport (SFO). In particular, this notice announces the deadline for carriers to submit schedules for the Northern Summer 2021 scheduling season. The FAA generally strives to maintain consistency in setting this deadline with the schedule submission deadline established in the International Air Transport Association (IATA) Calendar of Coordination Activities. However, in an effort to provide carriers with additional time to respond to this notice, the FAA is extending the submission deadline by one week from October 8, 2020 to October 15, 2020. The FAA intends to carry out its schedule review consistent with all other deadlines established in the IATA Calendar of Coordination Activities.

### General Information for All Airports

The FAA has designated EWR, LAX, ORD, and SFO as IATA Level 2 airports [1] subject to a schedule review process premised upon voluntary cooperation. The FAA has designated JFK as an IATA Level 3 airport consistent with the Worldwide Slot Guidelines (WSG).[2] The FAA currently limits scheduled operations at JFK by order that expires on October 29, 2022.[3] The U.S. Summer 2021 scheduling season is from March 28, 2021, through October 30, 2021, in recognition of the IATA summer scheduling period. Notwithstanding that carriers may presently face uncertainty about their operations in light of coronavirus disease 2019 (COVID–19), carriers should continue preparations for schedule facilitation at Level 2 airports and Level 3 slot controls at JFK during the Summer 2021 scheduling season, even if the effects of COVID–19 on airport demand and operations continue and adjustments become necessary to respond to changing conditions.[4] As the industry adapts to the changes precipitated by the public health emergency, FAA and the Office of the Secretary will continue to monitor developments closely and take these changes into consideration. Any possible relief for the Summer 2021 scheduling season and any possible action to alter the established rules and policies for slot management and schedule facilitation in the United States are not within the scope of this notice.

The FAA is primarily concerned about scheduled and other regularly conducted commercial operations during designated hours, but carriers may submit schedule plans for the entire day. The designated hours for the Summer 2021 scheduling season are: At EWR and JFK from 0600 to 2300 Eastern Time (1000 to 0300 UTC), at LAX and SFO from 0600 to 2300 Pacific Time (1300 to 0600 UTC), and at ORD from 0600 to 2100 Central Time (1100 to 0200 UTC). These hours are unchanged from previous scheduling seasons.

Carriers should submit schedule information in sufficient detail including, at minimum, the marketing or operating carrier, flight number, scheduled time of operation, frequency, aircraft equipment, and effective dates. IATA standard schedule information format and data elements for communications at Level 2 and Level 3 airports in the IATA Standard

[1] These designations remain effective until the FAA announces a change in the **Federal Register**.

[2] The FAA generally applies the WSG to the extent there is no conflict with U.S. law or regulation. The FAA is reviewing recent substantive amendments to the WSG adopted in edition 10. The FAA recognizes the WSG has been replaced by the Worldwide Airport Slot Guidelines (WASG) edition 1 effective June 1, 2020. While the FAA is considering whether to implement certain changes in the United States, it will continue to apply WSG edition 9.

[3] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008), as most recently extended 85 FR 58258 (Sep. 18, 2020). The slot coordination parameters for JFK are set forth in this Order.

[4] For additional information on COVID–19 impacts at designated IATA Level 2 and 3 airports in the United States and actions taken by the FAA to preserve stability through the Summer 2020 scheduling season, *see* Notice of extension of limited waiver of the minimum slot usage requirement, 85 FR 63335 (Oct. 7, 2020).

Schedules Information Manual (SSIM) Chapter 6 may be used. The WSG provides additional information on schedule submissions at Level 2 and Level 3 airports. Some carriers at JFK manage and track slots through FAA-assigned Slot ID numbers corresponding to an arrival or departure slot in a particular half-hour on a particular day of week and date. The FAA has recently initiated a similar voluntary process for tracking schedules at EWR with Reference IDs, and certain carriers are managing their schedules accordingly. These are primarily U.S. and Canadian carriers that have the highest frequencies and considerable schedule changes throughout the season and can benefit from a simplified exchange of information not dependent on full flight details. Carriers are encouraged to submit schedule requests at those airports using Slot or Reference IDs.

As stated in the WSG, schedule facilitation at a Level 2 airport is based on the following: (1) Schedule adjustments are mutually agreed upon between the airlines and the facilitator; (2) the intent is to avoid exceeding the airport's coordination parameters; (3) the concepts of historic precedence and series of slots do not apply at Level 2 airports; although WSG recommends giving priority to approved services that plan to operate unchanged from the previous equivalent season at Level 2 airports, and (4) the facilitator should adjust the smallest number of flights by the least amount of time necessary to avoid exceeding the airport's coordination parameters. Consistent with the WSG, the success of Level 2 in the United States depends on the voluntary cooperation of all carriers.

The FAA considers several factors and priorities as it reviews schedule and slot requests at Level 2 and Level 3 airports, which are consistent with the WSG, including—historic slots or services from the previous equivalent season over new demand for the same timings, services that are unchanged over services that plan to change time or other capacity relevant parameters, introduction of year-round services, effective period of operation, regularly planned operations over *ad hoc* operations, and other operational factors that may limit a carrier's timing flexibility. In addition to applying these priorities from the WSG, the U.S. Government has adopted a number of measures and procedures to promote competition and new entry at U.S. slot-controlled and schedule-facilitated airports.

At Level 2 airports, the FAA seeks to maintain close communications with carriers and terminal schedule facilitators on potential runway schedule issues or terminal and gate issues that may affect the runway times. As explained in prior notices, the FAA also seeks to reduce the time that carriers consider proposed offers on schedules. To allow the FAA to make informed decisions at airports where operations in some hours are at or near the desired scheduling limits, the FAA expects it will substantially complete the review process on initial submissions each scheduling season within 30 days of the end of the Slot Conference. After this time, the agency confirms the acceptance of proposed offers or informs carriers of available alternative times, as applicable.

Slot management in the United States differs in some respect from procedures in other countries. In the United States, the FAA is responsible for facilitation and coordination of runway access for takeoffs and landings at Level 2 and Level 3 airports; however, the airport authority or its designee is responsible for facilitation and coordination of terminal/gate/airport facility access. The process with the individual airports for terminal access and other airport services is separate from, and in addition to, the FAA schedule review based on runway capacity.

Generally, the FAA uses average hourly runway capacity throughput for airports and performance metrics in conducting its schedule review at Level 2 airports and determining the scheduling limits at Level 3 airports included in FAA rules or orders.[5] The FAA also considers other factors that can affect operations, such as capacity changes due to runway, taxiway, or other airport construction, air traffic control procedural changes, airport surface operations, and historical or projected flight delays and congestion.

Finally, the FAA notes that the schedule information submitted by carriers to the FAA may be subject to disclosure under the Freedom of Information Act (FOIA). The WSG also provides for release of information at certain stages of slot coordination and schedule facilitation. In general, once it acts on a schedule submission or slot request, the FAA may release information on slot allocation or similar slot transactions or schedule information reviewed as part of the schedule facilitation process. The FAA does not expect that practice to change and most slot and schedule information would not be exempt from release under FOIA. The FAA recognizes that some carriers may submit information on schedule plans that is both customarily and actually treated as private. Carriers that submit such confidential schedule information should clearly mark the information, or any relevant portions thereof, as proprietary information (''PROPIN''). The FAA will take the necessary steps to protect properly designated information to the extent allowable by law.

**Airport-Specific Updates**

*EWR General Update*

As stated in prior notices, the FAA regularly monitors operations and performance metrics at EWR to identify ways to improve operational efficiency and achieve delay reductions in a Level 2 environment. Access to EWR and the New York City area generally remains coveted. Requests for flights at EWR have exceeded the desired scheduling limits in multiple hours. The FAA has regularly indicated that schedule adjustments are advised for requests for new or retimed operations into periods when demand is at or above scheduling limits and worked with carriers to identify alternative times that were available. In some cases, carriers have been able to swap with other carriers for their preferred times if the FAA is unable to offer the requested time. Carriers may continue to seek swaps in order to operate within periods in which operations are at the scheduling limits. However, swaps should be reported to the FAA, as carriers are expected to operate consistent with the runway times on record with the FAA.

For the Summer 2021 season, the desired hourly scheduling limit remains at 79 operations and 43 operations per half-hour.[6] Based on historical demand and an increase in operations in ''shoulder'' periods adjacent to the busiest hours before the COVID–19 public health emergency, most hours are now at the desired scheduling limits. To help with a balance between arrivals and departures, the desired maximum number of scheduled arrivals or departures, respectively, is 43 in an hour and 24 in a half-hour. This would allow some higher levels of operations in certain periods (not to exceed the

[5] The FAA typically determines an airport's average adjusted runway capacity or typical throughput for Level 2 airports by reviewing hourly data on the arrival and departure rates that air traffic control indicates could be accepted for that hour, commonly known as ''called'' rates. The FAA also reviews the actual number of arrivals and departures that operated in the same hour. Generally, the FAA uses the higher of the two numbers, called or actual, for identifying trends and schedule review purposes. Some dates are excluded from analysis, such as during periods when extended airport closures or construction could affect capacity.

[6] 83 FR 21335 (May 1, 2018).

hourly limits) and some recovery from lower demand in adjacent periods. Consistent with past practice at EWR, the FAA will accept flights above the limits if the flights were operated, or treated as operated, by the same carrier on a regular basis in the previous corresponding season (*i.e.,* Summer 2020).

Consistent with the WSG, carriers are asked for their voluntary cooperation to adjust schedules to meet the scheduling limits in order to minimize potential congestion and delay. New operations will be offered alternative times unless the period is below the FAA's desired scheduling limits.[7] Consistent with this approach, the FAA intends to offer alternative times in response to any new flights for the Summer 2021 scheduling season if operations are at or above the applicable scheduling limits. However, the FAA notes that there may be availability for *ad hoc* passenger and cargo operations due to temporary COVID–19-related service changes.

*EWR Assessment Status*

As indicated in the EWR schedule submission notice for the Summer 2020 scheduling season, the FAA is assessing the impacts on performance of peak period reductions and other schedule changes, such as Southwest Airlines' cessation of operations at EWR, as well as the impacts on competition, in close coordination with the Office of the Secretary of Transportation.[8] This assessment is ongoing; the FAA intends to publish additional information on the outcome of this assessment in the future. The sudden, drastic disruption caused by COVID–19[9] affects the analysis and the relevant long-term effects of operational, performance, and demand-related changes at EWR. Pending further study, the FAA does not at this time invite replacing or ''backfilling'' the peak morning and afternoon/evening operations that Southwest Airlines conducted during Winter 2018/2019 and Summer 2019, to the extent the new operations would exceed the current desired scheduling limits. There may be availability for *ad hoc* passenger and cargo operations due to temporary COVID–19-related service changes.

*Construction Updates*

The FAA is aware of preliminary plans by the Port Authority of New York and New Jersey (PANYNJ) to reconstruct Runway 4R/22L at EWR. The FAA is closely monitoring the scope and timing of this project currently expected to start in Spring 2021 along with the impacts of other ongoing terminal and taxiway construction. The FAA plans to work with the PANYNJ and carriers to assess operational impacts and potential changes in delays and to develop mitigation strategies, as appropriate. In addition, construction projects are upcoming or underway at JFK, LAX, and ORD. For additional information, see *https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/sys_cap_eval/.*

The construction plans for each of the airports is subject to change. The airport operators regularly meet with the FAA, airlines, and other stakeholders to review construction plans, identify operational or other issues, and develop mitigation strategies. Carriers interested in additional information on construction plans should contact the airport operator to obtain further details or information on stakeholder discussions.

Issued in Washington, DC, on October 8, 2020.

**Virginia T. Boyle,**

*Acting Vice President, System Operations Services.*

[FR Doc. 2020–22756 Filed 10–9–20; 11:15 am]

**BILLING CODE 4910–13–P**

[7] *See e.g.,* Notice of Submission Deadline for the Winter 2019/2020 Scheduling Season, 84 FR 18630 at 18632 (May 1, 2019); Notice of Submission Deadline for the Summer 2019 Scheduling Season, 83 FR 49155at 49156–49157 (Sep. 28, 2018); Notice of Submission Deadline for the Winter 2018/2019 Scheduling Season, 83 FR 21335 at 21337–21338 (May 9, 2018); Notices of Submission Deadline for Newark Liberty International Airport for the Summer 2020 Scheduling Season, 84 FR 52580 at 52581–52582 (Oct. 2, 2019); Notice of Submission Deadline for the Winter 2020/2021 Scheduling Season, 85 FR 30001 at 30003 (May 19, 2020).

[8] *See* Notice of Submission Deadline for Newark Liberty International Airport for the Summer 2020 Scheduling Season, 84 FR at 52582.

[9] For example, the FAA's Operational Network (OPSNET) data shows total operations for April to September 2020 were 73.7% lower than the same period in 2019.

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2020–0095]**

### Denial of Motor Vehicle Defect Petition

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for a defect investigation.

**SUMMARY:** This notice sets forth the reasons for the denial of a petition submitted on April 10, 2020, by Mr. Surjit Singh to NHTSA's Office of Defects Investigation (ODI). The petition requests that the Agency investigate Model Year 2013 Mercedes-Benz E350 vehicles for alleged premature rear brake line corrosion failure. NHTSA opened Defect Petition DP20–004 to evaluate the petitioner's request. After reviewing the information provided by the petitioner and available NHTSA complaint and Early Warning Reporting (EWR) data, NHTSA has concluded that there is insufficient evidence to pursue further action at this time. Accordingly, the Agency has denied the petition.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frederick LaMance, Vehicle Defects Division—D, Office of Defects Investigation, NHTSA, 1200 New Jersey Ave. SE, Washington, DC 20590 (telephone 202–366–9525).

**SUPPLEMENTARY INFORMATION:** By letter dated April 10, 2020, Mr. Singh (the petitioner) submitted a petition requesting that the Agency investigate 2013 Mercedes-Benz E350 vehicles for alleged premature rear brake line corrosion failure. Interested persons may petition NHTSA requesting that the Agency initiate an investigation to determine whether a motor vehicle or item of replacement equipment does not comply with an applicable motor vehicle safety standard or contains a defect that relates to motor vehicle safety (49 U.S.C. 30162(a)(2); 49 CFR 552.1). Upon receipt of a properly filed petition, the Agency conducts a technical review of the petition, material submitted with the petition and any additional information (49 CFR 552.6). After conducting the technical review and considering appropriate factors, which may include, but are not limited to, the nature of the complaint, allocation of Agency resources, Agency priorities, the likelihood of uncovering sufficient evidence to establish the existence of a defect, and the likelihood of success in any necessary enforcement litigation, the Agency will grant or deny the petition. *See* 49 CFR 552.8.

The petitioner alleges that his 2013 Mercedes E350 sedan with approximately 37,000 miles has a safety defect due to rusted brake lines. Mr. Singh stated that his vehicle was inspected by a Mercedes-Benz dealership and received an estimate of $3,300 to repair the rear brake lines. He attached supplemental information including photos of his vehicle's rear brake lines, that had visible corrosion, as well as a service invoice from the brake line repair. He does not allege that his vehicle experienced brake line leakage or any effect on brake system performance before the corrosion concern was detected and repaired in a dealer inspection.

On April 24, 2020, NHTSA's Office of Defects Investigation (ODI) opened Defect Petition DP20–004 to evaluate the petitioner's request. ODI conducted a search for all consumer complaints and Early Warning Reporting (EWR) data related to allegations of brake line corrosion or leakage in 2013 Mercedes-Benz E350 sedans and similarly equipped vehicles. The 2013 E350 is a fourth-generation Mercedes-Benz E-Class vehicle (W212 platform), which was first sold in the United States in 2009 as a 2010 model. Mercedes-Benz has sold approximately 245,000 model year 2010 through 2015 E-Class sedan and wagon vehicles in the United States with the same brake line design as the petitioner's vehicle.

The subject brake lines are routed along the left undercarriage and have a corrosion protection coating system consisting of a base layer of zinc and an outer coating of polyvinyl fluoride. The Mercedes-Benz maintenance plan for the subject vehicles recommends brake line inspection every 12 months or 10,000 miles to detect and repair corrosion damage before it compromises brake circuit integrity. While there is potential for brake line corrosion and leakage in older vehicles operated in States with high road salt use in winter months, the low complaint counts do not provide evidence that such failures are occurring prematurely in the subject platform or that the failures are having an impact on brake system performance.

Specifically, ODI's search for complaints and EWR data in 2013 Mercedes-Benz E350 vehicles found no additional records related to the alleged defect. Expanding the search to all W212 platform vehicles identified just one incident, a complaint alleging unspecified brake line corrosion and leakage in a 2011 Mercedes-Benz E550 (NHTSA ID 10902081). The complaint did not allege that the brake line leakage resulted in reduced brake performance, crash, or injury. The resulting failure rate of 0.4 failures per hundred thousand vehicles is extremely low for a population that includes vehicles that have been in service for over ten years and does not include any allegations of reduced brake performance, crash, or injury. After reviewing the available data and evaluating the safety risk posed by the condition specified in the petition, ODI has not identified evidence of a defect trend in the subject E-Class vehicles that would support opening a defect investigation into premature brake line corrosion failure.

Additionally, the brake system of the subject vehicles is a dual-circuit hydraulic system split front-to-rear. Brake line leakage resulting from undetected/unrepaired corrosion damage is not expected to result in diminished brake performance at the onset of a slow leak condition. Undetected brake fluid loss would first lead to brake warning lamp illumination from low brake fluid reservoir level. Continued operation with brake warning lamp illuminated could result in loss of rear brake function should the fluid loss continue until the rear circuit reservoir is empty.[1] The subject vehicles would retain most of their braking capacity even after loss of the rear circuit, as the front circuit provides approximately 70 percent of the stopping force in the split front-to-rear design.

After reviewing the available data and evaluating the safety risk posed by the condition cited in the petition, ODI has not identified evidence of a defect trend in the subject E-Class vehicles that would support opening a defect investigation into premature brake line corrosion failure. NHTSA is authorized to issue an order requiring notification and remedy of a defect if the Agency's investigation shows a defect in design, construction, or performance of a motor vehicle that presents an unreasonable risk to safety. 49 U.S.C. 30102(a)(9), 30118. Since the information currently before the Agency is not indicative of a defect trend, it is unlikely that any investigation opened after granting this petition would result in an order concerning the notification and remedy of a safety-related defect. Therefore, upon full consideration of the information presented in the petition and the potential risks to safety, the petition is denied. The denial of this petition does not foreclose the Agency from taking further action if warranted, or lessen the potential for a future finding that a safety-related defect exists based upon additional information the Agency may receive.

**Authority:** 49 U.S.C. 30162(d); delegations of authority at CFR 1.95 and 501.8.

**Jeffrey Mark Giuseppe,**

*Associate Administrator for Enforcement.*

[FR Doc. 2020–22674 Filed 10–13–20; 8:45 am]

BILLING CODE 4910–59–P

[1] Rear circuit loss may occur more rapidly if corrosion damage results in a more significant brake line rupture.

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

**FOR FURTHER INFORMATION CONTACT:** *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, or; Assistant Director for Licensing, tel.: 202–622–2480.

**SUPPLEMENTARY INFORMATION:**

### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

### Notice of OFAC Actions

The Secretary of State has identified the following persons in a list submitted to the appropriate congressional committees pursuant to Executive Order ''Blocking Property of Certain Persons with Respect to the Conventional Arms Activities of Iran.'' Accordingly, on September 21, 2020, the Director of OFAC, acting pursuant to delegated authority, has taken the actions described below to impose the sanctions set forth in Section 2 of this Executive Order with respect to the persons listed below.

### Individuals

1. MADURO MOROS, Nicolas (Latin: MADURO MOROS, Nicolás), Caracas, Capital District, Venezuela; DOB 23 Nov 1962; POB Caracas, Venezuela; citizen Venezuela; Gender Male; Cedula No. 5892464 (Venezuela); President of the Bolivarian Republic of Venezuela (individual) [VENEZUELA] [IRAN–CON–ARMS–E.O.].

Designated pursuant to section 1(a)(i) of Executive Order 13949 of September 21, 2020, 85 FR 60043 (E.O. 13949) for having engaged, or attempted to engage, in activities or transactions that have materially contributed to the supply, sale, or transfer to or from Iran directly or indirectly, or for the use in or benefit of Iran, of arms or related materiel, including spare parts.

2. KETABACHI, Mehrdada Akhlaghi (a.k.a. KETABCHI, Merhdada Akhlaghi), c/o AIO, Langare Street, Nobonyad Square, Tehran, Iran; c/o SBIG, Tehran, Iran; DOB 10 Sep

1958; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Passport A0030940 (Iran) (individual) [NPWMD] [IFSR] [IRAN–CON–ARMS–E.O.].

Designated pursuant to section 1(a)(i) of E.O. 13949 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to the supply, sale, or transfer to or from Iran directly or indirectly, or for the use in or benefit of Iran, of arms or related materiel, including spare parts.

### Entities

1. DEFENSE INDUSTRIES ORGANIZATION (a.k.a. DEFENCE INDUSTRIES ORGANISATION; a.k.a. DIO; a.k.a. SASEMAN SANAJE DEFA; a.k.a. SAZEMANE SANAYE DEFA; a.k.a. ''SASADJA''), P.O. Box 19585–777, Pasdaran Street, Entrance of Babaie Highway, Permanent Expo of Defence Industries Organization, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR] [IRAN–CON–ARMS–E.O.].

Designated pursuant to section 1(a)(i) of E.O. 13949 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to the supply, sale, or transfer to or from Iran directly or indirectly, or for the use in or benefit of Iran, of arms or related materiel, including spare parts.

2. MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS (a.k.a. GOVERNMENT OF IRAN DEPARTMENT OF DEFENSE; a.k.a. MINISTRY OF DEFENCE & ARMED FORCES LOGISTICS; a.k.a. MINISTRY OF DEFENSE AND SUPPORT FOR ARMED FORCES LOGISTICS; a.k.a. MINISTRY OF DEFENSE ARMED FORCES LOGISTICS; a.k.a. MINISTRY OF DEFENSE FOR ARMED FORCES LOGISTICS; a.k.a. MODAFL; a.k.a. MODSAF; a.k.a. VEZARATE DEFA; a.k.a. VEZARAT–E DEFA VA POSHTYBANI-E NIRU-HAYE MOSALLAH), Ferdowsi Avenue, Sarhang Sakhaei Street, Tehran, Iran; PO Box 11365–8439, Pasdaran Ave., Tehran, Iran; West side of Dabestan Street, Abbas Abad District, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [SDGT] [NPWMD] [IFSR] [IRAN–CON–ARMS–E.O.] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE).

Designated pursuant to section 1(a)(i) of E.O. 13949 for having engaged, or attempted to engage, in activities or transactions that have materially contributed to the supply, sale, or transfer to or from Iran directly or indirectly, or for the use in or benefit of Iran, of arms or related materiel, including spare parts.

Dated: September 24, 2020.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2020–22724 Filed 10–13–20; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION SECTION FOR APPLICABLE DATE**(s).

**FOR FURTHER INFORMATION CONTACT:** *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or Assistant Director for Licensing, tel.: 202–622–2480.

**SUPPLEMENTARY INFORMATION:**

### Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

### Notice of OFAC Actions

On October 8, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

### Entities

1. AMIN INVESTMENT BANK (a.k.a. AMINIB; a.k.a. ''AMIN IB''), No. 51 Ghobadiyan Street, Valiasr Street, Tehran 1968917173, Iran; website *http://www.aminib.com;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of Executive Order 13902 of January 10, 2020, 85 FR 2003 (E.O. 13902) for operating in the financial sector of the Iranian economy.

2. BANK KESHAVARZI IRAN (a.k.a. AGRICULTURAL BANK OF IRAN; a.k.a. BANK KESHAVARZI), P.O. Box 14155–6395, 129 Patrice Lumumba St, Jalal-al-Ahmad Expressway, Tehran 14454, Iran; website *www.agri-bank.com;* alt. website *www.bki.ir;* Additional Sanctions Information—Subject to Secondary Sanctions; all offices worldwide [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

3. BANK MASKAN (a.k.a. HOUSING BANK—OF IRAN), P.O. Box 11365/5699, No 247 3rd Floor Fedowsi Ave., Cross Sarhang Sakhaei St, Tehran, Iran; P.O. Box 11365–3499, Ferdowsi Ave., Cross Sarhang Sakhaie St, Tehran, Iran; website *www.bank-maskan.ir;* Additional Sanctions Information—Subject to Secondary Sanctions; all offices worldwide [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

4. BANK REFAH KARGARAN (a.k.a. BANK REFAH; a.k.a. WORKERS' WELFARE BANK—OF IRAN), No. 40 North Shiraz Street, Mollasadra Ave., Vanak Sq., Tehran 19917, Iran; No. 40, North Shiraz St., Mollasadra Ave., Tehran, Iran; 40, Northern Shirazi St., Molla Sadra Ave., Tehran 19917, Iran; website *www.bankrefah.ir;* alt. website *www.refah-bank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions; all offices worldwide [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

5. BANK-;E SHAHR, Sepahod Gharani, Corner of Khosro St., No. 147, Tehran, Iran; website *shahr-bank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

6. EGHTESAD NOVIN BANK (a.k.a. BANK EGHTESAD NOVIN; a.k.a. BANK-E EGHTESAD NOVIN; a.k.a. EN BANK PJSC), Vali Asr Street, Above Vanak Circle, across Niayesh, Esfandiari Blvd., No. 24, Tehran, Iran; SWIFT/BIC BEGNIRTH; website *www.enbank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

7. GHARZOLHASANEH RESALAT BANK (a.k.a. BANK-E GHARZOLHASANEH RESALAT), Beside the No. 1 Baghestan Alley, Saadat Abad Ave., Kaj Sq., Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; All offices worldwide [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

8. HEKMAT IRANIAN BANK (a.k.a. BANK HEKMAT IRANIAN; a.k.a. BANK-E HEKMAT IRANIAN), Argentine Circle, beginning of Africa St., Corner of 37th St., (Dara Cul-de-sac), No.26, Tehran, Iran; No. 26, Afrigha Ave., Argentina Sq., Tehran, Iran; No. 26, Africa Hwy., Argantin Sq., Tehran, Iran; website *www.hibank24.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [NPWMD] [IFSR] (Linked To: BANK SEPAH).

Designated pursuant to section 1(a)(iv) of Executive Order 13382 of June 28, 2005, 70 FR 38567, 3 CFR, 2006 Comp., p. 170 (E.O. 13382) for being owned or controlled by

BANK SEPAH, a person whose property and interests in property are blocked pursuant to E.O. 13382.

9. IRAN ZAMIN BANK (a.k.a. BANK-E IRAN ZAMIN), Seyyed Jamal-oldin Asadabadi St., Corner of 68th St., No. 472, Tehran, Iran; website *www.izbank.com;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

10. ISLAMIC REGIONAL COOPERATION BANK (a.k.a. BANK-E TAAWON MANTAGHEEY-E ESLAMI; a.k.a. REGIONAL COOPERATION OF THE ISLAMIC BANK FOR DEVELOPMENT AND INVESTMENT), Building No. 59, District 929, Street No. 17, Arsat Al-Hindia, Al Masbah, Baghdad, Iraq; Tohid Street, Before Tohid Circle, No. 33, Upper Level of Eghtesad-e Novin Bank, Tehran 1419913464, Iran; Arsat Indian, 59 District-929, Street-17, Baghdad, Iraq; Arrasat Al Hindiya, Al Masbah Street, Baghdad, Iraq; SWIFT/BIC RCDFIQBA; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902] (Linked To: EGHTESAD NOVIN BANK).

Sanctioned pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by EGHTESAD NOVIN BANK, a person whose property and interests in property are blocked pursuant to E.O. 13902.

11. KARAFARIN BANK (a.k.a. BANK-E KARAFARIN), Zafar St. No. 315, Between Vali Asr and Jordan, Tehran, Iran; SWIFT/BIC KBIDIRTH; website *www.karafarinbank.com;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

12. KHAVARMIANEH BANK (a.k.a. MIDDLE EAST BANK), No. 22, Second Floor Sabounchi St., Shahid Beheshti Ave., Tehran, Iran; SWIFT/BIC KHMIIRTH; website *www.middleeastbank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions; All offices worldwide [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

13. MEHR IRAN CREDIT UNION BANK (a.k.a. BANK-E GHARZOLHASANEH MEHR IRAN; a.k.a. GHARZOLHASANEH MEHR IRAN BANK), Taleghani St., No.204, Before the intersection of Mofateh, across from the former U.S. embassy, Tehran, Iran; No. 204, Taleghani Street, Tehran, Iran; 204, Before the Mofatteh Crossroad, Taleghani Ave., Tehran, Iran; website *www.qmb.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

14. PASARGAD BANK (a.k.a. BANK PASARGAD; a.k.a. BANK-E PASARGAD), Valiasr St., Mirdamad St., No. 430, Tehran, Iran; No. 430, Mirdamad Ave., Tehran 19697774511, Iran; SWIFT/BIC BKBPIRTH; website *www.bpi.ir;* alt. website *www.bankpasargad.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

15. SAMAN BANK (a.k.a. BANK-E SAMAN), Vali Asr. St. No. 3, Before Vey Park intersection, corner of Tarakesh Dooz St., Tehran, Iran; 2, Tarkeshdooz Alley, before Parkway Cross, Valiasr St., Tehran, Iran; SWIFT/BIC SABCIRTH; website sb24.ir; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

16. SARMAYEH BANK (a.k.a. BANK SARMAYEH; a.k.a. BANK-E SARMAYEH), Sepahod Gharani No. 24, Corner of Arak St., Tehran, Iran; No. 34, Corner of Arak St., Gharani Ave., Tehran, Iran; 24, Arak Street, Sepahbod Gharani Avenue, Tehran 19395–6415, Iran; website *www.sbank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

17. TOSEE TAAVON BANK (a.k.a. BANK-E TOSE'E TA'AVON; a.k.a. COOPERATIVE DEVELOPMENT BANK; a.k.a. TOSE'E TA'AVON BANK), Mirdamad Blvd., North East Corner of Mirdamad Bridge, No. 271, Tehran, Iran; No. 271, 4th Floor, Mirdamad Blvd., Northeast of Mirdamad Bridge, Tehran, Iran; website *www.ttbank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

18. TOURISM BANK (a.k.a. BANK-E GARDESHGARI; a.k.a. GARDESHGARI BANK), Vali Asr St., above Vey Park, Shahid Fiazi St., No. 51, first floor, Tehran, Iran; No. 51, Shahid Fayazi St., ValiAsr Ave., Tehran, Iran; website *www.tourismbank.ir;* Additional Sanctions Information—Subject to Secondary Sanctions [IRAN] [IRAN–EO13902].

Sanctioned pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

Dated: October 8, 2020.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2020–22723 Filed 10–13–20; 8:45 am]

BILLING CODE 4810–AL–P

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Continuing Collections; Comment Requests; Designation of Financial Market Utilities

**AGENCY:** Financial Stability Oversight Council, Treasury Department.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Stability Oversight Council (the ''Council''), as part of its continuing effort to reduce paperwork and respondent burden, invites members of the public and affected agencies to comment on the continuing information collections listed below, as required by the Paperwork Reduction Act of 1995. The Council is soliciting comments concerning its collection of information related to its authority to designate financial market utilities as systemically important. Section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') provides the Council the authority to designate a financial market utility (''FMU'') that the Council determines is or is likely to become systemically important because the failure of or a disruption to the functioning of the FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the United States financial system.

**DATES:** Written comments must be received on or before December 7, 2020.

**FOR FURTHER INFORMATION CONTACT:** Samantha MacInnis, Director of Operations, Financial Stability Oversight Council, U.S. Treasury Department, (202) 622–2354, *Samantha.MacInnis@treasury.gov;* Mark Schlegel, Attorney-Advisor, U.S. Treasury Department, (202) 622–1027, *mark.schlegel@treasury.gov.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed collection according to the instructions below. All submissions must refer to the document title.

*Electronic submission of comments.* Interested persons may submit comments electronically through the Federal 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 Council to make them available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

*Mail.* Send comments to Financial Stability Oversight Council, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

*Public inspection of comments.* All properly submitted comments will be available for inspection and

downloading at *http://www.regulations.gov.*

*Additional instructions.* In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

**SUPPLEMENTARY INFORMATION:**

*Title:* Designation of Financial Market Utilities.

*OMB Control Number:* 1505–0239.

*Abstract:* On July 27, 2011, the Council published in the **Federal Register** a final rule (12 CFR part 1320) that describes the criteria that will inform and the processes and procedures established under the Dodd-Frank Act for the Council's designation of FMUs as systemically important under the Dodd-Frank Act. On July 18, 2012, the Council designated eight FMUs as systemically important under Title VIII of the Dodd-Frank Act.

The collection of information under 12 CFR 1320.11 affords FMUs that are under consideration for designation, or rescission of designation, an opportunity to submit written materials to the Council in support of, or in opposition to, designation or rescission of designation. The collection of information under 12 CFR 1320.12 affords FMUs an opportunity to contest a proposed determination of the Council by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The collection of information in 12 CFR 1320.14 affords FMUs an opportunity to contest the Council's waiver or modification of the notice, hearing, or other requirements contained in 12 CFR 1320.11 and 1320.12 by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The information collected from FMUs under 12 CFR 1320.20 will be used by the Council to determine whether to designate an additional FMU or to rescind the designation of a designated FMU.

*Type of Review:* Extension of a currently approved collection.

*Form:* None.

*Affected Public:* Businesses or other for-profit and not-for-profit organizations.

*Estimated Number of Respondents:* 9.[1]

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 11.[2]

*Estimated Time per Response:* 50 hours, 20 hours, 10 hours, 10 hours.[3]

*Estimated Total Annual Burden Hours for all Collections:* 440.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Authority:** Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Dated: October 8, 2020.

**Samantha MacInnis,**

*Director of Operations, FSOC.*

[FR Doc. 2020–22677 Filed 10–13–20; 8:45 am]

**BILLING CODE 4810–25–P**

[1] This estimate refers to the eight FMUs currently designated as systemically important under Title VIII, as well as one additional respondent for purposes of illustrating the burden associated with 12 CFR 1320.11, 12 CFR 1320.12, and 12 CFR 1320.14.

[2] This estimate refers to the eight FMUs currently designated as systemically important under Title VIII, as well as three additional responses for purposes of illustrating the burden associated with 12 CFR 1320.11, 12 CFR 1320.12, and 12 CFR 1320.14.

[3] The hour estimates refer, respectively, to information collections for respondents associated with 12 CFR 1320.20, 12 CFR 1320.11, 12 CFR 1320.12, and 12 CFR 1320.14.

# FEDERAL REGISTER

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Part II

## Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191 and 192

Pipeline Safety: Class Location Change Requirements; Proposed Rule

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 191 and 192**

**[Docket No. PHMSA–2017–0151]**

**RIN 2137–AF29**

# Pipeline Safety: Class Location Change Requirements

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

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

**SUMMARY:** In response to public input received as part of the rulemaking process, PHMSA is proposing to revise the Federal Pipeline Safety Regulations to amend the requirements for gas transmission pipeline segments that experience a change in class location. Under the existing regulations, pipeline segments located in areas where the population density has significantly increased must perform one of the following actions: Reduce the pressure of the pipeline segment, pressure test the pipeline segment to higher standards, or replace the pipeline segment. This proposed rule would add an alternative set of requirements operators could use, based on implementing integrity management principles and pipe eligibility criteria, to manage certain pipeline segments where the class location has changed from a Class 1 location to a Class 3 location. Through required periodic assessments, repair criteria, and other extra preventive and mitigative measures, PHMSA expects this alternative approach would provide long-term safety benefits consistent with the current natural gas pipeline safety rules while also providing cost savings for pipeline operators.

**DATES:** Persons interested in submitting written comments on this proposed rule must do so by December 14, 2020. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments identified by the docket number PHMSA–2017–0151 by any of the following methods:

*Federal eRulemaking Portal: https://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

*Mail:* Hand Delivery: U.S. DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Fax:* 1–202–493–2251.

*Instructions:* Identify the docket number PHMSA–2017–0151 at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *https://www.regulations.gov/.*

**Note:** Comments are posted without changes or edits to *https://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *https://www.regulations.gov.*

## Confidential Business Information

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**FOR FURTHER INFORMATION CONTACT:** Robert Jagger, Senior Transportation Specialist, by telephone at 202–366–4361. For technical questions: Steve Nanney, Project Manager, by telephone at 713–272–2855.

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## I. Executive Summary

### *A. Purpose of Regulatory Action*

Class locations are used in the natural gas Federal Pipeline Safety Regulations (PSR) in a graded approach to provide conservative safety margins [1] and safety standards commensurate with the potential consequences of pipeline

[1] Pipelines are designed with a safety margin between the design operating pressure and the pressure at which failure would occur. Safety margins are necessary because pipelines can be subject to emergency situations, unexpected loads, operator error, and material degradation.

incidents, and are based on the population density near a pipeline.[2] As class locations are defined with relation to the number of dwellings for human occupancy in the area, an onshore gas transmission pipeline's class location can change as the population living or working near a pipeline changes. An increase in population that results in a change in class location requires operators to confirm design factors and to recalculate the maximum allowable operating pressure (MAOP) of the pipeline.[3] If a class location changes and the hoop stress[4] corresponding to the established MAOP of a segment of pipeline is not commensurate with the MAOP of the newly determined class location, § 192.611 currently requires that the pipeline operator (1) lower the pipeline's MAOP to reduce stress levels in the pipe, (2) replace the existing pipe with pipe that has thicker walls or higher yield strength to yield a lower operating stress at the same MAOP, or (3) pressure test the pipeline at a higher test pressure.

Some operators have applied for special permits to manage class location changes that would normally require replacing pipe, reducing the operating pressure, or pressure testing the pipe. Under the special permit process, PHMSA waives or otherwise modifies compliance with regulatory requirements if the operator requesting the special permit demonstrates a need and PHMSA determines that granting the special permit would be consistent with pipeline safety.[5] PHMSA performs extensive technical analysis on special permit applications and has granted special permits on the condition that operators will perform alternative measures to retain a consistent level of pipeline safety for the new class location throughout the life cycle of the pipeline. In 2004, PHMSA published guidance in the **Federal Register** that addressed the common conditions for granting class location change special permit requests. This guidance clarified PHMSA's process for granting a class location waiver that would allow operators to perform alternative risk-control activities based on integrity management (IM) concepts, rather than pipe replacement, pressure testing, or pressure reductions.[6]

On January 3, 2012, Congress adopted the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Pipeline Safety Act).[7] Section 5 of that act required that PHMSA evaluate whether applying IM principles to areas outside of high consequence areas (HCA), with respect to gas transmission pipeline facilities, could possibly mitigate or eliminate the need for class location requirements.[8] As stated in the resulting class location report titled ''Evaluation of Expanding Pipeline Integrity Management Beyond High-Consequence Areas and Whether Such Expansion Would Mitigate the Need for Gas Pipeline Class Location Requirements'' that was issued in 2016 (2016 Class Location Report), the application of IM requirements to gas transmission pipelines outside of HCAs would not warrant the total elimination of class locations.[9] However, PHMSA stated that it intended to consider whether adjustments were needed in the way that operators were required to implement certain requirements when class locations did change.

On July 31, 2018, PHMSA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** to seek feedback regarding the revision of the PSR applicable to the management of gas transmission pipeline segments where the class location has changed.[10] Specifically, PHMSA requested comments regarding whether operators should have the option of performing certain risk-based IM activities in lieu of the current required activities (*i.e.,* pipe replacement, pressure test, or pressure reduction) and whether those modifications could mitigate the public safety need for the existing class location requirements in this context. This ANPRM was initiated to honor the commitment made at the conclusion of the 2016 Class Location Report that PHMSA would study alternatives to the regulatory requirement for pipe replacement when class locations change and was also responsive to comments made to a 2017 DOT notice regarding regulatory review actions.[11]

Based on input in previous public meetings and workshops,[12] the comments received on the ANPRM, the 2016 Class Location report, and a review of PHMSA's active special permits for Class 1 to Class 3 location changes,[13] PHMSA proposes to amend the class location change regulations for certain in-service gas transmission segments where the class location has changed from a Class 1 to a Class 3 to add an IM-based alternative to the existing requirements. PHMSA is requesting input from the public on all aspects of this proposal, including whether the modification or elimination of the proposed pipe eligibility attributes or additional preventative and mitigative measures would provide an equivalent level of safety and maximize net benefits to society.

### *B. Summary of the Major Regulatory Provisions*

PHMSA is proposing an IM-based alternative to the existing class-location-change requirements. The NPRM addresses two main topics pertaining to the IM alternative: (1) The criteria that pipe must meet to be eligible for the alternative, and (2) the additional, IM-based safety requirements necessary for using the alternative. Both aspects serve to protect public safety when pipeline operators apply the alternative approach.

[2] Class locations are defined at § 192.5. A ''class location unit'' is defined at § 192.5 as an onshore area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline. This distance is more colloquially known as the ''sliding mile'' and is explained in more detail later in this document. A Class 1 location is an offshore area or any class location unit with 10 or fewer buildings intended for human occupancy within the class location unit. A Class 2 location is any class location unit with more than 10 but fewer than 46 buildings intended for human occupancy within the class location unit. A Class 3 location is any class location unit with 46 or more buildings intended for human occupancy or an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period within the class location unit, and a Class 4 location is any class location unit where buildings with 4 or more stories above ground are prevalent.

[3] Maximum allowable operating pressure is the maximum internal pressure at which a natural gas pipeline or pipeline segment may be operated.

[4] Hoop stress is stress that acts around the circumference of a pipe (*i.e.,* perpendicular to the pipe length) and is caused by the internal pressure pushing outward against the pipe wall. As pressure within the pipe increases, the stress in the pipe wall must be capable of acting against that pressure to contain it.

[5] The special permit process is outlined in § 190.341 and is no different for waiving the class location regulations than for waiving any other requirements in the PSR.

[6] Public notices were published in **Federal Register**: ''Pipeline Safety: Development of Class Location Change Waiver Guidelines,'' 69 FR 22115 (Apr. 23, 2004); and ''Pipeline Safety: Development of Class Location Change Waiver Criteria,'' 69 FR 38948 (June 29, 2004). Additional guidance is provided online at: *http://primis.phmsa.dot.gov/classloc/index.htm.*

[7] Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011; signed January 3, 2012; Public Law 112–90.

[8] *Id.* at sec. 5(a).

[9] See *https://www.regulations.gov/document?D=PHMSA-2011-0023-0153.*

[10] ''Pipeline Safety: Class Location Change Requirements,'' 83 FR 36861 (July 31, 2018).

[11] ''Notification of Regulatory Review,'' 82 FR 45750 (Oct. 2, 2017).

[12] See Section II, D of this document titled, ''Class Location Studies, Public Workshop, Report, and Stakeholder Input.''

[13] As of May 1, 2019, PHMSA's 12 special permits for Class 1 to Class 3 location changes apply to segments of pipe in the States of Alabama, Arizona, Colorado, Georgia, Kentucky, Louisiana, Michigan, Mississippi, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Tennessee, Texas, West Virginia, and Wyoming.

The NPRM addresses segments that change from a Class 1 to a Class 3 location after the publication of a final rule based on this proposed rulemaking and operate at 72 percent of specified minimum yield strength (SMYS) [14] or less. PHMSA proposes that for segments that are eligible based on pipe attributes, operators choosing the IM alternative would adhere to documentation requirements, operations and maintenance (O&M) requirements, and other additional safety measures proposed in this rulemaking. Operators who do not meet the requirements of the proposed rule would need to follow the current regulatory requirements for class location changes or apply for a special permit.

Specifically, pipeline segments meeting the following conditions or having the following attributes would be ineligible for the IM alternative for managing class location changes:

- Bare pipe;
- Wrinkle bends;
- Missing material properties records;
- Certain historically problematic seam types; [15]
- Body, seam, or girth-weld cracking; [16]
- Pipe with poor external coating or with tape wraps or shrink sleeves;
- A leak or failure history within 5 miles of the segment; [17]
- Pipe transporting gas that is not of suitable composition and quality for sale to gas distribution customers; and
- Pipe operated in accordance with § 192.619 (c) or (d).

PHMSA also proposes that a pipeline segment would be ineligible if it did not have a documented successful [18] 8-hour, part 192, subpart J, pressure test to a minimum of 1.25 times MAOP. Pipeline segments that were previously ''uprated'' [19] without a documented pressure test would also not be eligible unless the operator conducts a new pressure test.

These applicability criteria would help protect public safety by assuring that pipeline segments with known elevated risks that are changing from a Class 1 to a Class 3 location are pressure-tested, de-rated to a lower MAOP, or replaced with new and stronger pipe, as required by the current regulations in § 192.611. In most cases, this eligibility criteria prevents pipe that would be more susceptible to corrosion or cracking from using this NPRM alternative, and it also helps to ensure that operators can use the proper assessment and mitigation methods on pipeline segments that could cause great harm to the public based on their risk. PHMSA is concerned that, with the additional risk for corrosion and cracking many of these segments would have, anomalies might be able to grow to a failure size before the next assessment. Therefore, PHMSA has proposed these eligibility criteria as a matter of ensuring that pipe integrity can be maintained in Class 3 locations where pipe designed to Class 1 standards remains in service. PHMSA discusses this in more detail later in this document and seeks comment on whether there is an alternative approach that would maximize net benefits to society while maintaining safety.

Pipeline segments changing to a Class 4 location would not be eligible for the IM alternative under this proposal, but would rather be accommodated through PHMSA's current class location special permit process.[20]

If a pipeline segment meets all eligibility criteria and the operator opts to follow the IM alternative, PHMSA proposes to require that the operator notify PHMSA of details of each segment that experienced a Class 1 to Class 3 location change 60 days prior to implementing the IM alternative.

PHMSA is also proposing to modify the definition of an HCA to include these Class 1 to Class 3 location segments, which would then make these specific segments subject to all the requirements in subpart O, in addition to the more stringent requirements discussed in more detail below. When subpart O was developed and promulgated in 2003,[21] PHMSA did not anticipate that operators would be able to demonstrate adequate pipeline integrity for pipe that was not designed for the class location in which it was located. Therefore, the regulations address any potential risk that would be involved when a class location changes by requiring that the pipeline operate at a lower pressure if an operator does not replace the pipeline segment or pressure test the segment. The proposal would allow operators to choose to follow IM requirements in subpart O and additional requirements for applicable segments, which include required in-line inspections (ILI), external pipeline coating, cathodic protection (CP),[22] pipeline repair criteria to maintain MAOP with a Class 1 location 39 percent safety factor, usage of remote-controlled or automatic shutoff valves, and other additional preventive and mitigative (P&M) measures. PHMSA expects these measures to provide for an equivalent level of safety for the life of the pipeline when compared to pipe replacement.

More specifically, PHMSA is proposing that operators perform an initial integrity assessment using ILI tools within 24 months of the class location change, which would align with the current timeframe to either confirm or change the MAOP after a class location change. PHMSA would require operators to perform this ILI assessment on the entire pipeline segment that has experienced the change in class location, including from the nearest upstream ILI tool launcher to the nearest downstream ILI tool receiver.

With respect to additional P&M measures beyond what are included in subpart O, PHMSA is proposing to require operators to do the following: Perform additional coating, interference, and corrosion surveys; remediate defined anomalies; install line-of-sight markers; install remote-control or automatic shutoff mainline valves; perform depth of cover surveys and

[14] SMYS is an indication of the minimum stress that a pipe may experience that will cause plastic, or permanent, deformation of the steel pipe.

[15] Problematic seam types include direct current (DC), low-frequency electric resistance welded pipe (LF–ERW), electric flash-welded (EFW) pipe, lap-welded pipe, and pipe seams with a longitudinal joint factor below 1.0 as defined in § 192.113.

[16] This cracking can include stress corrosion cracking and selective seam weld corrosion, which are cracking defects in the pipe body or weld seam. Cracks are undesired openings or separations in a normally rigid material, such as a pipe wall, and are detrimental to the capability of a pipeline to restrain pressure. Often, cracks are found only on the surface and do not penetrate the pipe wall. However, cracks that don't fully penetrate the pipe wall, if left unchecked, can propagate into a failure or a rupture and must be promptly repaired.

[17] These would be leaks or failures reported to PHMSA via an incident report per part 191.

[18] A ''successful'' pressure test is one where the pipe does not rupture or leak because of the test. Part 192, subpart J, prescribes the minimum leak-test and strength-test requirements for pipelines.

[19] An ''uprate'' is where an operator increases the MAOP of its pipeline. To increase the pressure on its pipeline, an operator must comply with the minimum requirements prescribed in subpart K of part 192. An operator would still be subject to the leak-test and strength test requirements, including recordkeeping requirements, under part 192, subpart J.

[20] PHMSA has neither included Class 4 locations in this proposed rule nor would it include such locations in any other NPRM without having first developed a unique set of conditions to maintain safety for multi-story buildings and applying them through the issuance of several special permits.

[21] ''Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines),'' 68 FR 69778 (Dec. 15, 2003).

[22] CP is a technique used to control or limit the corrosion of a pipeline's external metal surface by making it the cathode of an electrochemical cell. This treatment can be achieved with a special coating on the external surface of the pipeline along with an electrical system and anodes buried in the ground, or with a ''sacrificial'' or galvanic metal acting as an anode. In those types of systems, the anode will corrode before the protected metal will.

remediation; clear shorted casings; perform additional right-of-way patrols and leakage surveys; and use a supervisory control and data acquisition (SCADA) system. These additional requirements would address aspects of pipeline integrity and public safety for which ILI assessments alone do not address, such as reducing the likelihood of third-party damage, detecting and mitigating conditions that can accelerate corrosion growth, and terminating gas flow from ruptures faster than would be required under existing regulations.

Operators would also be required to keep documentation for all assessments, surveys, and any other required actions they perform in meeting the proposed requirements. PHMSA intends for this class location management option, when performed in conjunction with the requirements of subpart O, to provide a consistent-or-higher level of safety for the life of the pipeline if the operator chooses not to replace the pipe.

*C. Costs and Benefits*

Consistent with Executive Order 12866, PHMSA has prepared an assessment of the benefits and costs of this proposed rule, as well as reasonable alternatives. The estimated cost savings of this proposal are due to avoided pipe replacement of segments for which operators employ the proposed IM alternative. In the Preliminary Regulatory Impact Analysis (PRIA) posted on the public docket, PHMSA presented two estimates of the number of miles that may change from a Class 1 to a Class 3 location each year from 2019 to 2039 and analyzed them as two separate scenarios. Scenario 1 is based on an estimate of 78 miles per year, which is the average result from PHMSA's annual estimates based on historical annual report data from 2010 to 2017. Scenario 2 is based on the median of PHMSA's annual estimates, which is 118 miles. PHMSA estimated the cost savings of the proposed rule by estimating the rate and unit cost for the currently available class location change compliance methods, the unit costs of complying with the special permit program, and the mix of consequence classifications among the affected segments. PHMSA assumes that this proposed rule would cause operators to replace pipe less often when a class location changes from Class 1 to Class 3, as they would choose to use the IM alternative of this method where feasible. PHMSA estimated the costs of the IM alternative compared to the costs of pipe replacement against the estimated mileage changing from a Class 1 location to a Class 3 location per year. As such, PHMSA estimates the annual cost savings of the rule to be approximately $55 million for scenario 1, and $86 million for scenario 2, both calculated at a 7 percent discount rate.

## II. Background

*A. Class Location History and Purpose*

The concept of class locations predates the Federal regulation of gas transmission pipelines and was an early method of differentiating areas along natural gas transmission pipelines based on the potential consequence of a hypothetical pipeline accident. The first class location definitions were incorporated into the PSR on August 19, 1970, and were derived from the American Society of Mechanical Engineers (ASME) B31.8 designations that were included in the American Standards Association B31.8–1968 version of the ''Gas Transmission and Distribution Pipeline Systems'' standard, which eventually became ASME B31.8, ''Gas Transmission and Distribution Pipeline Systems.'' The definitions for class locations that PHMSA codified maintained the original ASME B31.8 characterizations for Class 1 through Class 3 locations and added a new Class 4 location definition. These original class location definitions, with some slight modifications, are still applied today.

PHMSA uses class locations to provide safety margins and standards that are commensurate with the potential consequence of a pipeline failure based on the surrounding population. A pipeline's class location is based on the number of buildings or dwellings for human occupancy in the surrounding area.

Pipeline class locations for onshore gas pipelines are determined using the concept of a ''sliding mile,'' which is a unit of measurement that is 1 mile in length, extending 220 yards on either side of the centerline of a pipeline, and moves along the pipeline. The number of buildings within this sliding mile at any point during the mile's movement determines the class location for the entire mile of pipeline that the sliding mile moves along.[23]

A Class 1 location is a class location unit along a continuous mile containing 10 or fewer buildings intended for human occupancy or is an offshore area; a Class 2 location is a class location unit along a continuous mile containing 11 to 45 buildings intended for human occupancy; and a Class 3 location is a class location unit along a continuous mile containing 46 or more buildings intended for human occupancy, or is within 100 yards of a building or place of public assembly.[24] Class 4 locations exist where buildings with four or more stories above ground are prevalent. Whenever a pipeline segment has multiple class locations, the higher-numbered class location applies to the entire segment.

Potential consequences of personal injury and property damage resulting from incidents such as a leak- or rupture-type failure, increase in a more densely populated area. In addition, an increasing population around a pipeline amplifies the probability of an incident occurring due to additional external force stresses, corrosion, interference currents, loss of pipeline soil cover, damage from third parties, and other factors.

Design factors[25] are used along with pipe attributes in engineering calculations to determine the required design pressure and MAOP of each steel pipeline segment. To decrease operational hoop stresses[26] in areas of higher consequence, these class location-based design factors (*i.e.,* MAOP derating factors)[27] provide a safety margin and help ensure the pipeline is operated below 100 percent of SMYS. As specified in § 192.105, a pipeline's design pressure is determined using Barlow's Formula: $P = (2St/D) \times F \times E \times T$, where $P$ is the design pressure, $S$ is the pipe's yield strength, $t$ is the wall thickness of the pipe, $D$ is the outside diameter of the pipe, $F$ is the design factor specific to the class location, $E$ is the longitudinal joint factor,[28] and $T$ is the temperature

[23] For the purposes of this rulemaking, a ''building'' may be interchangeably referred to as a ''home,'' a ''house,'' or a ''dwelling,'' all of which refer to a structure intended for human occupancy, whether it is used as a residence, for business, or for another purpose.

[24] Under § 192.5, a location is Class 3 if it has a building or a small, well-defined outside area (including playgrounds, recreation areas, and outdoor theaters) that is occupied by 20 or more persons at least 5 days a week for 10 weeks in any 12-month period. The days and weeks need not be consecutive.

[25] Design factors, which are used to calculate the design pressure for steel pipe in § 192.105(a), are listed in § 192.111. Class 1 locations have a 0.72 design factor, Class 2 locations have a 0.60 factor, Class 3 locations have a 0.50 factor, and Class 4 locations have a 0.40 design factor.

[26] ''Hoop stress'' is the stress in a pipe wall, acting circumferentially in a plane perpendicular to the longitudinal axis of the pipe, that is produced by the pressure of the product in the pipe. Hoop stress is calculated using Barlow's Formula, which is at § 192.105. Hoop stresses are the same as design pressure, unless an outside force is acting on it. If hoop stress has the same safety factor as MAOP, then they are equal.

[27] MAOP determination and the required design factors for the class location can be found in §§ 192.105, 192.111, and 192.619.

[28] The longitudinal joint factor, based on the weld seam type of a pipeline, per this formula, has a

Continued

derating factor.[29] To illustrate how class location design factors influence the MAOP of a pipeline, consider a 1000 psig pipeline (1.0 design factor) with the same operating parameters (diameter, wall thickness, yield strength, seam type, and temperature) but in different class locations. The pipeline MAOPs would be as follows:

- Class 1—design factor = 0.72, MAOP = 720 psig
- Class 2—design factor = 0.60, MAOP = 600 psig
- Class 3—design factor = 0.50, MAOP = 500 psig
- Class 4—design factor = 0.40, MAOP = 400 psig

As natural gas transmission pipeline standards and regulations have evolved, the class location concept was incorporated into many other regulatory areas, including test pressures, mainline block valve spacing, pipeline design and construction requirements, and on-going O&M requirements. In all, the class location concept is incorporated throughout part 192.[30]

Modern pipeline inspection technology includes ILI and above-ground coating surveys. ILI technology uses devices that flow with the product in the pipeline and are colloquially known as ''smart pigs,'' which can measure and record irregularities in the pipe body and welds, including pipe wall loss (such as corrosion metal loss, gouges, scrapes, etc.), cracking, deformations, and dents.

There are various types of ILI tools using different technologies that have distinct capabilities for detecting specific types of pipeline anomalies. However, in selecting the most suitable ILI tool, a pipeline operator must know the type of threats that are applicable to the pipeline segment. For example, a high-resolution magnetic flux leakage (HR–MFL) ILI tool can detect internal and external corrosion metal loss reliably but cannot accurately determine whether the pipeline has dents, deformations, or tight crack indications such as stress corrosion cracking[31] or seam-weld cracks. A high-resolution deformation tool would be most appropriate for dents, whereas an electro-magnetic acoustic transducer (EMAT) tool would be the most appropriate for cracking.

PHMSA first issued its IM regulations for gas transmission pipelines on December 15, 2003,[32] in response to tragic gas pipeline incidents near Carlsbad, NM, in 2000,[33] where 12 people were killed; and in Edison, NJ, in 1994, where 8 buildings were destroyed and approximately 1,500 residents were evacuated.[34] The IM regulations provided a definition for HCA and required operators to assess the condition of pipelines periodically in these areas and make any necessary repairs within defined timeframes.

Prior to the recent publication of the ''Pipeline Safety: Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments'' final rule on October 1, 2019 (2019 Gas Transmission Final Rule),[35] operators were not required to assess or perform IM functions on pipeline segments outside of HCAs. With the publication of that rule, operators of onshore steel transmission pipeline segments with an MAOP of greater than or equal to 30 percent of SMYS and that are located in a Class 3 locations, a Class 4 locations, or a ''moderate consequence area'' as defined in § 192.3 where the segment can accommodate inspection by means of an instrumented ILI tool, must assess their pipelines periodically, but on a less-frequent basis than those pipelines in HCAs.[36] The 2019 Gas Transmission Final Rule also requires operators to have a continuing surveillance program for all pipeline segments and take appropriate action to maintain safety concerning changes in class location, among other things.

*B. Changes in Class Location Due to Population Growth*

When the population around a pipeline increases and causes the class location to increase, the numeric value of the design factor decreases, which translates, as detailed in the formula in § 192.105, into a lower MAOP for the pipeline. As the dwellings within the class location unit grow such that a Class 1 location becomes a Class 3 location, the corresponding difference in design factor, from a 0.72 to 0.5, equates to an approximate 30 percent reduction in MAOP.

If a class location increases and the current MAOP is not commensurate with the MAOP for the newly determined class location, besides applying for a special permit, the existing regulations require that the operator:

(1) Reduce the pipeline's MAOP to reduce stress levels in the pipe;

(2) replace the existing pipe with pipe that has more wall thickness or higher yield strength to operate at a lower operating stress at the same MAOP; or

(3) conduct a pressure test (conforming to subpart J) at the higher test pressure needed to meet requirements for the newly determined class location if the pipeline segment has not previously been tested, for a minimum of 8 hours, at the higher pressure.[37]

In accordance with those options, depending on the pipeline's test pressure and whether it meets the requirements in §§ 192.609 and 192.611, the operator can base the pipeline's MAOP on a specified design factor multiplied by the test pressure for the new class location as long as the corresponding hoop stress does not exceed certain percentages of the SMYS of the pipe and as long as the pipeline has been tested for a period of 8 hours or longer per § 192.611(a)(1).[38] This

limiting effect on the MAOP of the pipeline. While it is typically ''1.00'' and would not affect the calculation, certain types of furnace butt-welded pipe or pipe not manufactured to certain 49 CFR part 192-approved industry standards will have factors of 0.60 or 0.80, which will necessitate a reduction in design pressure. The longitudinal joint factors for steel pipe are listed at § 192.113.

[29] The temperature derating factor ranges from 1.000 to 0.867 depending on the operating temperature of the pipeline. Pipelines designed to operate at 250 degrees Fahrenheit and lower have a factor of 1.000, which does not affect the design pressure calculation. Pipelines designed to operate at higher temperatures, including up to 450 degrees Fahrenheit, have derating factors less than one, which lowers the design pressure of the pipeline. Steel pipe temperature derating factors are listed at § 192.115.

[30] Specifically, §§ 192.5, 192.8, 192.9, 192.65, 192.105, 192.111, 192.150, 192.175, 192.179, 192.243, 192.327, 192.485, 192.503, 192.505, 192.609, 192.611, 192.613, 192.619, 192.620, 192.625, 192.705, 192.706, 192.707, 192.713, 192.903, 192.933, and 192.935.

[31] A ''tight crack'' is a crack that is below 0.008 inches in width. Stress corrosion cracking is a form of corrosion that produces a marked loss of pipeline strength with little metal loss. The combined influence of pipeline stress and a corrosive medium can result in the formation of interlinking crack clusters that can grow until the pipe fails.

[32] 68 FR at 69778.

[33] NTSB, Pipeline Accident Report: Natural Gas Pipeline Rupture and Fire Near Carlsbad, New Mexico August 19, 2000, PAR–03–01, adopted on February 11, 2003.

[34] NTSB, Pipeline Accident Report: Texas Eastern Transmission Corporation Natural Gas Pipeline Explosion and Fire, Edison, New Jersey; March 23, 1994; PAR–95–01, adopted on January 18, 1995.

[35] 84 FR 52180.

[36] 49 CFR 192.710.

[37] See § 192.611, as appropriate, for one-class changes (*e.g.,* Class 1 to 2 or Class 2 to 3 or Class 3 to 4). As an example, for a Class 1 to Class 2 location change, the pipeline segment would require a pressure test to 1.25 times the MAOP for at least 8 hours. Following a successful pressure test, the pipeline segment would not need to be replaced with new pipe, but the existing design factor of 0.72 for a Class 1 location would be acceptable for a Class 2 location. The pressure test must meet the documentation requirements of § 192.517.

[38] Specifically, if the applicable segment has been hydrostatically tested for a period of 8 hours or longer, the MAOP is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72 percent of SMYS of the pipe in

approach is practical for situations of a ''one-class bump'' where a pipeline segment's class location changes from Class 1 to a Class 2, a Class 2 to a Class 3, or a Class 3 to a Class 4.[39] However, when population growth occurs to a degree that results in a class location change from a Class 1 location to a Class 3 location, the existing options of pressure testing or reducing operating pressure can be technically or operationally prohibitive for meeting contractual gas flow volume obligations.[40] If an operator cannot pressure test or reduce operating pressure, the only options remaining per the existing regulations are to replace the pipe with higher-strength pipe by installing pipe with either greater wall thickness or higher steel grade or apply for a special permit.

The class location regulations, when they were promulgated in 1970, required operators to replace pipeline segments when population growth resulted in a class location change to ensure that the safety margin was commensurate with the new class location. At that time, the pipeline industry did not have the technology available to determine the in-situ[41] material condition of their pipelines, and it was unlikely that existing pipe could achieve a similar safety margin as replaced pipe per the regulations.

Following the implementation of the IM regulations in 2003, and throughout the development of the 2019 Gas Transmission Final Rule, pipeline operators and industry trade associations requested that PHMSA provide operators with an additional alternative to managing class location changes: One that would use modern IM principles to assess the pipelines in question and help ensure that their integrity is maintained. PHMSA is proposing and requesting comments on a defined IM alternative that operators can use to manage pipeline segments where the class location has changed from Class 1 to Class 3. PHMSA expects that the additional repair and monitoring criteria proposed in this rule would provide, for Class 1 pipe that is in a Class 3 location, safety for the life of the pipeline that would be equivalent to that provided by a pipeline designed to Class 3 standards. This NPRM would not allow operators to manage Class 1 to Class 4 or Class 2 to Class 4 location changes in the same manner. This restriction is because Class 4 locations are so densely populated that the measures that could be provided through an IM alternative on thinner-walled pipe designed for a Class 2 location would not give people a chance to evacuate from a nearby rupture. PHMSA does not believe, at this time, that there are additional, feasible measures that can be implemented, on top of the ones proposed in this NPRM for Class 1 to Class 3 location changes, that can mitigate such risk and stand in for thicker-walled or stronger, higher grade pipe designed to Class 4 standards. PHMSA seeks comment on this current understanding.

### *C. Class Location Change Special Permits*

As discussed above, in the absence of alternative regulations such as those proposed in this notice, some operators have applied to PHMSA for special permits to manage class location changes without replacing pipe or reducing the operating pressure. A special permit is an order issued under § 190.341 that waives or modifies compliance with regulatory requirements if the pipeline operator can demonstrate a need, and PHMSA determines that granting the special permit or granting the special permit with conditions attached would be consistent with pipeline safety. Upon receipt of such a request, PHMSA publishes a notice and request for comment in the **Federal Register** for each special permit application received and tracks issued, denied, and expired special permits on its website.[42]

In 2004, PHMSA published the typical considerations for class location change special permit requests in a **Federal Register** notice titled ''Pipeline Safety: Development of Class Location Change Waiver Criteria'' (69 FR 38948; June 29, 2004; ''2004 **Federal Register** Notice''). These considerations were developed by adapting risk-based IM concepts. For each class location change special permit request, PHMSA reviews the information submitted by the operator, which includes a list of the proposed sites, pipeline attributes, prior assessment results and assessment schedules, incident and leak history, prior repairs, damage prevention initiatives, prior safety-related condition reports, a summary of integrity threats, and the operator's risk-control activities. PHMSA then approves class location change special permits on the condition that operators implement integrity assessments and other P&M measures, which go beyond the regulatory requirements.[43] The additional monitoring and maintenance requirements PHMSA prescribes through this process help to ensure the integrity of the pipe to maintain a level of safety consistent with lowering the MAOP, conducting a new pressure test, or installing thicker-walled or higher-grade pipe. The class location change special permits that PHMSA has granted have allowed operators to continue operating the pipeline segments identified under the special permits at their current MAOP based on the previous class locations. In order to issue such a special permit, PHMSA must determine that the present class location change special permit conditions and operator implementation of these conditions are consistent with public safety and demonstrate the current application of class location change management. As such, they can provide a basis for the consideration of this proposed alternative.

Since 2001, PHMSA has received over 30 applications from operators for waivers from the class location requirements in § 192.611 for pipeline segments changing from a Class 1 to a Class 3 location. PHMSA has approved approximately half of these applications and issued the corresponding special permits, with over 10 currently in effect.[44] The pipeline segments for

Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations.

[39] Based on the original in-place design of a pipeline, an operator can only perform a single one-class bump in a pipeline's lifetime. Pipelines constructed to the standards of lower class locations (*i.e.,* Class 1) cannot meet more rigorous testing requirements when class locations continue to increase, which eventually requires operators to replace the pipe or apply to PHMSA for a special permit.

[40] See the Preliminary Regulatory Impact Assessment (PRIA) for more details.

[41] In other words, the condition of their pipelines as they existed in place in the ground.

[42] *https://www.phmsa.dot.gov/pipeline/special-permits-state-waivers/special-permits-and-state-waivers-overview.*

[43] Special permit conditions are implemented to mitigate the causes of gas transmission incidents and are based on the type of threats pertinent to the pipeline. The conditions are generally more heavily weighted on identifying material, coating, and CP issues; pipe wall loss; pipe and weld cracking; depth of pipe cover; third party damage prevention; marking of the pipeline and pipeline right-of-way patrols; pressure tests and documentation; data integration of integrity issues; and reassessment intervals. Examples of PHMSA's class location special permit conditions can be found at: *https://primis.phmsa.dot.gov/classloc/docs/SpecialPermit_ExampleClassLocSP_Conditions_090112_draft1.pdf,* and more information about PHMSA's special permit process for class location changes can be found at: *https://primis.phmsa.dot.gov/classloc/documents.htm.*

[44] PHMSA has rejected class location change special permits due to the presence of pipe conditions, including cracking, major corrosion, or other systemic issues, that are not easy to address via the special permit process. PHMSA considers the age and manufacturing process of the pipe and the construction processes used as well. Additionally, some operators have withdrawn special permit applications before being denied.

which PHMSA has granted special permits cover a range of diameters from 16 to 36 inches. Most the class location change special permits PHMSA has issued have been implemented effectively by operators and subsequently renewed; PHMSA notes that, to date, no leaks or failures have occurred on the approximately 100 miles of current class location change special permit pipeline segments.

i. Class Location Change Special Permit Eligibility Requirements

Most of the Class 1 to Class 3 class location change special permit requests that PHMSA receives are for older pipeline segments built with lower-strength pipe, based upon its design in accordance with 49 CFR 192.105 for a Class 1 location, that operators would likely not be able to pressure test to the 1.5 times MAOP test pressure without failure required for Class 3 locations.[45] Such pipe tends to be higher-risk due to the materials and construction techniques available at the time of the pipe's installation, so each pipeline segment must meet several ''threshold conditions'' before PHMSA grants a special permit. These conditions include a review of the pipe's seam type, field girth welds,[46] coating type, depth of cover,[47] materials documentation,[48] pressure testing duration and minimum test pressure,[49] defect and corrosion history, repair criteria used,[50] CP, and the quality of gas transported and its effect on internal corrosion.[51]

PHMSA also considers O&M practices and pipe attributes, and requires documentation when evaluating pipeline segment for a class location change special permit. For example, PHMSA does not grant class location special permits for pipeline segments with bare pipe or pipe containing wrinkle bends, or for pipe operating above 72 percent SMYS.[52] As a part of the special permit application process, operators must have or obtain documentation detailing the pipeline segment's diameter, wall thickness, grade, seam type, yield strength, tensile strength, and coating type. Finally, PHMSA considers the history of an operator's compliance with PSR when reviewing special permit applications.

ii. Special Permit Compliance Conditions

The conditions PHMSA imposes in class location change special permits apply to the ''special permit segment,'' which is the specific pipeline segment where the class location change has occurred. In class location change special permits, PHMSA has also required operators to assess for threats up to 25 miles on either side of the special permit segment in an area known as the ''special permit inspection area.'' [53] The purpose of considering this larger special permit inspection area is to provide a means by which threats and pipe defects in nearby pipe can be discovered and remediated. In addition, potential incident causes that could affect the special permit segment can be identified and corrected, thus helping find and fix problems in the special permit segment before pipeline integrity is compromised.

PHMSA's typical class location change special permit conditions require an operator to incorporate the identified segment(s) into its integrity management program (IMP). An IMP, as detailed in subpart O of part 192, requires operators to perform ongoing risk analyses, perform integrity assessments to identify and analyze applicable threats to the pipeline, repair any anomalies, and implement appropriate P&M measures to ensure the integrity of the pipeline in HCAs (typically where there are significant populations). PHMSA's enforcement of operator IMPs holds operators accountable if they fail to take adequate steps under IM to mitigate the risks for their applicable pipeline segments.

Another condition included in class location change special permits is that each applicable special permit segment must be operated at or below its existing MAOP; this operating pressure is higher than the pressure reduction that would be required under the current class location change requirements in § 192.611. As a part of complying with the special permit conditions, and consistent with IM principles, PHMSA also requires operators to address issues pertaining to pipe coating quality, selective seam weld corrosion, stress corrosion cracking (SCC), and the effects of any long-term pipeline system flow reversals. In addition, PHMSA often requires operators to perform additional CP and corrosion-control measures on special permit segments, including performing coating condition surveys, coating remediation, and upgrading CP systems.

While PHMSA has the authority to modify special permit conditions in the interest of public safety, PHMSA has not significantly changed the original conditions imposed in the class location change special permits, in most cases, when operators apply to renew them. In a few cases in the early 2000s, class location SPs did not have required periodic reassessment intervals, pipe remediation, coating assessment, or other integrity requirements. PHMSA has added additional safety requirements when the special permits have been renewed. These early special permits were granted prior to the development of the class location change waiver guidelines and criteria in 2004. These public notices outlined the special permit attributes that PHMSA would review and gave an overview of the safety and integrity measures that PHMSA would require in future special permit conditions. In cases when certain changes have been made, they are a result of lessons learned during the special permit process. For example, when PHMSA first established the special permit process for class location changes in 2004, the special permits had no expiration dates. In 2008, the agency chose to impose an expiration date of 5 years for all new class location change special permits. At the time, PHMSA

[45] Some gas transmission infrastructure was installed before the 1970s, using techniques that can contain latent defects. For example, pipe manufactured using low-frequency electric resistance welding or lap-welding techniques is susceptible to seam failure.

[46] Girth welds are made where two pipes are joined along their circumferences. PHMSA reviews whether operators have performed non-destructive examinations of any girth welds and what percentage of the welds have been examined.

[47] The requirements for the depth of cover over a buried pipeline are at § 192.327, and they specify how much soil or consolidated rock must cover a pipeline at a given class location. PHMSA reviews whether there is less than 30 inches of cover over the pipeline and whether the pipe needs to be lowered or if additional mitigation measures need to be performed.

[48] PHMSA reviews whether the operator has good material physical property records of the pipeline segment and whether operators have documentation for wall thickness, seam types, etc.

[49] The pressure testing requirements for pipelines are in subpart J (§§ 192.501–192.517). PHMSA reviews whether operators have a proof test to confirm they have records for a safety factor above the MAOP (an increase of 25 percent).

[50] PHMSA reviews whether the repair criteria an operator uses has a required maximum defect depth and a pressure rating 39 percent above the MAOP.

[51] PHMSA reviews whether the gas has a high percentage of carbon dioxide (approximately 3 percent), or hydrogen sulfide (16 parts per million) and does not have water vapor above 7 lbs. per million. In PHMSA's experience, these thresholds are consistent with typical FERC gas tariffs for individual companies.

[52] Pipeline segments with these attributes do not meet the current part 192 standards for construction of transmission pipelines, regardless of the class location they are in. PHMSA approves special-permit applications based on the applicant's pipe being considered sound in accordance with current standards and ensuring through additional measures that an operator can manage the pipe to a consistent level of safety.

[53] In the class location change special permits, PHMSA required operators assess up to 25 miles on both sides of the special permit segment as a proxy for the nearest ILI tool launcher and receiver stations. As discussed later in this document, PHMSA is proposing to make explicit the requirement for operators to assess to ILI tool launcher and receiver stations in this NPRM.

felt that a 5-year expiration limit would serve as an appropriate frequency of review of the conditions and their impact on public safety. Based on PHMSA's experience over the past 15 years of monitoring these special permits and through safety reviews during the periodic special permit renewal process, PHMSA has extended the expiration date of its class location change special permits to 10 years. This 10-year timeframe allows an operator to conduct every required IM assessment and re-assessment [54] prior to submitting a renewal request to PHMSA for an updated special permit.[55]

*D. Class Location Studies, Public Workshop, Report, and Stakeholder Input*

Prior to this NPRM, PHMSA considered extensive input from various stakeholders on the class location change regulations, various other alternatives, and safety impacts. This feedback was gathered through the public comment process via a Notice of Inquiry in 2013,[56] public meetings in 2014, comments on the class location report and gas transmission NPRM in 2016, and comments to a DOT notice of regulatory review in 2017.[57]

i. Section 5 of the Pipeline Safety Act of 2011

On January 3, 2012, Congress enacted the 2011 Pipeline Safety Act. Section 5 of that act required PHMSA to evaluate, with respect to gas transmission pipeline facilities, whether the potential application of IM program requirements, or elements thereof, to additional areas outside of HCAs would mitigate the need for class location requirements. Per the mandate, PHMSA reported the findings of this evaluation to Congress in 2016, as discussed below. The 2011 Pipeline Safety Act authorized PHMSA to issue regulations pursuant to the findings of the report. As discussed below, PHMSA issued an NPRM in 2016 and a subsequent final rule in 2019 that addressed this mandate.

ii. 2013 Notice of Inquiry: Class Location Requirements

On August 1, 2013, PHMSA issued a Notice of Inquiry soliciting comments on whether expanding IM requirements would mitigate the need for class locations per the section 5 mandate of the 2011 Pipeline Safety Act. The notice discussed several topics, including whether class locations should be eliminated entirely, whether a single design factor could be used in all situations, whether design factors should be increased for higher class locations, and whether pipelines without complete material properties records should be allowed to use a single design factor if class locations were eliminated.

There was broad consensus among PHMSA stakeholders [58] that entirely eliminating class locations would not lead to pipeline safety improvement. Further, commenters noted that establishing a single design factor to replace class location designations might be too complicated to implement. Many commenters noted that any changes in class location requirements would impact not only the classifications of many pipelines but would also possibly lead to several adverse unintended consequences [59] related to compliance with 49 CFR part 192, as the class location requirements are referenced or built upon throughout the natural gas regulations. Several industry trade groups made suggestions for changing the class location regulations—specifically for using IM to manage pipeline segments where the operator had not replaced, pressure tested, or reduced the pressure of the pipeline segment. These suggestions were developed further through subsequent discussions at PHMSA's Gas Pipeline Advisory Committee (GPAC) meetings and at public workshops as described more fully below.

iii. 2014 Pipeline Advisory Committee Meeting, Class Location Workshop, and Subsequent Comments

On February 25, 2014, PHMSA hosted a joint meeting of the Gas and Liquid Pipeline Advisory Committees.[60] At that meeting, PHMSA updated the committees on its activities regarding section 5 of the 2011 Pipeline Safety Act, and committee members and participating members of the public provided their comments. During the meeting, the Interstate Natural Gas Association of America (INGAA) reinforced its comments in response to the 2013 Notice of Inquiry, noting that the original class location definitions in ASME B31.8 were intended to provide an increased margin of safety for higher-density population areas and stating that IM was a better risk-management tool than class locations. INGAA reported that its members intended to perform elements of IM on pipelines outside of HCAs.[61]

On April 16, 2014, PHMSA sponsored a workshop on class locations to solicit comments on whether the application of IM program requirements beyond HCAs would mitigate the need for gas pipeline class location requirements. Representatives from PHMSA, the National Energy Board of Canada, the National Association of Pipeline Safety Representatives (NAPSR), pipeline operators, industry groups, the Pipeline Safety Trust (PST), and public interest groups gave presentations.[62]

During the workshop, INGAA alleged that the current class location regulations can result in the replacement of pipeline segments that do not warrant replacement and suggested that the special permit process for class location changes be embedded into part 192. Ameren Illinois, a member of the American Gas Association (AGA), noted that applying the current class location change requirements can cost more than $1 million for each Class 1 to Class 3

[54] See 49 CFR 192.939.

[55] In all special permits, PHMSA reserves the right to revoke the permit (see § 190.341) before the set expiration date and order compliance with the regulations if PHMSA finds the operator is not complying with the provisions or if PHMSA discovers a safety condition on the pipeline.

[56] ''Pipeline Safety: Class Location Requirements,'' 78 FR 46560 (Aug. 1, 2013).

[57] ''Notification of Regulatory Review,'' 82 FR 45750 (Oct. 2, 2017).

[58] Approximately 30 submissions were received from a wide range of stakeholders, including, but not limited to: Operators, trade organizations (Interstate Natural Gas Association of America, American Public Gas Association, American Petroleum Institute, American Gas Association), the Pipeline Safety Trust public interest group, the National Association of Pipeline Safety Representatives comprised of State pipeline safety regulators, and individual citizens. The submissions can be reviewed at *https://www.regulations.gov/docket?D=PHMSA-2013-0161*.

[59] API/AEPC explained that the elimination of class locations would preclude the ability to determine the regulatory status of gathering lines. *See* API's November 1, 2013, comment at 3, *https://www.regulations.gov/document?D=PHMSA-2013-0161-0025*.

[60] The Pipeline Advisory Committees are statutorily mandated advisory committees that advise PHMSA on proposed safety standards, risk assessments, and safety policies for natural gas and hazardous liquid pipelines (49 U.S.C. 60115). These Committees were established under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 2) and the Federal Pipeline Safety Statutes (49 U.S.C. 60101–60141, 60301–60302). Each committee consists of 15 members, with membership divided among Federal and State agency representatives, the regulated industry, and the public.

[61] Per a 2013 presentation, INGAA states that it will strive to apply IM principles to the entire transmission systems operated by INGAA members, extending and consistently applying the program to the following: (1) 90 percent of the population in the vicinity of pipelines using IM principles, by 2012; (2) 90 percent of the population in the vicinity of pipelines using ASME B31.8S, by 2020; (3) 100 percent of the population in the vicinity of nearby pipelines using IM principles, by 2030; and (4) the remaining 20 percent of pipeline mileage with no surrounding population using IM principles, after 2030. *https://www.ingaa.org/File.aspx?id=20899&v=a0233b08*.

[62] Meeting presentations are available online at: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=95*.

location change. Therefore, AGA suggested eliminating the special permit process for class location changes and incorporating the specific requirements for special permits into 49 CFR part 192 as part of the regulations. AGA recommended two alternative approaches. The first would allow operators to continue to implement the class location approach as it exists and apply for special permits, if needed. The second would allow operators to implement a risk-based approach using additional IM actions.

Accufacts and the PST pointed out how deeply the concept of class locations is embedded in part 192 and stated that IM requirements and class locations overlap in densely populated areas to provide a redundant, but necessary, safety regime. The PST also suggested that, in time, the older class location method potentially could be replaced with an IM method for regulation. However, the PST noted that incidents and other data suggest there is room for improvement in the IM regulations, as data shows higher incident rates in HCAs than in non-HCAs and that pipe installed after 2010 has a higher incident rate than pipe installed a decade earlier. Similarly, Accufacts noted that the 2010 Pacific Gas and Electric Company (PG&E) incident at San Bruno, CA, exposed weaknesses in the operator's IM program and demonstrated that the consequences resulting from the incident spread far beyond the expected potential impact radius (PIR).[63] Therefore, Accufacts suggested that shifting the class location approach solely to an IM approach might decrease the protection of public safety.

Following the workshop on class locations, INGAA submitted additional comments to the docket, stating that advancements in IM technology and processes have superseded the need for mandatory pipe replacement following a class location change. INGAA noted that in the past, it was logical to replace a pipeline when class locations changed because of the widespread belief that thicker pipe would take longer to corrode and would withstand greater external forces, such as damage from excavators, before failure. However, INGAA stated that given improvements in technology, advances in pipe quality, and ongoing regulatory processes such as IM, it believes that operators can mitigate most threats without the need for pipe replacement. Therefore, INGAA offered an approach to class location changes that would not require pipe replacement if pipeline segments met certain requirements that were in line with the current special permit conditions PHMSA established in the 2004 **Federal Register** Notice and that are currently in Class 1 to Class 3 location change special permits.[64] Specifically, INGAA suggested that pipelines meeting a ''fitness for service'' standard in 18 categories could address potential safety concerns and preclude the need for pipe replacement.[65]

iv. 2016 Class Location Report and Gas Transmission NPRM

Based on the 2011 congressional mandate discussed above, PHMSA submitted a report to Congress in April 2016 titled, ''Evaluation of Expanding Pipeline Integrity Management Beyond High-Consequence Areas and Whether Such Expansion Would Mitigate the Need for Gas Pipeline Class Location Requirements,'' which outlined PHMSA's findings on the issue.[66] The report also summarized operator comments and concerns regarding class location changes and subsequent pipe replacement, noting that operators said they could operate pipelines constructed in Class 1 locations that later change to Class 3 locations safely by using current IM practices.

Concurrently, PHMSA published an NPRM titled, ''Safety of Gas Transmission and Gathering Pipelines'' (2016 Gas Transmission NPRM),[67] in which PHMSA noted that the proposed application of IM program elements, such as assessment and remediation timeframes, beyond HCAs would not warrant the elimination of class locations.

In those documents, PHMSA noted that class locations affect all gas transmission pipelines and are integral to determining the appropriate MAOP, design pressure, pipe wall thickness, valve spacing, HCA designation,[68] O&M inspections, surveillance, and for evaluating anomalies for repair using ASME B31G[69] and AGA Pipeline Research Committee Project PR 3–805 (RSTRENG).[70] While IM measures are critical to risk mitigation and pipeline safety, the assessment and remediation of defects alone does not compensate for these other aspects of class locations adequately. Thus, as PHMSA outlined in the Class Location Report, it determined that the existing class location requirements are appropriate for maintaining pipeline safety and should be retained. Consequently, any revisions to the class location requirements would have to be forward-looking (*i.e.,* applying to pipelines constructed after a certain effective date) and would have to provide commensurate safety as the existing regulatory regime.[71]

As part of the continuing discussion on class location changes and subsequent pipe replacement, PHMSA summarized at the end of the 2016 Class Location Report the concerns operators expressed regarding the cost of replacing pipe in locations that change from a Class 1 to a Class 3 location or a Class 2 to a Class 4 location. PHMSA noted in the 2016 Class Location Report that, over the past decade, it had observed problems with pipe and fitting manufacturing quality, including low-

[63] The PIR for the ruptured pipeline segment involved in the PG&E incident at San Bruno, CA, was calculated at 414 feet. However, the National Transportation Safety Board (NTSB), in its accident report (NTSB/PAR–11/01) noted that the subsequent fire damage extended to a radius of about 600 feet from the blast center.

[64] See also *http://primis.phmsa.dot.gov/classloc/index.htm.*

[65] Those 18 categories were as follows: (1) Baseline Engineering and Record Assessments—Girth Weld Assessment, (2) Casing Assessment, (3) Pipe Seam Assessment, (4) Field Coating Assessment, (5) Cathodic Protection, (6) Interference Currents Control, (7) Close Interval Survey (CIS), (8) SCC Assessments, (9) In-line Inspection Assessments, (10) Metal Loss Anomaly Management, (11) Dent Anomaly Management, (12) Hard Spots Anomaly Management and Ongoing Requirements, (13) Integrity Management Program, (14) Root Cause Analysis for Failure or Leak, Line Markers, (15) Patrols, (16) Damage Prevention Best Practices, (17) Recordkeeping, and (18) Documentation.

[66] *https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/news/55521/report-congress-evaluation-expanding-pipeline-imp-hcas-full.pdf.*

[67] ''Pipeline Safety: Safety of Gas Transmission and Gathering Pipelines,'' 81 FR 20722 (Apr. 8, 2016).

[68] Per § 192.903, under Method 1, an HCA is an area defined as a Class 3 location, a Class 4 location, any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet and the area within the impact circle, which is defined by the potential impact radius for the pipeline, contains 20 or more buildings intended for human occupancy, or any area in a Class 1 or Class 2 location where the potential impact circle contains an ''identified site.''

[69] ASME B31G, ''Manual for Determining the Remaining Strength of Corroded Pipelines,'' provides guidance for the evaluation of metal loss in pressurized pipelines and piping systems, and it applies to all pipelines and piping systems that are a part of the ASME B31 Code for Pressure Piping.

[70] For procedures to determine the remaining strength of pipelines, see §§ 192.485(c) and 192.933(d). RSTRENG is a computer program developed to perform the procedure called ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe.'' This procedure was developed by Battelle Memorial Institute for the American Gas Association as an alternative to the ASME B31G procedures.

[71] In comments following the public workshop on class locations in 2014, INGAA noted that, after further analysis, it appears that applying the PIR method to existing pipelines may be unworkable, which is detailed in: *https://www.regulations.gov/document?D=PHMSA-2013-0161-0037.*

strength material;[72] low-frequency and high-frequency electric resistance welded pipe seam quality; construction practices; welding and the non-destructive testing of welds; pipe denting; field coating practices; IM assessments and reassessment practices;[73] and record documentation practices.[74] Based on incidents resulting from these problems, PHMSA believes it is necessary to consider additional safety measures if allowing a ''two-class bump'' from a Class 1 location to a Class 3 location without requiring pipe replacement, especially for higher-pressure gas transmission pipelines.[75]

PHMSA stated in the conclusion of the 2016 Class Location Report that it would further evaluate the feasibility and the appropriateness of alternatives to address issues pertaining to pipe replacement requirements, continue to reach out to and consider input from all stakeholders, and consider future rulemaking if a cost-effective and safety-focused approach to adjusting specific aspects of class location requirements could be developed to address the issues raised by pipeline operators. In doing so, PHMSA noted it would evaluate class-location-change alternatives in the context of other issues it was addressing related to new construction quality and safety management systems and would also consider inspection findings, IM assessment results, and lessons learned from past incidents.

v. *The AGA/API/INGAA Submission on Regulatory Reform—Proposal To Perform Integrity Management Measures In Lieu of Pipe Replacement When Class Locations Change*

On October 2, 2017, DOT issued a Notification of Regulatory Review seeking comment from the public on existing rules and other agency actions that would be good candidates for repeal, replacement, suspension, or modification. On November 9, 2017, AGA, API, and INGAA submitted joint comments to the corresponding docket.[76] The joint comments asserted that gas transmission pipeline operators incur annual costs of $200 to $300 million nationwide replacing pipe solely to satisfy the class location change regulations. The joint commenters requested that PHMSA consider revising the current class location change regulations to include an alternative beyond pressure reduction, pressure testing, or pipe replacement, and provided a suggested approach for doing so.

The joint commenters proposed an alternative approach for class location changes that focused on operators performing ''recurring [IM] assessments . . . [that] leverage advanced assessment technologies to determine whether [the] actual pipe condition warrants replacement'' in areas where the class location has changed. The commenters stated that such an approach would further promote IM processes and principles throughout the Nation's gas transmission pipeline network, improve economic efficiency by reducing a regulatory burden, and help fulfill the purposes of section 5 of the 2011 Pipeline Safety Act.

The joint comments from AGA/API/INGAA asserted that the current alternatives to pipe replacement following a class location change do not reflect the substantial developments in IM processes, technologies, and regulations over the past 15 years since the initial IM regulations were first codified. The commenters suggested that advanced ILI technologies, such as HR–MFL tools, can assess the presence of corrosion and other potential defects, which can allow an operator to establish whether a pipeline segment needs remediation or replacement.

The joint comments further noted that the 2016 Gas Transmission NPRM would expand IM assessments to newly defined ''moderate consequence areas,''[77] and that such an expansion would provide a framework for developing an alternative means of managing class location changes. The commenters supported the publication of the proposed provisions, as endorsed by the GPAC, to help provide such a framework. They suggested that the costs saved from avoiding pipe replacement using such an alternative could mitigate, to some degree, part of the costs of the 2016 Gas Transmission NPRM. In addition, they noted that the gas transmission NPRM contained several new provisions that would require operators to manage the integrity of their pipelines better by implementing more P&M measures to manage the threat of corrosion. The joint comments from AGA/API/INGAA stated that including such corrosion control measures as a part of a program for managing the integrity of pipeline segments, including ones that have experienced class location changes, would further justify the development of an IM-focused alternative to class location changes.

Based on those statements, AGA, API, and INGAA recommended that PHMSA develop an alternative approach to § 192.611 that would leverage specific provisions in the 2016 Gas Transmission NPRM at its proposed § 192.710 for assessing areas outside of HCAs and apply the proposed IM requirements at § 192.921 to those assessed segments. Further, they suggested that operators could reconfirm a pipeline segment's MAOP in a changed class location if the pipeline segment in question did not have traceable, verifiable, and complete (TVC) records of a hydrostatic pressure test that supported the previous MAOP.

*E. Class Location ANPRM*

On July 31, 2018, PHMSA published an ANPRM in the **Federal Register** seeking public comment on its existing class location requirements for natural gas transmission pipelines as they pertain to the actions that operators are required to take following class location changes due to population growth near pipelines.[78]

In the ANPRM, PHMSA requested comments and information to determine whether revisions should be made to the PSR regarding the current requirements that operators must meet when class locations change. PHMSA also welcomed any additional information that would be beneficial to the rulemaking process.

[72] PHMSA has documented low-strength pipe material issues in an advisory bulletin and the following website link: *https://www.phmsa.dot.gov/pipeline/low-strength-pipe/low-strength-pipe-overview*.

[73] IM and operational procedures and practices were issues in PG&E's incident at San Bruno, CA, in September 2010 and the Enbridge hazardous liquid pipeline rupture near Marshall, MI, in July 2010. PHMSA issued Advisory Bulletins: ''Pipeline Safety: Establishing Maximum Allowable Operating Pressure or Maximum Operating Pressure Using Record Evidence, and Integrity Management Risk Identification, Assessment, Prevention, and Mitigation,'' ADB–11–01, 76 FR 1504 (Jan. 10, 2011) and ''Pipeline Safety: Using Meaningful Metrics in Conducting Integrity Management Program Evaluations,'' ADB–2012–10, 77 FR 72435 (Dec. 5, 2012) to operators regarding IM meaningful metrics and assessments, which can be reviewed at: *https://www.phmsa.dot.gov/regulations-fr/notices*.

[74] PHMSA issued Advisory Bulletin ''Pipeline Safety: Verification of Records,'' ADB–12–06, 77 FR 26822 (May 7, 2012) concerning the documentation of MAOP, which can be reviewed at: *https://www.phmsa.dot.gov/regulations-fr/notices*. Also note PHMSA's Advisory Bulletin ''Pipeline Safety: Deactivation of Threats,'' ADB–2017–01, 82 FR 14106 (Mar. 16, 2017).

[75] Section 192.611 allows a ''one-class bump'' based upon pressure test.

[76] PHMSA notes that INGAA, individually, submitted nearly identical comments on the topic of class location on July 24, 2017 in response to a previous request for input by DOT. ''Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation,'' 82 FR 26734 (June 8, 2017).

[77] 81 FR at 20825, 20838.

[78] 83 FR 36861.

*F. 2019 Gas Transmission Final Rule*

Following the publication of the 2016 Gas Transmission NPRM, PHMSA determined it could more quickly move a rulemaking that focused on the mandates from the 2011 Pipeline Safety Act by splitting out the other provisions contained in the NPRM into two other, separate rules. Accordingly, on October 1, 2019, PHMSA published a final rule titled ''Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments.'' [79] PHMSA discusses the effects of that final rule on this proposal and any of the pertinent comments received on the ANPRM in the appropriate sections below.

## III. Analysis of ANPRM Comments and PHMSA's Response

The deadline for submitting written comments on the ANPRM was October 1, 2018. PHMSA received comments from entities consisting of citizen groups; pipeline industry consulting groups; government agencies, including representatives from the State of New Jersey and an association of State pipeline regulators; pipeline operators; and pipeline industry trade associations. PHMSA also received comments from approximately 4,800 individuals. PHMSA has considered the feedback received to the ANPRM and has taken the information submitted into account in formulating this proposal.

The comments submitted by the approximately 4,800 individuals were similar to one another and urged PHMSA to keep the class change rules as they are now until PHMSA completes gas safety rules to ensure that operators have TVC records of their systems, as recommended by NTSB. Further, these commenters noted that the existing special permit application process and NEPA requirements ensure that there is a review of the characteristics of pipe being proposed to be left in the ground and that the public has notice of those times when an operator is seeking to be exempted from strength or testing regulations, and that the current rules provide operators options other than pipe replacement, while assuring that pipe that stays in the ground is of known strength and that the public is made aware of proposed exemptions.

The following subsections summarize the questions and proposals contained in the ANPRM, each of the relevant issues raised by the commenters, and PHMSA's responses to the comments. The comments, in their original form, and corresponding rulemaking materials can be viewed at *www.regulations.gov* under Docket ID: PHMSA–2017–0151.

*A. Comments Related to the 2016 Proposed Gas Transmission Rule*

PHMSA received several comments on the class location ANPRM regarding the gas transmission NPRM that was issued in April 2016 and how provisions within that proposed rule would relate to potential changes to the class location regulations. There was broad agreement and support across all PHMSA's stakeholders, from public interest groups to the industry trade associations, for finalizing the 2016 Gas Transmission NPRM [80] to implement important safety initiatives, provide regulatory certainty, and promote pipeline safety technology development. The PST, representatives from the State of New Jersey, and over 4,800 members of the public commented that any consideration of changes to the current class location regulations should be postponed until after the 2016 Gas Transmission NPRM went into effect to address critical safety issues that could influence this rulemaking.

In a combined submission, AGA, the American Public Gas Association (APGA), API, and INGAA (collectively, the ''Associations'') specified that any regulations regarding class locations should align with the 2016 Gas Transmission NPRM. This statement was supported by many pipeline operators. Members of the pipeline industry and the Associations commented that the repair requirements detailed in the 2016 Gas Transmission NPRM would be appropriate for managing the integrity of pipeline segments where the class location has changed.

1. PHMSA's Response to General Comments Related to the 2016 Proposed Gas Transmission Integrity Rule

PHMSA is managing the potential changes to the class location regulations in this NPRM independently and based on their own merits. PHMSA acknowledges that many of the technical requirements previously proposed in the 2016 Gas Transmission NPRM are pertinent and applicable to the issues surrounding class location changes. In some cases, provisions that were proposed in the 2016 Gas Transmission NPRM were finalized in the 2019 Gas Transmission Final Rule. Comments that pertain to any of the provisions of the Class Location ANPRM referencing proposed changes in the 2016 Gas Transmission NPRM are addressed in the specific topic areas below.

*B. Requiring Pipe Integrity Upgrades and Allowing Other Options for Class Location Changes*

1. Summary of ANPRM Questions 1, 1a, and 2

PHMSA requested comments on whether it should allow operators to upgrade the integrity of pipeline segments undergoing class location changes by using methods other than the existing methods of pressure reduction, pressure testing, pipe replacement, or special permits. For clarification, the ''pipe integrity upgrades'' referred to in the ANPRM are synonymous with the existing methods that operators must use (*i.e.,* pressure reduction, pressure test, or pipe replacement) to confirm or revise MAOP in accordance with § 192.611. PHMSA also asked whether it should require pipe integrity upgrades for areas where the class location has changed from a Class 1 to a Class 3 or from a Class 2 to a Class 4.

Similarly, in question 2, PHMSA asked whether it should provide operators with the option of performing certain IM measures, in lieu of the existing measures, when class locations change from Class 1 to Class 3.

2. Summary of Comments

The California Public Advocates Office commented that pipeline segments with adequate material properties records and a successful subpart J pressure test could be managed with the existing pipe integrity upgrades per § 192.611. It said that, in areas where the class location has changed and the pipeline segment is missing material properties records and does not have documentation of a successful subpart J pressure test, either those pipeline segments should be replaced or the operator should be required to apply for a special permit. Finally, it said that if a pipeline segment undergoing a class location change is missing records but does have documentation of a previous successful subpart J pressure test, that segment could be managed with a new pressure test, pipe replacement, or a special permit.

NAPSR and the PST remarked that the best way to ensure public safety is to continue to encourage pipe replacements and to allow PHMSA to issue special permits for class location changes. These commenters were skeptical that relying on operational

[79] 84 FR 52180.

[80] The Final Rule based on this NPRM was published on October 1, 2019.

practices, including IM, would be sufficient to ensure public safety, given that many accidents have been linked to operators mismanaging IM. These commenters also noted that the combination of prescribed design factors and IM better ensures safety through redundancy, and that this redundancy is good for public safety.

NAPSR and the PST also noted that, if IM concepts are used in lieu of pipe replacement, operators should be required to demonstrate improved safety levels through using IM program techniques or pressure test documentation.

Comments received from TransCanada Corporation (now TC Energy), Kinder Morgan, the Associations, GPA Midstream Association (GPA Midstream), and a member of the public expressed the view that PHMSA should allow operators to have the option of managing changes in class location with integrity assessments. The Associations stated that PHMSA should encourage operators to adopt IM measures, including those in the existing IM regulations and the regulations proposed in the 2016 Gas Transmission NPRM, to address threats posed by class location changes. In doing so, the Associations suggested, operators would gain knowledge about their systems that they would not have otherwise obtained. In addition, Enbridge noted that landowner disturbance and customer impact would be greatly reduced by reducing the amount of pipe replacements or hydrostatic tests conducted when class locations change.

Further, both Enbridge and the Associations suggested that PHMSA should allow operators to use integrity assessments as an MAOP confirmation (or revision) when class locations change, both from Class 1 to Class 3 and from Class 2 to Class 4. These commenters noted that pipeline technology has advanced since PHMSA promulgated the class location regulations. Commenters from the industry further stated that these technological advancements are feasible methods of ensuring operational integrity while managing class location changes. Therefore, operators and the Associations requested that PHMSA consider updating the class location regulations by allowing operators to perform aspects of IM when class locations change. These commenters suggested that operators would be able to analyze the condition of their pipelines through site-specific assessments and make sound pipe replacement determinations rather than follow prescriptive requirements.

Kinder Morgan added that regardless of the reason a class location changes, managing a class location change with IM principles is a more holistic approach than a ''one-time'' pipe replacement.

GPA Midstream suggested that PHMSA ''should not impose arbitrary restrictions on an operator's ability to address class location changes with appropriate operations, maintenance, and integrity measures,'' as operators can conduct risk assessments to determine the potential threats to a pipeline segment where the class location has changed. GPA Midstream further suggested that PHMSA's focus should be on making sure that operators complete such risk assessments within a reasonable amount of time and that appropriate documentation is maintained to substantiate compliance.

The Pennsylvania Grade Crude Oil Coalition (PGCOC), which represents small producers and refiners, stated that its members generally have limited resources compared with large pipeline operators. While the PGCOC supports an alternative to the current ways of managing class location changes, it requested that such an alternative not follow the framework of special permits. From its perspective, special permits contain numerous conditions that go beyond IM requirements and are unrelated to the change in class location. Furthermore, it suggested that the class-location regulations should provide certain exemptions or alternatives for small pipeline operators. Specifically, it suggested that PHMSA consider establishing minimal IM requirements for small operators.

An individual citizen noted that when comparing the failures in San Bruno, CA, and Carlsbad, NM, neither was associated with the operating stress of the pipeline. Rather, both incidents were caused by defects in the pipe itself and that these incidents were preventable using IM tools and methods. Further, this individual suggested that arbitrary pipe replacement when class locations change is not necessary, and these decisions should be made based on well-understood pipe conditions.

3. PHMSA Response

PHMSA agrees with many of the commenters that IM principles can serve as a useful and effective means of addressing the increased safety risks that accompany higher population densities near gas transmission pipelines. For this reason, in developing this proposed rule, PHMSA considered the ability of operators to demonstrate effectiveness and safety enhancements using IM performance metrics and methods. PHMSA also considered operators' recordkeeping practices and the documentation of previous pressure tests, as well as their ability to perform risk assessments. PHMSA's experience with class location change special permits demonstrates that IM methods can be appropriate for managing class location changes when implemented properly. Therefore, PHMSA is proposing to add an IM alternative to the existing class location change requirements for pipeline segments changing from a Class 1 to a Class 3 location.

On the other hand, the existing IM program is not a panacea for managing such risks. Class locations provide safety throughout the Nation's pipeline network by specifying stronger minimum safety standards for MAOP and design, construction, testing, and O&M requirements in higher class locations. The IM regulations provide a separate structure by which operators can focus their resources on managing and improving pipeline integrity in areas where a failure would have the greatest impact on public safety. Over time, pipelines can degrade due to integrity threats such as corrosion and cracking. IM provides minimum safety margins for more densely populated areas by requiring operators to assess their pipelines at a minimum of every 7 years, or more frequently, based on threat assessments or the predicted growth of anomalies found in HCAs.

For these reasons, this NPRM would not change the existing requirements for class location changes for pipelines that do not meet the proposed eligibility conditions but would instead provide an additional alternative for compliance. Newly constructed pipelines would still be required to be constructed based on part 192 class location requirements. Based on PHMSA's experience with class location special permits, as well as inspection results and incident history, the agency does not believe that IM, as it exists in subpart O, is suitable as the only appropriate method for class location change management. The IM regulations were crafted for pipe that was designed to a higher safety factor, and were not crafted for Class 1 pipe. Because the IM alternative proposed in this rule would allow operators to leave Class 1 pipe in the ground in locations where the population has increased to a Class 3 level, PHMSA is not confident that IM requirements, alone, would be adequate for protecting the population in those locations.

As a result, PHMSA is not proposing to allow pipe with higher-risk attributes

to be eligible for the proposed IM alternative, including: Bare pipe; pipe with wrinkle bends; pipe with certain weld seams (*e.g.,* direct-current (DC), low-frequency electric resistance welded (LF–ERW), electric flash-welded (EFW), lap-welded seams, or seams where the longitudinal joint factor is below 1.0); and pipe with SCC, selective seam weld corrosion, or girth weld cracking (pipe body or weld cracking) corrosion. In addition, PHMSA is imposing additional mitigation requirements beyond those currently required under IM. Operators with higher-risk attribute pipe could continue to apply for special permits to manage class location changes.

PHMSA is also not proposing exceptions to the proposed IM alternative, as suggested by some commenters, because the existing options for class location change compliance and the special permit process would remain. Operators unable or unwilling to perform the IM alternative can achieve compliance through one of the existing options at § 192.611 or via a special permit.

PHMSA has not issued a special permit to manage locations changing from a Class 2 to a Class 4, because there is not an adequate basis for applying IM measures and concepts to these higher-risk pipeline segments. Though inspection technologies have advanced from earlier iterations, PHMSA does not have the operational data to confirm that the use of such technology on pipe designed to Class 2 standards would provide an adequate margin of safety in very densely populated Class 4 locations with multi-story buildings. PHMSA is concerned that there would not be adequate, feasible measures that could be prescribed to provide Class 4 locations with an equivalent level of safety in lieu of replacing pipe.

*C. Integrity Upgrades and Integrity Management Options for Clustered Areas*

1. Summary of ANPRM Questions 1b, 3, 3a, and 3b

In question 1b of the ANPRM, PHMSA asked whether part 192 should continue to require operators to upgrade pipeline integrity where the class location has changed from a Class 1 to a Class 3 due to the ''cluster rule.'' [81] In question 3, PHMSA asked whether the agency should give operators the option of performing certain IM measures in lieu of the existing measures when class locations change due to additional structures being built outside of an existing ''clustered'' areas within the sliding mile and operators are using the cluster adjustment to class locations per § 192.5(c)(2).[82] In sub-questions 3a and 3b, PHMSA asked whether, if alternative IM measures are permitted for pipelines, then what additional IM and maintenance measures should be applied to offset the safety impact of additional structures being built outside of clustered areas and at what intervals and in what timeframes operators should be required to assess these pipelines and perform remediation measures.

2. Summary of Comments

Multiple commenters expressed the view that options for actions taken in response to class location changes should not depend on whether clustering was used in determining the class location designation.

More specifically, the Associations strongly disagreed with PHMSA's statement in the ANPRM of a cluster being ''even a single house.'' They stated that in no prior class location rulemaking has the term ''cluster'' ever been defined. The Associations noted that in 1992, PHMSA, in response to an ANPRM question, specified that the word ''cluster'' was ''used in the ordinary dictionary sense,'' but, according to the Associations, the dictionary definition does not support the interpretation of one structure constituting a ''cluster.'' The Associations contended that the ordinary meaning of a cluster should continue to apply and each operator should be able to determine the scope of a cluster. Individual operator comments supported this view.

TransCanada Corporation suggested that PHMSA revise the ''cluster rule'' in § 192.5(c)(2) to cover only those situations where there are more than 10 buildings in close proximity, claiming that such a definition would be closer to the original intent of using class locations as a risk-mitigation tool and would be supported by a Class 1 location being defined as one with fewer than 10 buildings. Further, TransCanada noted that this proposed definition is supported by PHMSA's recent issuance of a class location special permit that distinguished between two differently sized clusters (*i.e.,* Type A and Type B), one with more and one with fewer than 10 buildings. Finally, it stated that categorizing low-population-density areas due to PHMSA's interpretation of the cluster rule as Class 3 locations artificially manipulates pipeline risk characterizations, in that small clusters of buildings (*e.g.,* 3) near larger clusters of buildings (*e.g.,* 50) would share the same risk profile. TransCanada stated that this approach results in outcomes that are inconsistent from the perspective of risk because a cluster with 50 buildings would have a higher activity rate, which would increase the likelihood of failure, and any failures would have higher consequences due to the denser population, whereas a cluster of 3 buildings would have less.

GPA Midstream also disagreed with assigning a single building as a defined cluster. It suggested that operators should determine the class location for the cluster specifically and determine the class location for the rest of the class location unit solely by considering the number of buildings outside of the clustered area. In this way, population density would drive class location determinations more accurately.

3. PHMSA Response

The ''cluster rule'' only applies when an operator has identified a class location unit that meets the criteria for a Class 2, Class 3, or Class 4 location. Once the Class 2, Class 3, or Class 4 location has been identified, the operator may adjust the endpoints of that Class 2, Class 3, or Class 4 location by using the cluster rule.[83] The purpose of this requirement is to allow operators to avoid replacing or pressure testing segments that have no buildings intended for human occupancy in the sliding mile and outside the ''cluster.''

PHMSA is not proposing any revisions to the clustering methodology in this NPRM. However, this proposed rule would address areas that might be affected by clustering by requiring that operators assess pipe with ILI tools and implement P&M measures for the entire segment.

*D. Using an Integrity Management Option To Manage Safety When Class Locations Change From a Class 1 to a Class 3*

1. Summary of ANPRM Question 2a

In question 2a of the ANPRM, PHMSA asked whether it should allow operators to use certain IM measures in

[81] See § 192.5(c)(2) and section I.B. of the ANPRM background for more details on the ''cluster rule.'' Operators can adjust the length of a Class 2, Class 3, or Class 4 location based on the presence of a ''cluster of buildings.'' Clustering reduces the amount of pipe that is subject to the safety requirements of higher class locations. Clustering does not change the length of the class location units themselves (*i.e.,* the ''sliding mile'').

[82] Under § 192.5(c)(2), the length of Class locations 2 and 3 may be adjusted as follows: When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards (200 meters) from the nearest building in the cluster.

[83] See § 192.5(c).

lieu of the existing measures to ensure safety when class locations change from a Class 1 to a Class 3, and if so, what additional IM and maintenance approaches or safety measures should be applied to offset any potential impact to safety. PHMSA also asked at what intervals operators should be required to assess such pipelines and perform the necessary remediation measures.

2. Summary of Comments

NAPSR and the PST commented that specific design measures are more effective and consistently implemented than IM, as several recent failures have been attributed to IM implementation issues. Should PHMSA allow operators to use IM measures to manage class location changes, these commenters suggested that PHMSA should consider requiring more frequent integrity assessments, multiple tool type runs, more stringent repair requirements, and additional damage prevention activities.

Members of the pipeline industry recommended that PHMSA allow operators to use IM principles for managing class location changes, noting such an approach would allow operators to determine the threats associated with each pipeline segment and appropriate actions. Industry commenters also suggested that operators could implement the integrity assessment option for class location change management similarly to how it is implemented in subpart O, with at least one commenter noting that they could classify class location change segments as HCAs and manage the segments as a part of a broader IM program. Therefore, these commenters suggested that for both covered and non-covered segments that experience a class location change, operators could complete an initial assessment within 24 months of the class change, with reassessments to occur within 7 years or 10 years, depending on where the segment is located and the status of the 2016 Gas Transmission NPRM. Operators could complete the initial assessments using, at a minimum, ILI or comparable technology capable of assessing corrosion and dents. To ensure all identified threats would be addressed, operators could use additional assessment methods.

Certain industry commenters requested that PHMSA consider allowing operators to file for an extension if it is not practicable to complete an initial integrity assessment and MAOP reconfirmation, if required, within 24 months of a class change.

3. PHMSA Response

PHMSA agrees with NAPSR and the PST that if IM is used to manage class location changes, additional and enhanced requirements would be necessary to ensure pipeline safety. PHMSA also agrees that the timing of the initial integrity assessment should correspond with the current class location change requirement of 24 months. PHMSA is proposing reassessment intervals for the IM alternative of class location change management equivalent to the reassessment intervals in subpart O. As proposed in this NPRM, any segments managed through this IM alternative would need to be classified as HCAs, which are subject to subpart O; therefore, such a requirement would be consistent with the current regulations. Operators that do not identify the Class 1 to Class 3 location change in accordance with §§ 192.609 and 192.611(d) would not be able to use the class location change alternative proposed in this NPRM.

PHMSA agrees with commenters that IM is not suitable for class location change management in every situation. Under PHMSA's proposal, an operator would perform an analysis to identify those pipeline segments where the class location has changed, and identify those segments where it would be inappropriate to manage Class 1 to Class 3 location changes with IM. PHMSA notes that even if a pipeline segment meets the proposed minimum criteria discussed later in this NPRM, it does not mean that IM would be the best option for managing that pipeline segment. Based on their knowledge of their own pipeline systems, operators would ultimately determine whether an eligible pipeline segment should be managed with the IM alternative.

As a condition of using the IM alternative proposed in this rule, operators must notify PHMSA of their intent to use the alternative to allow PHMSA to review and inspect for compliance. PHMSA has learned through its inspections that many operators fail to assess and mitigate integrity problems properly, including poor construction practices [84] and operational maintenance threats, whether due to a lack of appropriate technologies, cost, or other reasons, threats that ultimately lead to pipeline failures. IM programs can fail to account for broadly recognized safety issues, such as bare pipe, wrinkle bends, lap welds, cracking, and pipe that has other potential construction or manufacturing issues. ILI technology does not effectively identify all integrity threats that may have been created through construction or manufacturing processes and that have not been tested for stability with a subpart J pressure test. Therefore, PHMSA believes such segments should not be managed using the IM alternative when class locations change.

Further, as the 2010 PG&E incident at San Bruno, CA, revealed, some operators may not have TVC records of certain pipe properties, such as pipe material yield strength, pipe wall thickness, pipe seam type, pipe and seam toughness, and coating type or quality. Data on these pipe properties are critical and necessary for the effective implementation of IM processes and pipeline safety measures in populated areas. PHMSA is concerned that operators may not have this pipe material property data for Class 1 pipe segments in locations that later become Class 3, especially if the pipe has been operated in accordance with § 192.619(c).[85] This data is necessary for making important pipeline safety judgments, including technical evaluations of anomalies.

PHMSA also notes that there may be instances where a pipeline appears to be in ''good condition'' from a visual standpoint, but may not have the initial pipe manufacturing, pipe body and seam strength, construction quality, coating, and CP effectiveness to prevent corrosion and cracking, and therefore lack the O&M history necessary for the effective management of class location changes using IM.

[84] On several occasions in recent years, PHMSA has met with operators to discuss safety issues related to new construction. For example, PHMSA hosted a public workshop in collaboration with its State partners, the Federal Energy Regulatory Commission (FERC), and Canada's National Energy Board in April 2009. The objective of the public workshop was to inform the public, alert the industry, review lessons learned from inspections, and improve new pipeline construction practices prior to the 2009 construction season. The following website contains information discussed at the workshop and provides a forum in which to share additional information about pipeline construction concerns: *https://primis.phmsa.dot.gov/construction/index.htm*.

[85] Pipeline segments operated in accordance with § 192.619(c) were installed prior to adoption of the PSR and likely do not meet § 192.619(a)(1), (2), or (4), or they operate above 72 percent of SMYS. These pipeline segments may not have pressure test or material properties records. Section 192.619(c) allows pipelines put into service before July 1, 1970, that were found to be in satisfactory condition, to be operated in Class 1 locations at the highest actual operating pressure they achieved during the 5 years preceding July 1, 1970, regardless of the level of hoop stress on the pipe. Pipelines in Class 1 locations that are designed and operated to part 192 standards are otherwise limited to a maximum operating hoop stress of 72 percent of SMYS.

Therefore, PHMSA proposes to exclude pipe with certain pipe attributes and O&M parameters from the proposed IM alternative of managing class locations. PHMSA is concerned that some operators have not adequately identified and mitigated these integrity threats at a consistent and reliable level. Excluding these segments from the proposed IM alternative would ensure a higher level of safety. Operators would still be allowed to apply for special permits to manage such pipeline segments, but PHMSA would be able to evaluate them, and the public would be able to comment on them, on a case-by-case basis. PHMSA requests comment as to whether these proposed pipe eligibility conditions could be modified or eliminated, and if so, what the impacts to safety and the environment would be as well as the net benefits of this proposed rule.

In addition, PHMSA's experience with operator IM programs indicates that some operators do not have an IMP in place that includes sufficiently robust P&M measures in HCAs to address the various risks posed by changes in class locations. Therefore, PHMSA concludes that, while applying modern IM assessments and processes can be an appropriate way to manage certain class location changes, the addition of specific prescriptive, additional P&M measures to such a method is needed to ensure a level of safety comparable to pipe replacement or derating the pipeline MAOP for pipeline segments that change from a Class 1 to Class 3 location. PHMSA requests comment as to whether modification or elimination of any of the proposed P&M measures, beyond the current IM requirements, is feasible and what the impacts to safety and the environment would be and whether such a change would maximize nets benefits to society.

Regarding the request that PHMSA allow operators to file for an extension to the 24-month assessment timeframe, PHMSA is not proposing to adopt that suggestion. PHMSA believes that 24 months is sufficient time to complete an initial IM assessment and that longer time frames would introduce undue risk to public safety by allowing Class 1 pipe to operate untested for more than 2 years in a Class 3 location. Currently, under § 192.611, if a class location change requires pipe replacement, MAOP reduction, or pressure tests to confirm a class location upgrade to be conducted, operators must complete those actions within 24 months of the class location change. PHMSA notes that the timeframe for this requirement was established at 24 months because it provides operators with enough time to order pipe, if necessary, and make changes from one season to the next. For example, if a class location change occurs in the spring, an operator would be able to order and receive pipe before replacing the pipe in the following summer season.

*E. General Eligibility for Managing Class Location Changes With Integrity Management*

1. Summary of ANPRM Questions 4, 4a, 4b, and 4c

In question 4 of the ANPRM, PHMSA requested comment on whether an operator should use a ''fitness-for-service'' [86] standard to determine which pipelines should be eligible for using IM measures to manage segments changing from a Class 1 to a Class 3 location, and what factors should make a pipeline eligible or ineligible for doing so.

PHMSA also asked whether it should base a proposed class location change management IM on the alternative criteria it uses when considering class location change waivers, including the pipe's age, the manufacturing and construction processes of the pipe, and the pipe's O&M history.

In addition, PHMSA asked whether it should require operators and pipelines to meet eligibility conditions outlined in the 2004 **Federal Register** Notice, including no bare pipe or pipe with wrinkle bends, records of a hydrostatic test to at least 1.25 times MAOP, records of ILI runs with no significant anomalies that would indicate systemic problems, and an agreement that up to 25 miles of pipe both upstream and downstream of the waiver location must be periodically inspected using ILI technology.

2. Summary of Comments

NAPSR and the PST stated that the existing § 192.609 serves as a fitness-for-service determination and suggested that operators should complete a fitness-for-service study for all pipeline segments, not just those impacted by a class location change. NAPSR and the PST further suggested that such a study should then be updated every 3 years, noting that the study results could assist in pipe replacement determinations when a class location change occurs. Pipeline industry commenters stated that a fitness-for-service standard should be established from the integrity assessments, enhanced repair criteria, and MAOP reconfirmation requirements proposed in the 2016 Gas Transmission NPRM. They stated that the initial MAOP establishment (or an MAOP reconfirmation where a pressure test record is not available) sets a physical safety margin that is then maintained for the life of the pipeline using integrity assessment, anomaly evaluation, and repair or replacement, where required based on pipe condition.

NAPSR, the PST, and the California Public Advocates Office commented that the criteria for class location change special permits that PHMSA published in the 2004 **Federal Register** Notice are all aspects of fitness-for-service, and PHMSA should use these factors as a basis for any proposed class location change requirements. Similarly, NAPSR and the PST commented that PHMSA should approve, on a case-by-case basis, an operator's request to utilize IM measures for class location changes taking into account a fitness-for-service study. The PST also said that PHMSA should not issue class location change special permits if the applicable pipeline segment cannot be assessed with ILI tools or does not have accurate and verifiable design records.

The Associations and supporting operators broadly commented that threshold conditions should not be required and that PHMSA should allow operators to use IM measures in lieu of pipeline replacement on all segments undergoing class location changes, stating that no individual pipe attribute should determine eligibility for a class location change alternative. Instead, these commenters suggested that PHMSA should encourage operators to utilize IM measures exclusively in lieu of the current requirements for managing these segments of pipelines where the class location has changed, including addressing threats as detailed in existing regulations and as proposed in the 2016 Gas Transmission NPRM. In doing so, these commenters argued, operators would gain knowledge about their systems that they would not have obtained otherwise.

Some operators, including TransCanada Corporation, proposed that operators should be allowed to conduct site-specific assessments to determine if pipeline segments should be eligible for using IM measures in lieu of pipe replacements or pressure reductions. Such an assessment would need to assess all applicable threats and their interactions to ensure that operators can manage safety at acceptable levels. An individual citizen noted that the acceptable current fitness-for-service standards are in ASME B31.8S, ASME B31G, RSTRENG, and their equivalents. This citizen further stated that

[86] ''Fitness for service'' refers to a pipeline's ability to operate and deliver product safely while protecting the people and environment around the pipeline. Fitness for service has been a part of industry consensus standards since the mid-1980s, and PHMSA has incorporated elements of these standards into the PSR.

reassessment is the key to assuring continued safety, and that lower stress does not assure public safety. The commenter further suggested that pipe segments should not be changed out if its condition is well understood and judged to be acceptable.

In addition, the Associations and supporting pipeline operators claimed that PHMSA's special permit requirement for assessing a prescribed amount of mileage upstream and downstream from the pipeline segment undergoing a class location change is not technically justified. They said that depending on the design of a pipeline system, such an assessment may require multiple tool runs or the analysis of pipe completely unrelated to the segment in which the class location has changed. Because PHMSA proposed to extend integrity assessments outside of HCAs in the 2016 Gas Transmission NPRM, these commenters suggested that special permit inspection areas are no longer appropriate or necessary to ensure pipeline safety. Similarly, Kinder Morgan stated that IM measures address segment threats, and the additional requirements detailed in the 2016 Gas Transmission NPRM will cover pipeline segments up and downstream of the class-location change.

An individual citizen commented that prescribing mileage to be assessed is not appropriate, as it could potentially exempt from the requirements pipeline segments that do not have 50 miles of pipe between ILI tool launcher and receivers.

Another individual citizen recommended that, if PHMSA were to allow an IM alternative for class location changes, operators should have to inform PHMSA and affiliated State agencies of their intent to apply IM measures for managing a pipeline segment changing from a Class 1 to a Class 3 location.

3. PHMSA Response

To the PST's comment that class location change special permits should not be issued if the applicable pipeline segment cannot be assessed with ILI tools or does not have accurate and verifiable design records, PHMSA is proposing to require in this NPRM that the segment must be ''piggable'' to be eligible for the IM alternative to the class location change requirements. Operators must also have pipe material property records for the segment to be eligible.

PHMSA does not believe that assessments and repairs alone are adequate to demonstrate the eligibility and fitness-for-service of pipe manufactured to Class 1 location standards to be used in Class 3 locations. In addition, PHMSA has elected to finalize the provisions proposed in the 2016 Gas Transmission NPRM in three separate final rules—the 2019 Gas Transmission Final Rule was published October 1, 2019, and the other two are in development. While the 2019 Gas Transmission Final Rule did include updated assessment requirements for ''moderate consequence areas,'' PHMSA intends to finalize the corresponding repair criteria in a draft final rule currently titled ''Pipeline Safety: Safety of Gas Transmission Pipelines, Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments.'' PHMSA does not believe that managing Class 1 to Class 3 location changes using an updated assessment schedule with the existing repair criteria would provide an equivalent level of safety when compared to pipe replacement without additional P&M requirements being applied to the eligible pipe. ASME B31.8S allows anomalies to grow until only a 10 percent safety factor remains before they need to be remediated. In this NPRM, PHMSA is proposing that operators remediate anomalies that have a predicted failure pressure of less than 1.39 or a depth of less than 40 percent of the pipe wall thickness. This safety factor of 1.39 would be similar to the installation of new Class 1 pipe.

Further, PHMSA agrees with NAPSR and the PST that the study performed under the requirements at § 192.609, when a pipeline's class location changes is, in many ways, a type of fitness-for-service study. PHMSA is hesitant to incorporate a general requirement for operators to perform a fitness-for-service evaluation because PHMSA is concerned that such an evaluation would not result in a consistently applied minimum safety standard across the industry. Therefore, the specific eligibility conditions PHMSA is proposing in the IM alternative for threat identification in this NPRM would be akin to prescribing a fitness-for-service standard that operators would have to meet to use the IM alternative.

For the purposes of an operator determining if a segment would be ''fit for service'' to apply IM measures for managing pipeline segments changing from a Class 1 to a Class 3 location, PHMSA is proposing a set of pipe attributes that would disqualify a segment from using the IM alternative based on threats and their higher risks. Those attributes, and the corresponding threats, are:

(1) Bare pipe, which cannot maintain proper CP currents;

(2) Pipe with wrinkle bends, which can be prone to cracking;

(3) Pipe without records reflecting key attributes, including diameter, wall thickness, grade, seam type, yield strength, and tensile strength, which do not allow for proper anomaly evaluation;

(4) Pipe uprated in accordance with subpart K but without a pressure test to at least 1.39 times MAOP, unless the segment passes a subpart J pressure test for a minimum of 8 hours at a minimum pressure of 1.39 times MAOP within 24 months after the Class 1 to Class 3 location segment change and prior to uprating the MAOP. PHMSA believes that allowing pipe that has been operated for years at a lower pressure to be uprated without additional requirements presents undue risk;

(5) Pipe that has not been pressure tested in accordance with subpart J for 8 hours at a minimum test pressure of 1.25 times MAOP, unless the segment passes a subpart J pressure test for a minimum of 8 hours at a minimum pressure of 1.25 times MAOP within 24 months after the Class 1 to Class 3 segment change. The treatment of this attribute is consistent with the current regulatory requirements and will not allow pipeline segments that have been operating in accordance with § 192.619(c), which may lack material records or be operated above 72 percent SMYS, to be managed under the IM alternative;

(6) Pipe with DC, LF–ERW, EFW, or lap-welded seams, or with a longitudinal joint factor below 1.0, which are prone to seam failure due to cracking and improper jointing that results in lower-strength joints;

(7) Pipe, in or within 5 miles of the Class 1 to Class 3 location segment, with cracking in the pipe body, seam, or girth welds that is over 20 percent of the pipe wall thickness; [87] has a predicted failure pressure less than 100 percent of SMYS; has a predicted failure pressure less than 1.5 times MAOP; [88] has experienced a leak or rupture due to pipe cracking; or for which an analysis indicates the pipe could fail in brittle mode. Cracking leads to ruptures on pipe segments with poor toughness properties;

[87] In PHMSA's experience, current ILI tool detection effectiveness for cracks is at approximately 10 to 20 percent depth.

[88] This threshold is based on a related recommendation from the Gas Pipeline Advisory Committee on repair criteria. See *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=132* for more details.

(8) Pipe with poor external coating that requires negative cathodic polarization voltage shifts of 100 millivolts or more,[89] or linear anodes to maintain cathodic protection, or pipe with tape wraps or shrink sleeves. The treatment of this attribute is consistent with Appendix D to part 192, which is referenced at § 192.463. Such pipe may have issues with corrosion control or cracking;

(9) Pipe transporting gas that is not of a suitable composition quality for sale to gas distribution customers, such as sour gas, which can lead to issues with corrosion; and

(10) Pipe that operates in accordance with § 192.619 (c) or (d).

Operators with such higher-risk pipeline segments would still be able to apply for a special permit for class location change management. Operators with pipeline segments that do not have any of the listed disqualifying attributes could use the IM alternative. PHMSA believes this proposed approach is a way to establish if Class 1 pipe is suitable (''fit for service'') for operators to use IM methods to verify MAOP in a Class 3 location, while providing an equivalent level of safety, over the life of a pipeline, as pipe replacement. As the majority of these disqualifying attributes have been used to ensure safety in class location special permits for several years, incorporating these disqualifying attributes into this rulemaking should provide an equivalent level of safety compared to the special permits. PHMSA requests comment as to whether these eligibility conditions are appropriate, and whether the elimination or modification of them would impact safety, and how. Is there an alternative approach PHMSA could take that would modify or eliminate these eligibility conditions that would maintain safety and increase the net benefits of this rulemaking?

PHMSA agrees with commenters that requiring operators to assess an additional 25 miles upstream and downstream from the class location change is unnecessary. When the general special permit conditions were drafted in 2004, PHMSA used the 25-mile inspection area as a sort of proxy for the length of pipeline between an ILI tool launcher and receiver. PHMSA is proposing to require instead that operators assess the length of pipeline between the ILI tool launcher and receiver containing the Class 1 to Class 3 location segment without prescribing a specific numeric value for the mileage to be assessed. The ILI tool launchers and receivers are the natural beginning and endpoints for an inspection area rather than an arbitrary amount of mileage.

PHMSA believes that approving each case in which an operator uses the proposed IM alternative for managing class location changes in lieu of pipe replacement is unnecessary for public safety and would not be significantly more efficient than the current approach of operators applying for special permits. However, PHMSA is proposing a notification requirement so that PHMSA and applicable State agencies are aware of each instance in which an operator uses the proposed IM alternative. This notification requirement will allow PHMSA and State regulators to know where these pipeline segments are located and can consider them when conducting inspections.

*F. Eligibility for Pipe Operating in Accordance With § 192.619(c)*

1. Summary of ANPRM Questions 1c and 4a(i)

In the ANPRM, PHMSA requested comments on whether pipe operating in accordance with § 192.619(c) (*e.g.,* pipeline segments with operating pressures above 72 percent SMYS, pipeline segments without a pressure test or with an inadequate pressure test, or pipeline segments with inadequate or missing material properties records), should be eligible for class location change management using IM principles. PHMSA also asked if part 192 should continue to require pipe integrity upgrades for pipeline segments operating in accordance with § 192.619(c).

2. Summary of Comments

NAPSR and the PST commented that pipeline segments operating in accordance with § 192.619(c) that lack design, material, or pressure test records should be required to follow the existing class location change requirements. They also seemed to suggest that, if PHMSA moved towards providing an IM alternative to class location changes, operators could incorporate pipeline segments operating in accordance with § 192.619(c) that have undergone a class location change into their IM programs if they performed more robust integrity assessments and mitigation measures on those segments.

The California Public Advocates Office requested that PHMSA confirm pipeline segments operating in accordance with § 192.619(c) will not be allowed to continue operating in accordance with § 192.619(c) after a class change, consistent with current regulations and interpretations. Specifically, they noted that PHMSA interpretation PI–14–0005 states:

> If an operator uses § 192.619(c) to establish the MAOP, the operator must have documentation of the pipeline segment's condition and operating and maintenance history, including historical pressure records for the maximum operating pressure to which the entire pipeline segment was subjected during the 5 years prior to July 1, 1970. Section 192.619(c) cannot be used to determine the MAOP after a change in Class Location. Section 192.611 can be used to revise the MAOP within 24 months after a Class Location change; after that deadline, the MAOP must be revised according to § 192.619(a).

The Associations and supporting operators recommended an IM alternative that would include hoop stress limitations as follows: 80 percent of the SMYS in Class 2 locations; 72 percent of SMYS in Class 3 locations; and 60 percent of SMYS in Class 4 locations. These commenters noted that a hoop stress limitation of 80 percent for Class 2 locations is supported by several existing special permits.

The Associations and supporting operators also noted that the 2016 Gas Transmission NPRM provides a means for reconfirmation of MAOP for pipeline segments operating in accordance with § 192.619(c).[90] So long as operators complete MAOP reconfirmation within 24 months of the class change, these commenters believed pipeline segments operating in accordance with § 192.619(c) should be eligible for the class location change alternative. However, these commenters also stated that the MAOP reconfirmation test factor used should correspond with the class location and installation date at the time of construction, claiming that if PHMSA enforced the use of current

[89] A.W. Peabody, ''Peabody's Control of Pipeline Corrosion,'' second edition, ''Criteria for Cathodic Protection.'' ''The 100 mV polarization criterion should not be used in areas subject to stray current because 100 mV of polarization may not be sufficient to mitigate corrosion in these areas. It is generally not possible to interrupt the source of the stray currents to accurately measure the depolarization. To apply this criterion, all DC current sources affecting the structure, including rectifiers, sacrificial anodes, and bonds must be interrupted. In many instances, this is not possible, especially on the older structures for which the criterion is most likely to be used. The 100 mV polarization criterion should not be used on structures that contain dissimilar metal couples because 100 mV of polarization may not be adequate to protect the active metal in the couple. This criterion also should not be used in areas where the intergranular form of external SCC, also referred to as high-pH or classical SCC is suspected. The potential range for cracking lies between the native potential and –850 mV (CSE) such that application of the 100 mV polarization criterion may place the potential of the structure in the range for cracking.''

[90] See 84 FR 52196 and 84 FR 52247.

class location test factors, it would likely result in pipe replacements or pressure reductions that undermine the application of IM principles due to the class location change segment not being designed to meet the Class 3 pressure test factors.

An individual citizen commented that the hoop stress of a pipeline segment cannot be determined if it has an unknown outside diameter, wall thickness, and SMYS. This commenter asked how an operator would be able to comply with class location change requirements if these values were unknown. If these variables were known, this commenter stated, then a multi-tool ILI inspection program in conjunction with chemical and physical sample tests would provide comparable assurance of compliance and safety.

3. PHMSA Response

Commenters are divided on whether pipeline segments operating in accordance with § 192.619(c) should be eligible for being managed with an IM alternative when class locations change. Pipeline segments operating in accordance with § 192.619(c) were installed prior to adoption of the PSR and that do not meet § 192.619(a)(1), (2), or (4), or they operate above 72 percent of SMYS. These pipeline segments may not have pressure test or material properties records.[91] Section 192.619(c) requires that an operator must still comply with § 192.611 should a class location change occur. This, in effect, precludes pipeline segments that operate in accordance with § 192.619(c) from continuing to operate without a pressure test or pressure reduction and records of pipe material properties when the class location changes. Given that pipeline segments operating in accordance with § 192.619(c) tend to be higher risk,[92] PHMSA's proposal states that pipeline segments operating at greater than 72 percent SMYS and pipeline segments that are missing pipe material properties records are not candidates for the proposed IM alternative to class location change management.

However, in this NPRM, PHMSA proposes that operators of pipelines that were previously operating in accordance with § 192.619(c) that operate at or below 72 percent SMYS be eligible for the IM alternative only if the operator pressure tests any of those pipelines that do not have a record of a previous pressure test within 24 months after the class location change and have pipe material records for the segment. PHMSA proposes such a pressure test must meet current subpart J requirements for a new segment installed in a Class 2 location (the test pressure must be at least 1.25 times MAOP for 8 continuous hours). Operators would need to test such pipeline segments to Class 2 standards rather than Class 3 standards because testing Class 1 pipe to Class 3 standards would result in a rupture and would require the operator to replace the pipe. This approach is consistent with the special permit conditions PHMSA has imposed on pipelines previously operating in accordance with § 192.619(c).

PHMSA is also proposing that this pressure-testing approach would apply to pipeline segments uprated in accordance with subpart K, except the pressure test for uprating the MAOP on a pipeline segment where the operator lowered the MAOP for a Class 1 to Class 3 location change would require a subpart J pressure test of 1.39 times the uprated MAOP for 8 continuous hours. Under this approach, operators would still be allowed to apply for a special permit for pipeline segments with the MAOP established in accordance with § 192.619(c) that would not meet the proposed requirements. Typically, an operator will downrate the pressure of a pipeline segment because the segment is not meeting regulatory standards and the contractual flow volumes have diminished (*i.e.,* they have lost customers). PHMSA is adding this requirement because if a pipeline is being uprated, it means that it has been operating at a lower pressure than to what the operator wants to raise the MAOP. Therefore, an operator must conduct a pressure test to a level that will justify the new, higher MAOP.

To the Associations' point regarding hoop stress limitations, class location change special permits have been limited to Class 1 to Class 3 location changes only. With the publication of the alternate MAOP rule in 2008,[93] PHMSA allowed pipelines to operate up to 80 percent SMYS in Class 1 locations if those pipelines were built to certain specifications and are operated with procedures that are additional (*e.g.,* 49 CFR 192.112, 192.328, and 192.620) to the normal procedures for pipelines operated at 72 percent SMYS. Pipelines built for Class 1 and Class 2 locations were not designed or constructed to operate at a hoop stress up to 80 percent SMYS. Should operators conclude that their design, construction, and operation procedures fulfill the standards of the Alternate MAOP rule at §§ 192.112, 192.328, and 192.620, then they can apply for a special permit in accordance with § 190.341.

*G. Eligibility for Pipe With Specific Conditions and Attributes*

1. Summary of ANPRM Questions 4a(ii), 4a(iii), 4a(vii), and 4a(viii)

In question 4 of the ANPRM, PHMSA requested comments on whether specific pipe conditions should affect a pipeline segment's eligibility for an IM alternative for class location management.

Specifically, PHMSA requested comments on whether pipeline segments that have a failure or leak history, were manufactured with a material or seam welding process during a time or by a manufacturer that has been shown over time to experience known integrity issues, or have lower toughness in the pipe and weld seam (*e.g.,* Charpy impact value[94]), should be eligible for an IM alternative. PHMSA also asked whether pipeline segments that contain or are susceptible to cracking, including in the body, seam, or girth weld, or pipeline segments that have disbonded coating or CP shielding coatings, should be eligible for the IM alternative. Further, PHMSA asked whether pipe with seams that are lap-welded, flash-welded, low-frequency electric resistance welded; are of ''unknown'' type; have a history of seam failure due to poor manufacturing properties; or have a derating factor below 1.0, should be eligible for an IM alternative.

2. Summary of Comments

The California Public Advocates Office stated that pipeline segments should not be eligible for the IM alternative for class location change management if they have experienced an in-service failure, have manufacturing issues, or have a lower toughness in the weld seam. It proposed that PHMSA consider holding a

[91] This data is included in PHMSA's annual reports. Pipeline operators are required to report which pipelines operate at greater than 72% SMYS, which method of MAOP determination was used for the pipeline, and whether the pipeline has incomplete records.

[92] Operators may know the material properties of pipeline segments operating in accordance with § 192.619(c). However, many pipeline segments operating in accordance with § 192.619(c) lack adequate material records, and may be operating at higher stress levels (above 72 percent SMYS) than what the pipe design would allow, if the pipe were to be constructed to today's standards.

[93] ''Standards for Increasing the Maximum Allowable Operating Pressure for Gas Transmission Pipelines,'' 73 FR 62148 (Oct. 17, 2008).

[94] A Charpy V-notch impact test and its values indicate the toughness of a given material at a specified temperature and is used in fracture mechanics analysis.

workshop to determine appropriate leak history thresholds and prescribe the eligibility of pipe with known integrity issues. It also commented that, if the operator does not know the seam type, the operator must determine the seam type or be required to use a longitudinal joint factor of 0.8 in any design calculations, even if the operator asserts all possible seam types merit a value of 1.0. It also expressed that, regardless of whether IM measures are deemed appropriate, the derating factor should be the more conservative of either the derating factor used at the time of construction or current design factors.

TransCanada Corporation commented that operators should conduct a site-specific assessment taking into consideration pipe design, history, and environmental factors to determine whether particular pipeline segments should be eligible for an IM alternative when class locations change. It argued that pipeline segments should be eligible if operators can use integrity measures to manage any associated threats effectively. It noted that lap-welded pipe was an exception and should not be eligible for IM measures, as current inspection technology is not sufficient in determining lap-weld seam integrity.

NAPSR and the PST expressed the view that PHMSA should consider all the factors listed in Question 4 of the ANPRM, including whether a pipeline is operating in accordance with § 192.619(c), has experienced an in-service failure, or has significant corrosion or other damage; the age of the pipe; manufacturing and construction history; O&M history; and the criteria listed in the 2004 **Federal Register** Notice for determining which pipeline segments would be eligible for operators to apply IM measures when managing class location changes in lieu of replacing pipe.

An individual citizen commented that pipe that has experienced an in-service failure should not be excluded so long as all comparable remaining defects in the segment have been remediated. This commenter suggested that pipeline segments with manufacturing defects should not be excluded from using an IM alternative when class locations change, so long as the operator has conducted a successful pressure test at 1.25 times the MAOP. Such a pressure test would demonstrate that the manufacturing defect should be considered stable and will not grow while the pipeline is in service. This commenter stated that while the Charpy impact value is shown to be related to crack growth, it is not a factor in corrosion and pressure stress cycles in gas pipelines are not a concern. This citizen also noted that, for unknown seam type, an ILI tool should be able to identify seam type given each seam type's distinct magnetic signature.

3. PHMSA Response

Based on the input provided and PHMSA's experience with special permits and incident investigations, PHMSA is persuaded that some of the attributes discussed, such as past incident history and toughness properties, can be effectively managed through an operator's IM program with mandatory P&M measures. In an operator's IM program, an operator addresses pipeline segments with an incident history through assessing and repairing or remediating the threats and causes associated with those past incidents. In this NPRM, PHMSA is proposing that operators would identify in their IM programs the specific Class 1 to Class 3 location segments being managed under that program. In doing so, operators would be required to conduct a data integration and risk assessment on these segments, including an evaluation of past incident history, for all threats and establish an integrity assessment program to find and remediate applicable threats.

This proposed rule specifies requirements for operators to maintain a comparable level of safety for the life of the pipeline segment that changed from a Class 1 to a Class 3 location. In response to the California Public Advocates Office's comment regarding derating factors, PHMSA believes that these requirements, including the IM principles and eligibility criteria prescribed in this NPRM, will provide the equivalent of conservative derating factors. PHMSA has issued several special permits over the past 15 years containing conditions identical to or similar to the conditions being proposed in this rulemaking for managing class location change waivers. Those special permits that PHMSA has issued have not resulted in any decrease in pipeline safety in the areas where they are implemented and in fact have resulted in no incidents on the applicable pipe. PHMSA, therefore, has confidence that the IM principles and eligibility criteria being proposed in this rulemaking will provide an equivalent level of safety consistent with the regulations.

PHMSA believes that pipeline segments with known cracking issues are problematic and is proposing that operators would not be allowed to use the IM alternative for class location change management for those pipeline segments with cracks that exceed 20 percent of wall thickness. PHMSA reached this threshold by considering the current state of ILI technology and its tolerance for finding crack indications; current ILI tools can consistently evaluate crack depth and length at this level. A 20 percent through-wall defect of the pipe, whether from cracking or corrosion, has a minimal effect on a pipeline's failure pressure ratio based on any of the approved defect analysis methods, such as R–STRENG or API 579. Operators of pipelines with cracking issues would continue to be eligible for class location change special permits.

Material toughness is important when evaluating cracks and crack-like defects, as cracking can weaken a pipe to the point where it might rupture.[95] Since PHMSA is proposing to exclude pipe with known, non-trivial cracking issues, PHMSA does not propose to include material toughness as an eligibility criterion for managing class location changes through IM. However, operators of pipeline segments that change from a Class 1 to a Class 3 location that identify cracking issues after implementing the proposed IM alternative for class location changes must evaluate the significance of those crack anomalies. PHMSA proposes to require crack evaluation procedures for that purpose. With respect to pipeline segments with unknown material toughness, the proposed crack evaluation procedures would require the operator to use conservative toughness values to evaluate predicted failure pressures in response to discovered crack anomalies and the threat of cracks. PHMSA proposes to define a ''predicted failure pressure'' as the calculated pipeline anomaly failure pressure based on the use of an appropriate engineering evaluation method for the type of anomaly being assessed. A predicted failure pressure does not include a safety factor, and PHMSA believes defining ''predicted failure pressure'' will help bring clarity to the regulations and improve compliance.

PHMSA also believes that operators of pipeline segments with certain seam attributes should not be allowed to manage class location changes with an IM alternative. Even the current and most state-of-the-art ILI technology, with respect to evaluating seams, is not yet reliable enough to warrant including such pipeline segments in this NPRM. PHMSA notes that, at this time, ILI tools cannot reliably identify or differentiate

[95] Material toughness is the ability of a material to absorb energy and plastically deform without fracturing. Technical evaluations, including anomaly evaluations, require material toughness as an input. If material toughness is low, then the safe pressure of the anomaly will also be low.

LF–ERW, HF–ERW, or lap-welded seam pipe. The pipeline would need to be excavated to observe pipe seam types and use appropriate destructive or non-destructive methods. Therefore, the proposed rule would not allow the use of the proposed IM alternative for pipeline segments with DC, LF–ERW, EFW, or lap-welded seams; or pipe with a longitudinal joint factor below 1.0.

*H. Eligibility for Pipe With Significant Corrosion*

1. Summary of ANPRM Questions 4a(iv) and 4a(v)

In question 4 of the ANPRM, PHMSA requested comments on whether operators should be eligible to use IM to manage class location changes if the pipeline segment has experienced corrosion greater than 40 percent of wall thickness,[96] or whether operators should replace such segments. PHMSA also requested comments regarding whether anomalies in pipeline segments in an IM-managed class location change segment should use similar repair criteria as subpart O, and whether the current class location-specific design factor was appropriate or if it should be increased for a Class 1 to a Class 3 location change.

2. Summary of Comments

The California Public Advocates Office commented that pipelines with significant corrosion should be replaced and should not be eligible for an IM alternative. It also suggested that PHMSA codify a definition of ''significant corrosion.''

The Associations, pipeline operators, and an individual commenter agreed that the current IM regulatory measures and those proposed in the 2016 Gas Transmission NPRM would identify ''significant corrosion'' through integrity assessments, and those areas would be remediated accordingly. In addition, the Associations noted that the GPAC and PHMSA discussed an appropriate response to wall loss anomalies during the March 2018 GPAC meeting.

Further, the Associations and supporting operators commented that 70 percent of corrosion incidents occurred on pipeline segments that were not previously assessed with ILI, which they suggested is evidence that the current industry practice to remediate corrosion anomalies based on ASME B31.8S for those lines that are assessed is an effective practice.

TransCanada Corporation proposed that anomalies, including corrosion anomalies, ''should be repaired to criteria greater than or equal to MAOP times the reciprocal of the design factor of the installed pipe.'' [97]

3. PHMSA Response

Based on the input provided and PHMSA's experience with special permits and incident investigations, PHMSA proposes to allow operators with pipe with past corrosion to use the IM alternative for Class 1 to Class 3 location changes. ILI technology for the detection of corrosion metal loss is very mature, and PHMSA believes it is reliable to manage the threat of corrosion in pipeline segments that have changed from a Class 1 to a Class 3 location if operators perform a corrosion assessment properly and validate the results. However, pipeline segments would not be eligible if they do not meet the requirements of § 192.463 and need linear anodes to maintain adequate levels of CP due to poor coating conditions.

To help ensure pipeline safety, PHMSA proposes enhanced repair criteria that would be performed in addition to the repair criteria for HCAs in subpart O and would be implemented if operators manage a Class 1 to Class 3 location segment through IM. This repair criteria would be consistent with the repair criteria per the typical class location change special permit conditions and includes immediate repair conditions [98] for certain anomalies that are at or near the point of failure. The repair criteria would also contain ''scheduled'' conditions that would require an operator to repair them within 1 year. These scheduled repairs would be for anomalies that are not an immediate threat to integrity but that would need to be repaired promptly before they grew further. PHMSA also proposes ''monitored'' conditions that are not severe enough to need prompt repair but that the operator would have to monitor further. The enhanced repair criteria would not only apply to the pipeline segment that has changed from a Class 1 to a Class 3 location, but would also apply to the surrounding Class 2, Class 3, and Class 4 locations contained within the in-line inspection segment (*i.e.,* the segment of pipe between the closest upstream launcher and downstream receiver that contains the Class 1 to Class 3 location segment). PHMSA believes that these enhanced repair criteria are necessary for pipe around the Class 1 to Class 3 segment because it is likely that there would be nearby populations that could be affected by an incident involving the in-line inspection segment. Regarding pipe segments with corrosion, implementing these enhanced repair criteria would manage pipeline segments with prior significant corrosion appropriately, which is needed to compensate for operators not installing new pipe to Class 3 design standards in the changed class location.

PHMSA is also proposing to exclude those pipeline segments that are not transporting distribution customer-quality gas from the IM alternative proposed in this rulemaking due to the impact contaminates have on corrosion. Such a proposal would prevent Class 1 to Class 3 location segments that transport gas with deleterious contaminates from being transported in segments near areas with higher populations. This criterion would also exclude pipeline segments transporting gas with free-flowing water or hydrocarbons, gas with higher levels of hydrogen sulfide (sour gas), gas with higher levels of carbon dioxide, or gas with unacceptable water content, specifically, as these segments would be at a higher risk of internal corrosion. Further, contaminants like hydrogen sulfide and carbon dioxide would be asphyxiation risks if a Class 1 to Class 3 location segment carrying significant percentages or volumes of these gases leaked or ruptured in a populated area.

Regarding TransCanada's comment, PHMSA is not proposing to require operators repair the reciprocal of the design factor of the pipe. PHMSA is proposing to require operators repair anomalies based on a 1.39 predicted failure pressure, which is the reciprocal of the 0.72 design factor for class 1 pipe, and a wall loss of 40 percent of the pipe wall thickness.

*I. Eligibility for Damaged Pipe, Dented Pipe, or Pipe That Has Lost Ground Cover*

1. Summary of ANPRM Question 4a(vi)

In question 4 of the ANPRM, PHMSA requested comments on whether operators should be eligible to use IM to manage class location changes if the pipeline segment has been damaged, dented, or has lost ground cover due to

[96] Corrosion greater than 40 percent of wall thickness is considered significant. This threshold is consistent with PHMSA's typical class location change special permit conditions.

[97] An example would be a pipeline segment in a Class 1 location with a § 192.111 design safety factor of 0.72. The reciprocal of 0.72 would be 1.39 (1/0.72), which is a safety factor of 39 percent over MAOP.

[98] Per ASME B31.8S, section 7.2, an ''immediate'' condition is one where an indication shows a defect is at a failure point. As such, PHMSA believes that any indication of a pipe that is at the point of failure needs to be addressed immediately. In addressing ''immediate'' conditions, operators must reduce operating pressure and immediately remediate the anomaly.

third-party excavation or environmental factors.

2. Summary of Comments

Regarding environmental factors, the Associations noted that operators are already required to conduct patrols with increasing frequency in Class 3 and Class 4 areas, and that the 2016 Gas Transmission NPRM, if finalized, will require operators to implement additional inspections following extreme weather events. Such events are the most likely cause of a sudden change in the depth of cover. The commenters suggested these existing and pending requirements are sufficient to monitor depth of cover changes to ensure pipeline safety, regardless of whether a class change has occurred.

An individual citizen commented that damaged pipe should be addressed as detailed in subpart O.

3. PHMSA Response

PHMSA does not propose to limit the eligibility of pipeline segments that have been damaged, dented, or have lost ground cover. ILI technology for the detection of dents is very mature, and PHMSA believes it is reliable to manage the threat of dents and mechanical damage in conjunction with the proposed additional repair criteria and existing dent repair criteria for HCAs in subpart O for pipeline segments where the class locations have changed from Class 1 to Class 3. PHMSA also added additional prescriptive P&M actions in the proposed provisions, including the addition of line markers or an increase in the depth of cover, to address cases where a pipeline segment that has changed class location from a Class 1 to a Class 3 location has experienced a reduction in the depth of cover.

*J. Eligibility Factors Based on Diameter, Operating Pressure, or Potential Impact Radius Size*

1. Summary of ANPRM Question 10

In question 10 of the ANPRM, PHMSA requested comments on whether operators should be eligible to use IM to manage class location changes based on the pipeline segment's diameter, operating pressure, or PIR size.

2. Summary of Comments

Pipeline industry operators and trade associations contended that applying diameter, pressure, or PIR limits are not necessary for determining the eligibility of pipeline segments for using IM principles in place of the existing class location requirements, specifically noting that there is currently no technical standard or regulation that limits an operator's decision-making based on the PIR size, and that the intent of the PIR concept was not to limit where integrity assessments could be applied.

GPA Midstream, in a comment that was echoed by other operators, stated that a ''one size fits all'' approach is not appropriate and suggested each operator should be allowed to determine the appropriate IM measures and actions to ensure safe asset management. It further suggested PHMSA should focus on ensuring operators appropriately apply IM measures.

NAPSR stated that any allowances or exceptions to the current regulations should be determined on a case-by-case basis. It suggested PHMSA should continue to encourage operators to operate pipelines at lower stresses, but operators that install pipe that is rated for a higher class location than what currently exists should not be punished.

The California Public Advocates Office suggested that PHMSA consider more conservative requirements for any IM-based class location change management based on the pipeline segment's PIR and that PHMSA should host a workshop to determine appropriate values or actions. It also suggested PHMSA consider looped, co-located pipelines as additional factors for any PIR-based adjustments.

An individual citizen noted that while diameter and pressure limitations are not necessary for pipeline segments where operators would use the IM alternative for managing class location changes, PHMSA should impose stricter repair criteria on those segments. The commenter also noted that immediate repair condition requirements are specified in the current regulations, and remediation requirements, if performed properly, for all areas, should provide safety beyond the next assessment.

3. PHMSA Response

PHMSA acknowledges that the PIR and class location concepts are both used to identify physical locations at which higher consequences could result from a pipeline incident by virtue of higher population density.[99] PHMSA believes that, for the purposes of managing class location changes, adding PIR-based exclusion criteria would be unnecessary. PHMSA believes the requirements it has proposed for pipeline segments where the class location has changed from a Class 1 to a Class 3 location are appropriate for all Class 3 locations regardless of the PIR at that location. Therefore, PHMSA is not proposing to limit eligibility or impose more stringent requirements based on pipe diameter, operating pressure, or PIR.

Furthermore, while PHMSA appreciates the feedback regarding changing the method for determining PIR and class location to include additional factors such as, looped, co-located pipelines, but this comment is outside the scope of this NPRM.

PHMSA considered the suggestion of more stringent repair criteria and included such criteria, in addition to the repair criteria in subpart O, for all Class 1 to Class 3 location segments operators would choose to manage with the IM alternative in this NPRM. The more stringent repair criteria that PHMSA proposes in this rule are designed to provide equivalent integrity compared to replacement pipe where a class location has changed from a Class 1 to a Class 3 location. Existing pipe in these locations is more likely than not to be pre-Code, vintage pipe where the steel pipe properties do not have the toughness properties necessary to mitigate ruptures versus leaks when the pipe is corroded, dented, or has any cracking in the pipe body or pipe seam.

*K. Codifying Current Special Permit Conditions*

1. Summary of ANPRM Questions 6 and 6a

In question 6 of the ANPRM, PHMSA requested comments on whether it should codify any or all the current special permit conditions for class location changes,[100] asking whether doing so would satisfy the need for alternative approaches. PHMSA also asked what special permit conditions could be codified to provide regulatory certainty and additional public safety in higher-population areas.

2. Summary of Comments

NAPSR and the PST commented that, if the current, typical special permit requirements are codified, they should be the minimum guidelines and should require multiple tool type assessments, an increased inspection frequency, more stringent remediation requirements, and enhanced damage prevention activities. They also recommended that PHMSA

[99] Per § 192.903, a PIR means the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is used to determine whether an area is an HCA per the HCA definition at § 192.903. If, for the purposes of determining an HCA, a PIR in a certain class location is greater than 660 feet and the area within the potential impact circle contains 20 or more buildings intended for human occupancy or contain an identified site, as that term is defined at § 192.903, then the area is an HCA.

[100] Examples of typical PHMSA class location special permit conditions can be found at *https://primis.phmsa.dot.gov/classloc/documents.htm.*

require expedited timeframes and more restrictive remediation criteria specific to each class location.

The Associations, GPA Midstream, and operators commented that the current special permit conditions were not designed for broad application and should not be codified as written. The Associations stated that no additional requirements beyond those proposed in the 2016 Gas Transmission NPRM were necessary for operators to use IM to manage pipeline segments properly where the class location has changed. TransCanada Corporation added that implementing these ''broad-brush'' conditions would not allow for segment-specific risk considerations, which is the basis of an IM approach. GPA Midstream asserted that there are no indications the current special permit conditions would satisfy statutory considerations in a rulemaking proceeding, or that the cost of compliance is justified by the level of public safety benefit.

An individual citizen stated that certain aspects of current special permits are outdated given technological advancements and regulatory updates in the 14 years since the initial criteria for considering waivers was published. This citizen suggested that class location changes from a Class 1 to a Class 3 location should be treated as a change in land use, and the pipe in question should be considered an identified site, thus triggering HCA requirements.[101]

3. PHMSA Response

PHMSA agrees with certain commenters that including Class 1 to Class 3 location segments in operator IM programs in accordance with subpart O is appropriate for allowing operators to use IM to manage class location changes. However, PHMSA also believes that simply requiring operators to implement IM on pipeline segments where the class location has changed from a Class 1 to a Class 3 location, without undertaking additional safety requirements, does not provide an equivalent level of safety as the current system of pipe replacement, pressure testing, or pressure reduction. Thus, to provide public safety where the pipe has not been upgraded to current Class 3 location standards when the class location changes, PHMSA proposes to require that operators implement IM in accordance with subpart O and supplement that IM with additional standards that have been successfully applied in previous special permits. These additional activities would include close interval surveys (CIS),[102] the installation of CP test stations, and interference surveys to ensure the maintenance of coatings and reduce the numbers of immediate and scheduled repairs. These additional measures address specific threats to pipelines, including corrosion, and are necessary to account for the lack of additional pipe wall thickness in lieu of pipe replacement. Without thicker-walled pipe, these conditions will help to provide for a consistent level of safety over the lifecycle of the pipeline.

PHMSA is also proposing specific repair criteria for the Class 1 to Class 3 location segment that would be applied in addition to the existing repair criteria in subpart O. This additional repair criteria would also be applicable to the Class 2, Class 3, and Class 4 locations located within the entire in-line inspection segment. With these proposed changes, operators would categorize more anomalies as ''immediate'' conditions, which would help ensure an expedited repair schedule. Furthermore, the updated repair requirements of this proposal essentially provide an approximately 26 percent increase in safety factor for the pipe strength given that the NPRM would require the repair of conditions reaching a 1.39 safety ratio whereas the current IM regulations require the repair of conditions reaching a 1.1 safety ratio. The proposed repair criteria will also help to ensure safety where there is thinner-walled pipe in the ground by requiring the repair of anomalies where there is 40 percent of pipe wall loss, rather than the 80 percent that currently exists under IM.

Based on PHMSA's experience with existing Class 1 to Class 3 location change special permits and the feedback from the ANPRM, PHMSA proposes to incorporate the following special permit conditions into the regulations for those pipeline segments changing from a Class 1 to a Class 3 location that operators will manage using the IM alternative. PHMSA proposes to require the following conditions to help ensure that the level of safety achieved is equivalent to pipe replacement for the life of the pipeline:

- Perform an initial integrity assessment within 24 months of the Class 1 to Class 3 location change, which is consistent with the requirements at §§ 192.609 and 192.611.
- Use high-resolution ILI metal loss and deformation, electromagnetic acoustic transducer (EMAT), and inertial measurement unit (IMU) tools where appropriate for the pipeline integrity threat, which would be consistent with the current IM requirements. To help ensure that operators address cracking threats and ground movement, if an operator chooses not to conduct EMAT or IMU inspections on pipeline segments with a history of cracking or pipe movement, then the operator would be required to notify PHMSA in accordance with § 192.18.
- Perform periodic reassessments using ILI, which would be consistent with the current IM requirements.
- Validate ILI tool results, which would be consistent with the current IM requirements.
- Repair anomalies using more stringent repair criteria than the existing repair criteria under the current IM requirements, which will maintain equivalent safety, compared to pipe replacement, over the life of the pipeline.
- Replace pipeline segments: (1) With discovered cracks that exceed 20 percent of wall thickness, or (2) with a predicted failure pressure less than 100 percent of SMYS, or (3) with a predicted failure pressure less than 1.5 times MAOP, or (4) that could fail in the brittle failure mode. This requirement is based on PHMSA research and API's Recommended Practice 1176, ''Assessment and Management of Pipeline Cracking'' and would go beyond the current IM repair criteria.
- Until the pipeline segment can be replaced per the requirement above, cracks must be remediated using additional crack repair criteria. This requirement is consistent with the current IM requirements.
- Evaluate for pipe cracking, such as SCC, when the pipe is exposed for IM

[101] Under the current IM regulations at § 192.903, an ''identified site'' means ''one of the following 3 sites: (a) An outside area or open structure that is occupied by 20 or more persons on at least 50 days in any 12-month period. The days need not be consecutive. Examples include, but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, recreational areas near a body of water, or areas outside a rural building such as a religious facility. (b) A building that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. The days and weeks need not be consecutive. Examples include, but are not limited to, religious facilities, office buildings, community centers, general stores, 4–H facilities, or roller skating rinks. (c) A facility occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include, but are not limited to, hospitals, prisons, schools, day-care facilities, retirement facilities, or assisted-living facilities.''

[102] CIS are a series of closely and properly spaced pipe-to-electrolyte potential measurements taken over the pipe to assess the adequacy of cathodic protection or to identify locations where a current may be leaving the pipeline that may cause corrosion and for the purpose of quantifying voltage (IR) drops other than those across the structure electrolyte boundary, such as when performed as a current interrupted, depolarized or native survey.

or the proposed regulation activities and is found with disbonded or previously repaired coating. Pipe excavated for damage prevention program activities under § 192.614 would not require pipe cracking inspections so as not to delay those activities. This treatment is consistent with the current IM requirements.

• Conduct close interval surveys (CIS) at intervals at least once every 7 years and not exceeding 90 months. Operators should be performing these surveys under the IM regulations, so this condition would be consistent with that requirement.

• Ensure that at least one CP pipe-to-soil test station is within the pipeline segment that changed from a Class 1 to a Class 3 location, with a maximum spacing interval of one-half mile. This condition will meet the current requirements at subpart I for corrosion control.

• Install line-of-sight markers at defined points, which is consistent with elements of the current requirement at § 192.707 and PHMSA's current special permit conditions for class location change management. Line-of-sight markers would be line markers where each marker is visible from at least one other line-of-sight marker.

• Conduct interference surveys, which would be consistent with the current requirements at § 192.473. If operators are unable to receive the necessary permitting authority to complete surveys in time, they can apply to PHMSA for a special permit regarding that issue.

• Maintain depth of cover to Class 1 location standards or remediate areas with reduced cover. This condition keeps the original design standards for the affected pipe segment so as to avoid imposing retroactive design standards, which PHMSA cannot do.

• Conduct right-of-way patrols on a monthly basis and leakage surveys on a quarterly basis. This condition will help to ensure, on a more consistent basis, that the pipe segment is not damaged by third-party entities and that hazardous leaks do not occur where there are substantial populations. These requirements will also provide safety in that they are more stringent than the current Class 3 requirements.

• Clear shorted casings within 1 year, which operators are already required to do in accordance with § 192.467.

• Document and maintain records, for the life of the pipeline, of the actions required by the Class 1 to Class 3 location requirements. This documentation requirement is consistent with requirements in the recently published 2019 Gas Transmission Final Rule.

PHMSA requests comment as to whether any of these P&M measures could be modified or otherwise eliminated, and if so, what the impacts of safety would be and if safety could be maintained, what alternative approach would maximize net benefits to society.

Per PHMSA's data over the last decade, there have been 699 ''significant'' incidents occurring on gas transmission pipelines, which are defined as ones involving (1) a fatality or in-patient hospitalization, (2) $50,000 or more in property damage, or (3) incidents where over 3 million cubic feet of gas are lost. Of these incidents, 269 were caused by material, equipment, or weld failures (38 percent); 165 by corrosion (24 percent); 93 by excavation damage (13 percent); 61 by natural force damage (9 percent); 42 by other outside force damage (6 percent); 40 by incorrect operation (6 percent); and 29 by other causes (4 percent).

In many ways, the conditions that are consistent with IM outlined above are meant to mitigate many of these incident causes, including material failure and corrosion. Performing recurring integrity assessments helps operators understand the current condition of their pipe and reveals anomalies that, if left unchecked, could result in a serious rupture and incident.

Some of the additional surveys PHMSA is proposing to require are additional safeguards against corrosion threats. In the absence of new, thicker-walled pipe in a Class 3 location, performing CIS and interference surveys, as well as ensuring the proper placement of CP test stations, will help to provide assurance that a pipeline segment will not rapidly corrode prior to being discovered before the next integrity assessment.

PHMSA is proposing conditions for line-of-sight markers and depth of cover because these serve as mitigation measures for potential accidents involving excavation damage. Excavation damage is more likely to happen in more populated areas, as there are typically more utilities near pipelines and more people digging around those utilities. A strike from excavation equipment can cause a rupture, severely dent the pipe, or damage the pipe's protective coating. Even though PHMSA is not proposing to require more stringent depth-of-cover conditions beyond those designed for Class 1 locations, PHMSA believes the additional line-of-sight markers combined with additional patrolling and leak survey requirements will provide a commensurate level of safety compared to the Class 3 depth of cover requirements.

PHMSA proposed including a condition for operators to clear shorted casings because shorted casings were major contributors in two major pipeline incidents. On December 14, 2007, a 30-inch gas transmission pipeline owned by Columbia Gulf Transmission Company ruptured near Delhi, LA, killing a man and injuring another man who were driving nearby on Interstate 20. On December 11, 2012, a 20-inch gas transmission pipeline operated by Columbia Gas Transmission Company ruptured about 100 feet west of Interstate 77 near Sissonville, WV. Three houses were destroyed by the fire, and several other houses were damaged. Interstate 77 was closed in both directions because of the fire and resulting damage to the road surface, causing delays to travelers and commercial freight. Both accidents were attributable to shorted casings that had not been properly addressed.

In addition to the above special permit conditions, PHMSA is also proposing to require operators use SCADA systems and install and use remote-control or automatic shutoff block valves upstream and downstream of the Class 1 to Class 3 segment. PHMSA believes that the additional P&M measures proposed in this NPRM, along with the higher standards for repairs and remediation, make an increased inspection frequency suggested by certain commenters unnecessary.

*L. Additional Preventive and Mitigative Measures Needed for an Integrity Management Option for Class Location Change Management*

1. Summary of ANPRM Questions 9, 9a, and 9b

In question 9 of the ANPRM, PHMSA requested comments on whether operators would need to install additional pipeline safety equipment, P&M measures, or more conservative prescribed standard pipeline predicted failure pressures if using IM principles to manage pipeline segments where the class location has changed from a Class 1 to a Class 3. More specifically, PHMSA requested comments on whether the regulations should require rupture-mitigation valves or SCADA systems on IM-managed class location change pipeline segments.

2. Summary of Comments

TransCanada Corporation proposed operators should perform site-specific assessments to determine the

appropriate safety equipment or mitigative measures to implement. GPA Midstream supported this concept in its comments.

NAPSR stated that if PHMSA does not require pipe replacement, PHMSA should specify additional safety and P&M measures. They suggested that rupture-mitigation valves or equivalent technology should be required if an operator does not replace pipe to manage a class location change, and SCADA systems should be required for large and complex pipeline systems. Further, NAPSR stated that IM should be a system-wide program, ''not a substitute'' for the additional safety provided by class-location requirements. Similarly, NAPSR also stated that pipe replacements are preventive measures while valves are mitigative measures, arguing the level of safety between the two is not equal.

Broadly speaking, the Associations and multiple operators stated that the requirements proposed in the 2016 Gas Transmission NPRM are more than sufficient in ensuring safety, and it is unnecessary for PHMSA to require additional P&M measures for pipeline segments changing class locations. Class location change requirements, they asserted, are just a few of many regulations that are applicable to any given pipeline segment. MidAmerican Energy Company, for instance, stated that the requirements proposed in the 2016 Gas Transmission NPRM are adequate for covering class location changes, and no additional safety equipment or P&M measures should be required beyond those regulations.

Further, the Associations and GPA Midstream commented that the installation of rupture-mitigation values has not been addressed historically in special permits nor any previous class location regulatory discussions. GPA Midstream did not feel that this would achieve the intended purpose of class location change requirements, and PHMSA has not provided evidence or discussion in support of this requirement.

Similarly, the Associations commented that SCADA systems have not been required compliance items in special permits historically, and most gas transmission pipelines already have SCADA systems in place. They argued that this requirement seems unnecessary given that PHMSA has not provided evidence or discussion in support of this requirement.

GPA Midstream noted that, as currently allowed in the IM regulations, the operator should be able to determine the necessity of a SCADA system. It noted that for short pipelines or simple systems, it may be impractical. Other operators echoed this comment, noting that if a site-specific assessment determined that a SCADA system would be beneficial, the operator should have the option to add it.

Other operators provided a range of comments regarding SCADA systems, from supporting the viewpoint that impacted segments should be monitored with SCADA systems to general data indicating that large portions of their individual pipeline systems were managed with SCADA systems.

An individual citizen commented that the regulations currently do not require newly installed or previously installed pipe to have additional safety equipment or P&M measures. The commenter suggested that allowing operators to use ILI or similar technologies in a rigorous IM program would allow operators to know the pipeline segment's condition and remediate it appropriately, which would preclude the need for prescriptive P&M measures. In addition, this citizen commented that rupture-mitigation valves have limited efficacy and are not proven to be reliable technology. The commenter also noted that ''systems designed to react to ruptures will not be useful in detecting leaks.'' Further, the commenter noted that SCADA systems should not be required, as they only mitigate the consequences of an incident and will not prevent a rupture.

3. PHMSA Response

PHMSA has observed that certain operators have not adopted additional P&M measures when implementing the IM regulations under subpart O.[103] As a result, PHMSA has determined that proposing additional prescriptive mitigative measures are appropriate, including to install remote-control or automatic shutoff valves upstream and downstream of the segment changing from a Class 1 to a Class 3 location. While the installation of rupture-mitigation valves has not previously been required when operators replace pipe, using IM to manage class locations that change from Class 1 to Class 3 would be fundamentally different in that operators would not be putting stronger pipe in the ground, thereby making additional safety measures necessary.

As proposed, the rupture-mitigation valve spacing would be consistent with existing Class 1 location mainline valve spacing requirements, with the explicit intent that this approach would not require the addition of any mainline valves, and assuming operators currently comply with the existing valve spacing requirements. However, if the valves in place are manual valves, PHMSA proposes that operators upgrade those valves to be operated by remote control or automatic shutoff as an additional mitigative measure. This approach would be consistent with NTSB recommendation P–11–11 to require automatic or remote control valves in HCAs and Class 3 and Class 4 locations,[104] which was issued after the 2010 PG&E incident in San Bruno, CA.

PHMSA is proposing that any remote-control or automatic shutoff valves installed in accordance with the additional P&M measures must be set so that, based on operating conditions, they will fully close within a maximum of 30 minutes following rupture identification. PHMSA's proposed 30-minute valve closure time would be consistent with conditions it has required operators to meet in special permits for class location changes. In addition, PHMSA requests comment on whether additional requirements and standards are needed for the installation of automatic shutoff valves in place of remote-control valves for the purposes of this rulemaking. If installing automatic shutoff valves in accordance with this proposed requirement, operators would be required to review their procedures and results for determining valve shutoff times on a calendar year basis, not to exceed 15 months. This approach is consistent with current requirements in § 192.745 where operators must inspect and partially operate each transmission line valve that might be required during any emergency, and take prompt remedial action to correct any valve found inoperable.

As noted by industry, most operators already have a SCADA system in place. Therefore, PHMSA is proposing that operators must have a SCADA system to implement IM measures for managing Class 1 to Class 3 location changes. A SCADA system will help operators detect leaks and other pressure loss situations more rapidly. In addition, PHMSA is proposing that remote-control valves and automatic shutoff

[103] For instance, following the PG&E incident at San Bruno, CA, PG&E rapidly installed automatic shutoff valves where possible and stated there was sufficient basis to deploy such valves. However, company documents from 2006 stated that the company had concluded that most of the damage from a rupture would take place in the first 30 seconds before shut-off valves could stop the flow of gas and declined to install the valves in the area.

[104] *https://www.ntsb.gov/investigations/AccidentReports/Reports/PAR1101.pdf.* ''Pacific Gas and Electric Company, Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, CA, September 9, 2010.''

valves installed per this NPRM must be controlled and monitored by a SCADA system and promptly closed to isolate the pipeline segment should a rupture occur. As such, and similar to how pipelines with exclusionary conditions would be handled, operators without a SCADA system could apply for a special permit to implement IM in lieu of pipe replacement when class locations change.

*M. Traceable, Verifiable, and Complete Records for Supporting Class-Location-Change Integrity Management Measures*

1. Summary of ANPRM Questions 5, 5a, and 5b

In question 5 of the ANPRM, PHMSA requested comments on introducing requirements for TVC records, including what records would be required, and how and when they could be obtained, to support any IM measures that would be performed to manage class location changes. More specifically, PHMSA asked whether necessary TVC record should include pipe properties, including yield strength, seam type, and wall thickness; coating type; O&M history; leak and failure history; pressure test records; MAOP; class location; depth of cover; and ability to be in-line inspected.

2. Summary of Comments

NAPSR, the PST, and the California Public Advocates Office supported requiring TVC records for segments where operators would like to manage class location changes by using IM measures. NAPSR also asserted, and PST agreed, that historically poor recordkeeping practices should be considered a potential indicator of risk, as mapping issues have often been found to be latent conditions or indicators of higher risk in pipeline accidents.

More specifically, the California Public Advocates Office supported the idea that PHMSA require in the regulation TVC records for yield strength, seam type, and wall thickness, and it suggested adding outside diameter as an additional pipe property to consider. It stated that records, if available, should be obtained by the operator within 2 years of the class location change. If these records were unavailable, the California Public Advocates Office supported allowing an operator to request a special permit from PHMSA.

NAPSR and the PST stated that, given that records can be acquired or created if necessary (*i.e.,* through a pressure test, pipe specification verification, and lab tests), if an operator does not have the appropriate records, PHMSA should not allow an operator to use IM measures to manage class location changes. Both NAPSR and the PST noted that operators should be leveraging ILI technology to create records needed for regulatory compliance by, at a minimum, employing tools that can effectively identify corrosion, dents, gouges, cracks, and interactive defects.

The Associations, GPA Midstream, and multiple operators requested that TVC records only apply to MAOP verification, and that a lack of records should not make a pipeline segment ineligible for using IM to manage class location changes. They also noted that, should TVC records not be available for pipeline segments undergoing a class location change, the 2016 Gas Transmission NPRM provides a way for operators to obtain those records and take appropriate safety options within 24 months of the class location change. Further, they stated that additional records may be required for ILI-identified anomaly analysis and will be collected.

Kinder Morgan added that the TVC standard is not intended for many records used in IM processes. TransCanada Corporation stated that while TVC records are helpful and would improve site-specific assessments, they are not critical for an operator to perform IM measures given that adequate testing or conservative assumptions may be employed.

An individual citizen commented that for IM measures specifically, ILI technology implementation, design records, and pressure test records are necessary for anomaly assessment. As stated by this citizen, pressure test information is only required for assessing longitudinal seam anomalies and is only valuable if the test was conducted to at least 1.25 times MAOP. The commenter also asserted that record ''completeness'' should be determined based on the required use of the information. Given that design pressure is calculated with outside diameter, wall thickness, and SMYS, records that supply these values should be considered ''complete'' if the data is used to calculate design pressure, according to this individual. Finally, the commenter noted that coating type is not nearly as important as coating condition, and depth of cover is a practical concern, especially in agricultural areas, yet is not required in § 192.611 and was not required prior to the promulgation of the natural gas regulations in 1970.

3. PHMSA Response

PHMSA agrees with certain commenters that documentation and recordkeeping are very important and has included a proposed requirement that operators keep records of the pipeline assessments, surveys, remediations, maintenance, analyses, and any other action implemented to comply with the requirements proposed under this rulemaking for managing Class 1 to Class 3 location changes using the IM for the life of the pipeline.

Per this rulemaking, operators would need to have, or otherwise obtain, TVC material-properties records (*e.g.,* diameter, wall thickness, yield strength, seam type, and coating type) to implement the proposed IM alternative for managing a pipeline segment that has changed from a Class 1 to a Class 3. These types of material properties records are necessary for a PSR-compliant IM program [105] and MAOP determination.[106]

As commenters noted, the 2019 Gas Transmission Final Rule provides a mechanism for operators to obtain TVC material property records if they are missing, and the 24-month compliance window of this NPRM provides operators with adequate time to obtain those records, if needed. As specified in the 2019 Gas Transmission Final Rule, if operators are missing any material property records needed when performing anomaly evaluations and repairs, operators must confirm those material properties under §§ 192.607 and 192.712(e) through (g). Records created in accordance with § 192.607 must be maintained for the life of the pipeline and must be TVC; therefore, if an operator would need to create material records prospectively to be eligible for the IM alternative, those records would be TVC.

*N. Data on Class Location Pipe Replacement and Route Planning*

1. Summary of ANPRM Questions 7 and 8

In the ANPRM, PHMSA requested data regarding operators' compliance with current class change pipe replacement requirements, including the amount of pipe being replaced, the number of distinct locations where pipe

[105] Operators need TVC records to repair anomalies and for IM measures that depend on design properties.

[106] TVC records are required for MAOP determination. To be TVC, a record must be clearly linked to the original information about a pipeline segment or facility; confirmed by other complementary, but separate, documents; and finalized by a signature, date, or other appropriate marking.

was being replaced, and the associated costs.

PHMSA also requested comments on whether and to what extent operators consult growth and development plans during route planning.

2. Summary of Comments

PHMSA received various technical data provided by individual operators and trade associations regarding the amount of pipe being replaced, the number of locations at which pipe was replaced, and the associated costs.

Pertaining to route planning, the responses PHMSA received from industry, individuals, and groups alike stated that operators consider future building plans along a proposed pipeline route when considering both the route and pipe materials. NAPSR asserted that most operators are currently defaulting to Class 3 requirements for all newly installed pipe. NAPSR also stated concern with allowing operators to use IM principles for managing class location changes in that it could discourage operators from continuing this conservative practice.

3. PHMSA Response

PHMSA considered the data it received on class location change pipe replacement when developing the PRIA; see that document for further discussion on the data received and the subsequent assumptions and analysis PHMSA made and performed.

Regarding operators considering growth and development plans when route planning, PHMSA will note that operators must monitor and implement class location changes based on the required study requirements of § 192.609 and confirm or revise MAOP based on the requirements in § 192.611. Pipeline segments that experienced a class change before the date of the rule would not be eligible to apply the IM approach to managing the class location change, but operators could still apply for a special permit to manage these pipeline segments with IM.

*O. Other Topics—General Comments*

The following relevant comments received were of a general nature or did not pertain to questions considered in the ANPRM.

The PST and multiple individuals from the public requested that PHMSA host public meetings and webinars early in the rulemaking process to educate the public on the current and proposed class location change regulations. The Pipeline Safety Coalition stated that PHMSA doing so would facilitate a safety culture based on holistic participation from informed parties.

State representatives from the State of New Jersey's 14th, 15th, 16th, and 18th legislative districts commented that New Jersey requires that intrastate pipelines be constructed to Class 4 location design requirements, regardless of population density. They encouraged PHMSA to consider adopting New Jersey's stricter intrastate requirements for interstate assets.

The California Public Advocates Office supported PHMSA's effort to streamline the current class location regulations as it believed it would be advantageous to both operators and regulators. It also requested that PHMSA re-evaluate the definition of a Class 4 location to include stadiums or concert venues, which would not qualify currently but present significant public safety consequences.

Based on certain aspects of the ANPRM, GPA Midstream expressed concern about PHMSA's commitment to making meaningful improvements to the class location regulations, stating that PHMSA is suggesting ''unrelated issues identified in previous advisory bulletins or during routine inspections are relevant to the decision of whether to update the class location regulations'' and that the agency suggests ''topics that are already being addressed in a separate rulemaking proceeding should limit an operator's ability to obtain class location relief.'' They did, however, support adding more options for an operator to address class location changes.

The Associations and TransCanada Corporation suggested that currently issued special permits could be retired when an operator demonstrates that all conditions have been satisfied and that the class location change is managed to an acceptable level of safety.

As an additional consideration to the class location change regulations, the Associations suggested other regulations that would be affected, such as those at § 192.625 for odorization, should be adjusted. They specifically requested that PHMSA allow alternative P&M measures in lieu of odorization. Further, they also commented that an operator using integrity assessments for class location change management should also be allowed to uprate their MAOP in accordance with subpart K.

The Associations also requested that PHMSA implement an expedited interim process for class location changes, which would allow operators to manage class location changes through integrity assessments prior to implementation of the final rule. They contend that this regulatory update has been in the works for 15 years, and cost efficiencies realized by this change would enhance operator ability to fund integrity assessment technology development.

The Associations expressed support for PHMSA including additional fields in the annual report to collect information on class location designation, integrity assessments, or data on other class change management operators use. Furthermore, they requested that PHMSA implement annual report changes to replace what they identified as excessive reporting and notifications required for special permits.

Finally, the Associations commented that PHMSA's singular focus on pipe stress is misplaced and outdated given that modern integrity assessment technology can provide equivalent safety factors to stress-reducing measures.

1. Response to General Comments

Regarding the New Jersey State legislators' comment, PHMSA recognizes that New Jersey may have more conservative design requirements for new intrastate gas transmission pipelines than what is being proposed in this NPRM; however, implementing these requirements would not support the NPRM focus of managing class location changes safely in existing pipelines.

PHMSA is proposing that segments uprated in accordance with subpart K may be allowed to use this proposed rule for class location change management, but only if the segment has had a subpart J pressure test to at least 1.39 times MAOP [107] and meets all the requirements of the proposed rule, including those regarding records. Segments uprated without a subpart J pressure test would be excluded under this proposed rule.

Regarding the comments from TransCanada and the Associations on the class location definitions, odorization requirements, and special permit ''retirement'' provisions, PHMSA has determined to propose alternative requirements to those currently imposed on pipeline segments experiencing a change in class location in this NPRM.

PHMSA is not proposing an expedited interim process for class location changes as a part of this NPRM. In the absence of these proposed regulatory

[107] PHMSA acknowledges that § 192.555 allows uprating based upon the highest pressure allowed in § 192.619, which would require a 1.50 times MAOP for a Class 3 location. Since Class 1 location pipe would only be tested to either 1.1 or 1.25 times MAOP based upon § 192.619, the proposed rule change would require a 1.39 times MAOP for uprating the MAOP where operating pressures of a segment have been lowered for other existing Class 1 to Class 3 location changes.

changes, operators can currently apply for a special permit to manage class location changes in a similar manner. Part of the intent of this NPRM is to codify much of the current special permit process into the regulations, thereby providing greater regulatory certainty and a streamlined process for class location change management for eligible pipe segments.

PHMSA respectfully disagrees that a singular focus has been placed on pipe stress. PHMSA is concerned with every threat to pipeline integrity and how they can be remediated to maintain safety. PHMSA also disagrees that the reporting requirements for the current special permit process are excessive. The special permit process is an optional process that operators can opt into. If the requirements are excessive, operators can comply with the regulations as they are written. With that said, PHMSA may consider revising the annual report as needed when finalizing this rulemaking.

## IV. Section-by-Section Analysis

### *§ 191.22 National Registry of Pipeline and LNG Operators*

Section 191.22 details events that require a notification to PHMSA. PHMSA has proposed the addition of requiring operators to notify PHMSA if they use IM to manage pipeline segments that have changed from a Class 1 to a Class 3 location. This prompt notification would provide PHMSA an opportunity to oversee the operator's implementation of the proposed Class 1 to Class 3 location segment regulations.

### *§ 192.3 Definitions*

Section 192.3 provides definitions for various terms used throughout part 192. In support of the regulations proposed in this NPRM, PHMSA is proposing new definitions for the terms ''Class 1 to Class 3 location segment'' and ''in-line inspection segment.'' These two terms define the segments to which the requirements of the proposed § 192.618 would apply.

A ''Class 1 to Class 3 location segment'' would be defined as the segment of pipe where the class location has changed from a Class 1 to a Class 3 location and where the operator intends to confirm or revise the MAOP by using the IM alternative in this proposed rulemaking. The Class 1 to Class 3 location segment will consist of the pipe that was designed to Class 1 specifications, per subpart C, that is in a newly identified Class 3 location.

An ''in-line inspection segment'' would be defined as including all pipe upstream and downstream of the Class 1 to Class 3 location segment that is between the nearest upstream ILI launcher and the nearest downstream ILI receiver and the Class 1 to Class 3 location segment.

PHMSA is also proposing a definition for ''predicted failure pressure'' to provide additional clarification to the regulations. A ''predicted failure pressure'' would be defined as the calculated pipeline anomaly failure pressure based on the use of an appropriate engineering evaluation method for the type of anomaly being assessed and without any safety factors.

### *§ 192.7 What documents are incorporated by reference partly or wholly in this part?*

Section 192.7 lists documents that are incorporated by reference in part 192. PHMSA is making conforming amendments to § 192.7 to reflect other changes adopted in this final rule.

API Standard 1163, which is already incorporated by reference into the regulations for natural gas transmission pipelines at § 192.493 and for hazardous liquid pipelines at § 195.591, covers the use of ILI systems for onshore and offshore gas and hazardous liquid pipelines. This standard includes, but is not limited to, tethered, self-propelled, or free-flowing systems for detecting metal loss, cracks, mechanical damage, pipeline geometries, and pipeline location or mapping. The standard applies to both existing and developing technologies, and it is an umbrella document that provides performance-based requirements for ILI systems, including procedures, personnel, equipment, and associated software.

In this NPRM, PHMSA is proposing to incorporate this standard by reference into the proposed IM alternative at § 192.618(b)(4) to require operators validate ILI results to Level 3 in accordance with API Standard 1163. Per API Standard 1163, a Level 3 validation is one where ''extensive validation measurements are available that allow stating the as-run tool performance. Validating to such a level allows an operator to establish a direct link between the ILI tool performance and the impact it has on IM decisions.'' PHMSA requests comment as to whether it should allow operators to validate ILI results to Level 2 or Level 3 per API Standard 1163. Per API Standard 1163, a Level 2 validation is ''where no definitive statement is made about the actual tool performance. Although it is possible to state with a high degree of confidence whether the tool performance is worse than the specification, the approach does not allow one to state with confidence that the tool performance is within specification.''

Further, PHMSA is proposing to incorporate by reference ASME/ANSI B31.8S–2004 for proposed § 192.618. B31.8S is specifically designed to provide the operator with the information necessary to develop and implement an effective IM program utilizing proven industry practices and processes. Effective system management can decrease repair and replacement costs, prevent malfunctions, and minimize system downtime.

### *§ 192.611 Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure*

Section 192.611 prescribes requirements for operators when a change in class location has occurred. With the development of the IM alternative in proposed § 192.618, conforming changes would be needed to this section to specify that an operator may confirm or revise the MAOP of a Class 1 to Class 3 segment in accordance with proposed § 192.618. A pressure reduction taken in accordance with this section and after the effective date of this rule would not preclude an operator from implementing an integrity assessment program per paragraph (a)(4) of this section at a later date. Further, an operator would need to implement such a program prior to any future increases of MAOP. For the purposes of this section, operators will not be allowed to use pressure reductions taken prior to the effective date of the rule for Class 1 to Class 3 locations. Operators who wish to do so would be required to apply to PHMSA for a special permit.

### *§ 192.618 Class 1 to Class 3 Location Segment Requirements*

Section 192.618 establishes the proposed conditions an operator would implement in its O&M procedures if it chooses to manage pipeline segments where the class location has changed from a Class 1 to a Class 3 through the IM alternative. PHMSA notes that the approach outlined in this NPRM would apply only to those pipeline segments that have changed class location following the effective date of the rulemaking; operators would not be able to use the IM alternative retroactively for pipeline segments that have experienced a class location change prior to this rulemaking.

The proposed requirements in this NPRM are based on PHMSA's extensive experience with evaluating special permit applications and granting special permits that effectively apply specific

safety requirements on a case-by-case basis.

Per this proposal, operators would designate the Class 1 to Class 3 location segment as an HCA, as that term is defined in § 192.903, and include the segment in its IM program in accordance with subpart O. Operators would also inspect all pipe between the nearest upstream ILI launcher and nearest downstream ILI receiver that contains the pipeline segment changing from a Class 1 to a Class 3 location when performing an ILI assessment of the Class 1 to Class 3 location segment.

PHMSA has proposed certain conditions, similar to its practice for special permits, that would preclude the use of this IM alternative for managing class location change segments for pipeline segments with certain higher-risk attributes. More specifically, the proposed minimum pipe eligibility criteria are based on the previously published guidance in the 2004 **Federal Register** Notice. As outlined in that criteria and this NPRM, certain pipeline segments would not be eligible for the IM alternative because they are higher risk and warrant a case-by-case review per the special permit process.

PHMSA proposes a pipeline segment would be ineligible to use the IM alternative if any of the following conditions exist on that segment:

- Pipeline segments that operate above 72 percent SMYS.
- Pipeline segments with bare pipe (*i.e.,* uncoated pipe).
- Pipeline segments with wrinkle bends.
- Pipeline segments that are missing records for diameter, wall thickness, grade, seam type, yield strength, and tensile strength.
- Pipeline segments without a hydrostatic test conducted with a test pressure of at least 1.25 times MAOP.
- Pipe with DC, LF–ERW, EFW, or lap-welded seams, or pipe with a longitudinal joint factor below 1.0.
- Pipe with cracking in the pipe body, seam, or girth welds in the segment, or within 5 miles of the segment, that is over 20 percent of the pipe wall thickness, has a predicted failure pressure less than either 100 percent of SMYS or 1.5 times MAOP, or has experienced a leak or a rupture due to brittle failure mode. Should a pipeline segment changing from a Class 1 to a Class 3 location at any time fail the requirements regarding cracking, that segment would no longer be eligible for the IM alternative for class location change management, and the operator would be required to replace the segment within 2 years of the ineligibility determination. Prior to the replacement, the enhanced crack repair conditions as detailed below would apply.
- Pipeline segments with tape coatings or shrink sleeves, or with poor external coating that requires the use of a 100 millivolt shift or linear anodes to maintain required levels of CP.
- Pipeline segments that transport gas whose composition quality is not suitable for sale to gas distribution customers.
- Pipeline segments that operate under § 192.619 (c) or (d).
- Pipeline segments, or portions of pipeline segments, that have been denied a class location change special permit in the past.

This section also contains proposed requirements for operators to conduct their initial integrity assessment within 24 months of the Class 1 to Class 3 location segment change, which would be consistent with existing requirements for the deadline to reconfirm or revise a pipeline segment's MAOP when its class location changes; the specific ILI integrity assessment methodology, including ILI results validation, that operators must use; and additional repair criteria for these segments that supplements the existing repair criteria in subpart O.

For the purposes of ILI tool calibration and validating ILI results, an operator may use previously excavated anomalies or recent anomaly excavations with known dimensions that were field measured for length, depth, and width; externally re-coated; CP maintained; and documented for ILI calibrations prior to the ILI tool run. ILI tool calibrations must use ILI tool run results and anomaly calibrations from either the Class 1 to Class 3 location segment or from the complete ILI tool run in the in-line inspection area. A minimum of four calibration excavations should be used for unity plots.

Regarding the additional repair criteria, subpart O allows metal loss anomalies to grow until the predicted failure pressure is 1.1 times MAOP (*i.e.,* a 10 percent safety factor). PHMSA believes the more stringent repair criteria proposed in this NPRM is needed to compensate for the lack of newly replaced pipe in locations changing from a Class 1 to a Class 3. The existing pipe in these locations could include pipelines that were built before design and construction standards were promulgated in 49 CFR part 192. Such existing pipe may not have the steel toughness to mitigate ruptures when the pipe is corroded, dented, or has any cracking in the pipe body or pipe seam.

As such, PHMSA is proposing additional anomaly inspection and repair criteria as follows:

- Operators must use high-resolution ILI methods for performing integrity assessments.
- Integrity assessments for pipeline segments where the class location has changed from Class 1 to Class 3 must also include all pipe upstream and downstream of the segment between the nearest upstream ILI launcher and the nearest downstream ILI receiver. This segment would be defined as the ''in-line inspection segment.''
- Operators would conduct non-destructive SCC inspections any time pipe in the in-line inspection segment is exposed (except for times a pipe segment is exposed by a third party through a ''one-call'' excavation under § 192.614) and where the operator finds disbonded or repaired coating (except for pipe that is coated with fusion-bonded or liquid-applied epoxy coatings).

For ILI anomalies identified in the in-line inspection segment, PHMSA proposes the following repair criteria that is consistent with granted special permit conditions: Immediate repair conditions for pipe threats such as metal loss, denting, cracking, and other anomalies that are at or near the point of failure. These include metal loss with a predicted failure pressure less than or equal to 1.1 times the MAOP, crack-type defects with a predicted failure pressure less than 1.25 times the MAOP, and additional specified criteria dependent on anomaly type and size.

To ensure anomalies in the in-line inspection segment are repaired in a timely manner, PHMSA is proposing for operators to repair scheduled anomalies in 1 year regardless of whether the applicable pipeline segment is in an HCA. One-year scheduled conditions are for pipe threats such as metal loss, denting, cracking, and other anomalies that are not an immediate threat to integrity but that operators would need to repair promptly. PHMSA is also proposing to incorporate a tiered approach for the predicted failure pressure criteria for metal loss and crack anomalies based on the class location at the anomaly to make the criteria more stringent as the class location increases. In addition to repair criteria based on predicted failure pressure, PHMSA is basing the proposed dent repair criteria on anomaly size and location. For Class 1 to Class 3 location segments, PHMSA has also established monitored conditions for pipe threats such as metal loss denting, cracking, and other anomalies that are not severe enough to

need prompt repair but that the operator must monitor.

PHMSA is also proposing additional repair criteria for anomalies identified in the Class 1 to Class 3 location segment beyond the criteria proposed for the in-line inspection segment. These criteria include more conservative criteria for crack anomalies and a requirement for operators to repair discovered pipe wall thickness loss greater than 40 percent within 1 year. These criteria are based on PHMSA research and development projects and were developed in conjunction with the repair criteria that the GPAC discussed and voted to adopt in 2019.

In addition, PHMSA is proposing the following maintenance surveys to address threats not assessed by ILI and the findings remediated, as well as other P&M actions:

- CIS,
- CP test site survey,
- Line-of-sight markers,
- Interference survey,
- Depth-of-cover survey,
- Right-of-way patrols,
- Leakage survey, and
- Shorted casings survey.

PHMSA also proposes requiring operators install remote-control or automatic shutoff valves, or otherwise equip existing valves with remote-control or automatic shutoff capability for the mainline block valves both upstream and downstream of the class location upgrade segment. In this proposed rule, PHMSA is defining the timing for remote-control and automatic shutoff valve closure should there be a pipeline rupture and is requiring operators use a SCADA system if managing class location changes through IM. More specifically, PHMSA is proposing a 30-minute valve closure standard to be consistent with conditions it has required operators to meet in certain class location change special permits. This 30-minute standard would help protect populations where Class 1 pipe is not being upgraded and will remain in the ground. If operators determine they would not be able to meet this 30-minute valve closure standard as a part of the IM alternative in this NPRM, an operator could apply to PHMSA for a special permit for managing their class location change.

PHMSA is also requiring documentation for pipe properties, pressure tests, ILI assessments, surveys, and any other required action operators take to comply with this proposed rulemaking.

Finally, if an operator intends to use the IM alternative to manage a pipeline segment that has changed from a Class 1 to a Class 3 location, the operator must submit a notification to PHMSA within 60 days of the class location change, in accordance with § 191.22(c)(2). Such a notification must include details of each pipeline segment that experienced a class location change that the operator will manage using IM.

PHMSA requests comments on whether it should consider modifying or eliminating any of the O&M procedural requirements of this section, including:

(a) Program requirements, including the eligibility conditions, for a Class 1 to Class 3 location segment.

(b) Pipeline integrity assessments.

(c) Remediation schedule (In-line inspection segment).

(d) Special requirements for crack anomalies.

(e) Pipe and weld cracking inspections.

(f) Additional preventive and mitigative measures.

(g) Remote-control or automatic shutoff valves.

(h) Documentation.

(i) Notifications to PHMSA of integrity assessment program for class 1 to class 3 location segment changes.

If a commenter determines that any of the above requirements should be modified or eliminated, please explain how such a modification or elimination would maintain, increase, or decrease the current level of pipeline safety and environmental protection. Based on comments received, PHMSA may consider modifying or eliminating the above requirements if they are not necessary for maintaining pipeline safety or protecting the environment and another approach would maximize net benefits to society.

*§ 192.712 Analysis of Predicted Failure Pressure and Critical Strain Levels*

In the ''Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments'' final rule published on October 1, 2019, PHMSA updated and codified minimum standards for determining the predicted failure pressure of pipelines containing anomalies or defects associated with corrosion metal loss and cracks. In this NPRM, PHMSA is proposing repair criteria for the in-line inspection segment and the Class 1 to Class 3 location segment, which include repair criteria for dents. Some of the proposed dent repair criteria allows operators to determine critical strain levels for dents and defer repairs if critical strain levels are not exceeded. In this section, PHMSA has established minimum standards for calculating critical strain levels in pipe with dent anomalies or defects and has included those standards in a new paragraph (c). These standards are based off of the dent ECA method discussed and voted on as part of the repair criteria discussion at the Gas Pipeline Advisory Committee meetings during March 26–28, 2018. The title of this section has also been updated to reflect this addition.

*§ 192.903 What definitions apply to this subpart?*

Section 192.903 provides definitions for various terms used throughout part 192 subpart O. In support of the regulations proposed in this NPRM, PHMSA is proposing to amend the definition of ''high consequence area.'' The revised definition would require operators to incorporate any Class 1 to Class 3 location segment, as defined in proposed § 192.3, into their IM programs as an HCA.

## V. Regulatory Analysis and Notices

### *A. Statutory/Legal Authority for This Rulemaking*

This proposed rule is published under the authority of the Federal Pipeline Safety Law (49 U.S.C. 60101 *et seq.*). Section 60102 authorizes the Secretary of Transportation to issue regulations governing the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Further, section 60102(*l*) requires the Secretary, to the extent appropriate and practicable, to update incorporated industry standards that have been adopted as a part of the pipeline safety regulations. The Secretary has delegated the authority vested in the Secretary by the Pipeline Safety Law to the PHMSA Administrator under 49 CFR 1.97.

### *B. Executive Order 12866 and DOT Regulatory Policies and Procedures*

Executive Order 12866, Regulatory Planning and Review, (58 FR 51735; Oct. 4, 1993), requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' The Executive Order and DOT regulations governing rulemaking procedures (49 CFR part 5) require that PHMSA submit ''significant regulatory actions'' to OMB for review. The proposed rulemaking is a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and DOT rulemaking regulations. The proposed rulemaking has been reviewed by the Office of Management and

Budget in accordance with Executive Order 12866 and is consistent with the Executive Order 12866 requirements and 49 U.S.C. 60102(b)(5)–(6).

The tables below summarize the annualized cost savings for the provisions in the proposed rule. PHMSA anticipates that, if promulgated, the proposals in this NPRM would have economic benefits to the public and the regulated community by reducing cost burdens without increasing risks to public safety or the environment. These estimates reflect the assumption that the IM alternative for managing class location changes proposed in this rule will be a less-costly alternative to the current regulatory requirements.

PHMSA estimates that the proposed rule will result in annualized cost savings of approximately $55 to $86 million per year, based on its analysis of two different scenarios and at a 7 percent discount rate.[108] The tables below present the annualized costs for the baseline and this proposed rule, for both scenarios examined, at a 3 percent and a 7 percent discount rate:

ANNUALIZED PROPOSED RULE COST SAVINGS, SCENARIO 1

[2020–2039, millions]

| | Discount rate | |
|---|---|---|
| | 3% | 7% |
| **Baseline** * | | |
| Pipe Replacement | $206.7 | $206.7 |
| Special Permits | 9.0 | 8.0 |
| Total Cost | 215.7 | 214.7 |
| **Proposed Rule** | | |
| Pipe Replacement | 135.8 | 135.8 |
| Special Permits | 2.5 | 2.2 |
| New Compliance Method | 23.8 | 21.8 |
| Total Cost | 162.1 | 159.8 |
| Net Annualized Cost | −53.6 | −54.9 |

* Operators also have the option to use a pressure test or pressure reduction to manage the class location change. To the extent operators find the new class location MAOP acceptable, the decision by operators to use these options is not affected by the addition of the proposed rule compliance method. Therefore, the rule has no incremental effect on these compliance options.

ANNUALIZED PROPOSED RULE COST SAVINGS, SCENARIO 2

[2020–2039, millions]

| | Discount rate | |
|---|---|---|
| | 3% | 7% |
| **Baseline** * | | |
| Pipe Replacement | $326.7 | $326.7 |
| Special Permits | 9.0 | 8.0 |
| Total Cost | 335.7 | 334.7 |
| **Proposed Rule** | | |
| Pipe Replacement | 214.6 | 214.6 |
| Special Permits | 2.5 | 2.2 |
| New Compliance Method | 34.8 | 31.8 |
| Total Cost | 251.9 | 248.7 |
| Net Annualized Cost | −83.8 | −86 |

* Operators also have the option to use a pressure test or pressure reduction to manage the class location change. To the extent operators find the new class location MAOP acceptable, the decision by operators to use these options is not affected by the addition of the proposed rule compliance method. Therefore, the rule has no incremental effect on these compliance options.

[108] Scenario 1 averaged PHMSA's estimates, annually and from a low- and high-end concept, of the number of miles that would change from a Class 1 to a Class 3 location and where operators would use the IM alternative. This estimate was 77.6 miles per year. Scenario 2 took the median of PHMSA's estimates, annually and from a low- and high-end concept, and this estimate was 117.6 miles per year. See Section 3 of the Preliminary Regulatory Impact Analysis for more details.

For more information, please see the PRIA in the docket for this rulemaking.

*C. Executive Order 13771*

This proposed rule is expected to be a deregulatory action under Executive Order 13771. Details on the estimated costs of this proposed rule can be found in the PRIA in the rulemaking docket.

*D. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires federal agencies to review each rulemaking action to consider whether it would have a ''significant economic impact on a substantial number of small entities'' to include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. This NPRM was developed in accordance with Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (68 FR 7990, Feb. 19, 2003) and DOT's procedures and policies to promote compliance with the RFA and to ensure that the potential impacts of a regulatory action on small entities were properly considered.

Based on the analysis within the PRIA in the rulemaking document, which PHMSA has summarized below, PHMSA expects that this rulemaking will not have a significant economic impact on a substantial number of small entities. However, PHMSA seeks public comment on its analysis.

(1) Statement of the Need for, and Objectives of, the Rulemaking

In this rulemaking PHMSA proposes to add an alternative set of requirements within the PSR that operators could use, based on implementing integrity management principles and pipe eligibility criteria, to manage certain pipeline segments where the class location has changed from a Class 1 location to a Class 3 location. Through required periodic assessments, repair criteria, and other extra preventive and mitigative measures, PHMSA expects this alternative approach would providing cost savings for pipeline operators without adversely affecting safety. The need for and objectives of this rulemaking are discussed further above in Section I.A (''Purpose of Regulatory Action'').

(2) Description of the Small Entities That Could Be Affected by the Rulemaking and Their Estimated Compliance Costs

The RFA obliges PHMSA to assess whether the rulemaking would have ''a significant impact on a substantial number of small entities. This assessment involves (1) identifying the domestic parent entities for affected operators, (2) determining which are small entities based on Small Business Administration size criteria, and (3) assessing the potential impact of the rule on those small entities based on estimated entity-level annualized compliance cost savings and annual revenues. Although PHMSA's analysis on each of these issues is provided in greater detail within the PRIA in the rulemaking docket, that analysis is summarized below.

There are currently 1,099 operators of onshore natural gas transmission pipelines, and approximately 85 percent, or 939 operators operate Class 1 pipelines. PHMSA estimates that operators of Class 1 pipelines are owned by 324 parent entities, and of these, 254 are small entities. Small entities operate approximately 5,200 miles of Class 1 pipeline, which is only about 2.2 percent of all Class 1 pipeline.

The NPRM does not eliminate any of the currently available options for management of changes from Class 1 to Class 3, but would rather provide flexibility to operators by enabling the use of another compliance option. Since PHMSA expects that the approach introduced in this NPRM would cost less than the other predominately used options—pipeline replacement and special permit—such that small entities would have the opportunity to achieve cost savings should they need to manage class location changes in the future for pipeline segments that meet the eligibility criteria set forth in this NPRM.

The quantity, character, and location of future class changes is highly uncertain, particularly on a year-to-year basis. In any given year, only a subset of pipelines will experience a change from Class 1 to Class 3. PHMSA is not able to develop an annual forecast describing specific pipeline segments changing classes or to what extent those changes will be managed by small versus large operators. Over the 20-year period of analysis, PHMSA assumes that each pipeline operator will manage a share of the future changes from Class 1 to Class 3 that is proportional to the total miles of Class 1 pipeline it operates.

PHMSA estimates that small entities will manage an aggregate 1.7 to 2.6 miles of pipeline changing from Class 1 to Class 3 annually, in Scenarios 1 and 2, respectively. Aggregate annualized cost savings for small entities is estimated to be $1.17–$1.19 million in Scenario 1, using 3 and 7 percent discount rates, respectively; annualized small entity savings is $1.8–$1.9 million in Scenario 2. Under Scenario 1, the average annual cost savings per small entity is $4,700, with a median savings of $1,500 per year. Under Scenario 2, the average per-entity annual savings is $7,400, with a median of $2,300.

PHMSA estimates only about 1 percent of Class 1 pipeline miles will be affected by a change to Class 3 in total over the next 20 years. Based on PHMSA's high-end Scenario 2 estimate of 117.6 miles per year, only 2,352 miles will make this change over the next 20 years. Annually, the proposed rule affects 0.05 percent of Class 1 miles. The characteristics of this small subset of affected pipeline miles (or segments) will ultimately determine the extent to which large and small entities ultimately avail themselves of the proposed rule option. Given that small entities operate only about 2 percent of Class 1 miles, large entities in the aggregate are more likely to experience a pipeline segment requiring a change from Class 1 to Class 3.

It is also important to note that although the savings are presented here on an annualized basis, the vast majority of small entities will likely not have to manage a change from Class 1 to Class 3 for any pipeline miles in a given year. For instance, PHMSA's estimate of 1.7 to 2.6 miles per year of Class 1 to Class 3 changes managed by small entities (Scenarios 1 and 2), and PHMSA's estimated average segment length of 0.26 miles, suggests an average of 7 to 10 segments per year experiencing a change from Class 1 to Class 3 across the entire pipeline industry. If each operator only manages one segment changing from Class 1 to Class 3 each year, then only 7 to 10 small entities (or fewer if operators manage multiple segments in one year) may manage a Class 1 to Class 3 change per year, out of 254 total affected small entities.

(3) Significant Alternatives Considered

PHMSA does not expect this proposed rulemaking to have a significant economic impact on small businesses. Further, the changes to the PSR proposed in this NPRM are generally intended to provide regulatory flexibility and cost savings to industry members without adversely affecting safety. PHMSA solicits public comment on the economic impact on small entities, and potential alternatives that reduce any economic impact on small entities.

(4) Duplicative, Overlapping, and Conflicting Federal Rules

PHMSA is unaware of any Federal regulations that are substantially similar to the proposals in this NPRM and which would duplicate, overlap, or conflict with the PSR revisions proposed.

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

PHMSA analyzed this proposed rule per the principles and criteria in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249; Nov. 6, 2000) and under DOT Order 5301.1. Because PHMSA does not anticipate that this proposed rule will have tribal implications, the funding and consultation requirements of Executive Order 13175 would not apply. PHMSA seeks comment on the applicability of the Executive Order to this proposed rule.

*F. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. Pursuant to 44 U.S.C. 3506(c)(2)(B) and 5 CFR 1320.8(d), PHMSA is required to provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. The proposals in this NPRM will trigger new notification requirements for pipeline operators who experience a change in their class location.

PHMSA proposes to create a new information collection to help operators comply with the proposed revision to the PSR. Operators will be required to notify PHMSA if they choose to use an alternative to an inline-inspection device when conducting pressure tests on their pipelines. Operators will also be required to notify PHMSA if they use integrity management protocols to manage pipeline segments that have changed from a Class 1 to a Class 3 location. PHMSA will request a new Control Number from OMB for this new information collection.

PHMSA will submit an information collection request to OMB for approval based on the proposed requirements in this NPRM. The information collection is contained in the PSR, 49 CFR parts 190–199. The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. The information collection burden is estimated as follows:

*1. Title:* Class Location Change Notification Requirements.

*OMB Control Number:* Will request from OMB.

*Current Expiration Date:* TBD.

*Abstract:* This information collection covers the collection of data from owners and operators of pipelines. Pipeline operators are required to notify PHMSA in the event of certain instances that pertain to a change in their class location.

*Affected Public:* Owners and operators of pipelines.

*Annual Reporting Burden:*

*Total Annual Responses:* 100.

*Total Annual Burden Hours:* 25.

*Frequency of Collection:* On occasion.

Requests for a copy of this information collection should be directed to Angela Hill or Cameron Satterthwaite, Office of Pipeline Safety (PHP–30), Pipeline Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone (202) 366–4595.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the revised collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Those desiring to comment on these information collections should send comments directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of Transportation, 725 17th Street NW, Washington, DC 20503. Comments should be submitted on or prior to December 14, 2020. Comments may also be sent via email to the Office of Management and Budget at the following address: *oira_submissions@omb.eop.gov*.

*G. Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) requires Federal agencies to prepare and consider estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and Tribal governments before adopting such regulations. This NPRM imposes no unfunded mandates. If promulgated, this rule would not result in costs of $100 million, adjusted for inflation, or more in any one year to either State, local, or Tribal governments, in the aggregate, or to the private sector. A copy of the PRIA is available for review in the docket.

*H. National Environmental Policy Act*

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et. seq.*) requires Federal agencies to prepare a detailed statement on major Federal actions significantly affecting the quality of the human environment. PHMSA analyzed this NPRM in accordance with NEPA, Council on Environmental Quality regulations (40 CFR parts 1500–1508), and DOT Order 5610.1C. PHMSA has prepared a draft Environmental Assessment (EA) and has preliminarily determined this action will not significantly affect the quality of the human environment. A copy of the EA for this action is available in the docket. PHMSA invites comment on the environmental impacts of this proposed rulemaking.

*I. Executive Order 13132: Federalism*

Executive Order 13132, ''Federalism'' (64 FR 43255; Aug. 10, 1999) imposes certain requirements on Federal agencies formulating or implementing policies or regulations that preempt State law or that have federalism implications. This NPRM does not impose a substantial, direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. This NPRM also does not impose substantial direct compliance costs on State and local governments.

The proposed rule could have preemptive effect because the pipeline safety laws, specifically 49 U.S.C. 60104(c), prohibit State safety regulation of interstate pipelines. Under the pipeline safety law, States can augment pipeline safety requirements for intrastate pipelines but may not approve safety requirements less stringent than those required by Federal law. A State may also regulate an intrastate pipeline

facility not otherwise covered by PHMSA regulations. In this instance, the preemptive effect of the proposed rule is limited to the minimum level necessary to achieve the objectives of the pipeline safety laws under which the proposed rule is promulgated. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

*J. Executive Order 13211*

This proposed rule is not a ''significant energy action'' under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355; May 22, 2001). It is not likely to have a significant adverse effect on supply, distribution, or energy use. Further, the Office of Information and Regulatory Affairs has not designated this proposed rule as a significant energy action.

*K. Privacy Act Statement*

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement, published on April 11, 2000 (65 FR 19476), at *http://www.dot.gov/privacy*.

*L. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects**

*49 CFR Part 191*

Class location change reporting, pipeline reporting requirements.

*49 CFR Part 192*

Class location change, integrity management, pipeline safety.

In consideration of the foregoing, PHMSA is proposing to revise 49 CFR parts 191 and 192 as follows:

## PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL, INCIDENT, AND OTHER REPORTING

■ 1. The authority citation for part 191 continues to read as follows:

**Authority:** 30 U.S.C. 185(w)(3), 49 U.S.C. 5121, 60101 *et. seq.,* and 49 CFR 1.97.

■ 2. Amend § 191.22 by adding paragraph (c)(2)(vi) to read as follows:

**§ 191.22 National Registry of Operators.**

* * * * *

(c) * * *

(2) * * *

(vi) A change in the classification of a pipeline segment from a Class 1 to a Class 3 location where the operator chooses to confirm or revise the maximum allowable operating pressure (MAOP) in accordance with § 192.611(a)(4) of this chapter. The notification must include the following information about the Class 1 to Class 3 location segment: State, county, pipeline name or number, pipe diameter, MAOP, wall thickness, pipe grade/strength, seam type, Class 1 to Class 3 location change date, segment length, pipeline location by both GIS coordinates and pipeline system survey stations or mile posts for the starting and ending points of the Class 1 to Class 3 location segment, and the date of the Class 1 to Class 3 location change.

* * * * *

## PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 3. The authority citation for part 192 is revised to read as follows:

**Authority:** 30 U.S.C. 185(w)(3), 49 U.S.C. 5121, 60101 *et. seq.,* and 49 CFR 1.97.

■ 4. Amend § 192.3 by adding the definitions of ''Class 1 to Class 3 location segment'', ''In-line inspection segment'', and ''Predicted failure pressure'' in alphabetical order to read as follows:

**§ 192.3 Definitions.**

* * * * *

*Class 1 to Class 3 location segment* means a pipeline segment where:

(1) The segment has changed from a Class 1 to a Class 3 location; and

(2) The operator is confirming or revising the maximum allowable operating pressure per § 192.611(a)(4). At the operator's discretion, the endpoints of the Class 1 to Class 3 location segment may extend further than the beginning and endpoints of the Class 3 location involved.

* * * * *

*In-line inspection segment* means all pipe within a Class 1 to Class 3 location segment and all pipe adjacent to the Class 1 to Class 3 location segment between the nearest upstream in-line inspection launcher and the nearest downstream in-line inspection receiver.

* * * * *

*Predicted failure pressure* means the calculated pipeline anomaly failure pressure, based on the use of an appropriate engineering evaluation method for the type of anomaly being assessed, that does not have an included safety factor. Different anomaly types (*e.g.,* dent, crack, or metal loss) will require different engineering assessment or analysis methods to determine the predicted failure pressure.

* * * * *

■ 5. Amend § 192.7 by revising paragraphs (b)(12) and (c)(6) to read as follows:

**§ 192.7 What documents are incorporated by reference partly or wholly in this part?**

* * * * *

(b) * * *

(12) API STANDARD 1163, ''In-Line Inspection Systems Qualification,'' Second edition, April 2013, Reaffirmed August 2018, (API STD 1163), IBR approved for §§ 192.493, 192.618(b)(4), and (b)(4)(iii).

* * * * *

(c) * * *

(6) ASME/ANSI B31.8S–2004, ''Supplement to B31.8 on Managing System Integrity of Gas Pipelines,'' 2004, (ASME/ANSI B31.8S–2004), IBR approved for §§ 192.618; 192.903 note to *Potential impact radius*; 192.907 introductory text, (b); 192.911 introductory text, (i), (k), (*l*), (m); 192.913(a), (b), (c); 192.917 (a), (b), (c), (d), (e); 192.921(a); 192.923(b); 192.925(b); 192.927(b), (c); 192.929(b); 192.933(c), (d); 192.935 (a), (b); 192.937(c); 192.939(a); and 192.945(a).

■ 6. Amend § 192.611 by adding paragraph (a)(4) and revising paragraph (d) to read as follows:

**§ 192.611 Change in class location: Confirmation or revision of maximum allowable operating pressure.**

(a) * * *

(4) A Class 1 to Class 3 location segment may have its maximum allowable operating pressure confirmed or revised in accordance with § 192.618.

* * * * *

(d) Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under § 192.609 must be completed within 24 months of the change in class location. Pressure reduction under paragraph (a)(1) or (2) of this section within the 24-month period does not preclude establishing a maximum allowable operating pressure under paragraph (a)(3) of this section or implementing an integrity assessment program that meets paragraph (a)(4) of this section at a later date. The activities required in paragraphs (a)(3) or (4) of this section must be implemented prior to any future increases of maximum

allowable operating pressure to meet paragraphs (a)(1) or (2) of this section.

■ 7. Add § 192.618 to read as follows:

**§ 192.618 Class 1 to Class 3 location segment requirements.**

A Class 1 to Class 3 location segment must meet the following requirements:

(a) *Program requirements for a Class 1 to Class 3 location segment.* For segments that change from a Class 1 to a Class 3 location, the maximum allowable operating pressure (MAOP) must be confirmed or revised by designating the segment involved as a high consequence area, as defined in § 192.903, and including it in an integrity management program in accordance with subpart O of this part, if the following criteria are met:

(1) *Timing of Class 1 to Class 3 location change.* The Class 1 to Class 3 location segment change must have occurred after [INSERT EFFECTIVE DATE OF FINAL RULE]. An operator must conduct a class location study on the in-line inspection segment at least once each calendar year, with intervals not to exceed 15 months, in accordance with § 192.609. An operator must maintain its in-line inspection segment change in class location study records in accordance with paragraph (h) of this section.

(2) *In-line inspection.* The in-line inspection segment must be assessed using instrumented in-line inspection tools that meet the requirements of paragraph (b)(1) of this section.

(3) *Hoop stress of Class 1 to Class 3 location segment.* The hoop stress corresponding to the MAOP of the Class 1 to Class 3 location segment must not exceed 72 percent of SMYS in Class 3 locations.

(4) *Pipe attributes for review.* Pipeline segments with any of the following attributes cannot be a Class 1 to Class 3 location segment:

(i) Bare pipe;

(ii) Pipe with wrinkle bends;

(iii) Pipe that does not have traceable, verifiable, and complete pipe material records for diameter, wall thickness, grade, seam type, yield strength, and tensile strength;

(iv) Pipe that is uprated in accordance with subpart K (unless the segment passes a subpart J pressure test for a minimum of 8 hours at a minimum pressure of 1.39 times MAOP within 24 months after the Class 1 to Class 3 location segment change and prior to uprating or increasing the current MAOP);

(v) Pipe that has not been pressure tested in accordance with subpart J for 8 hours at a minimum test pressure of 1.25 times MAOP (unless the segment passes a subpart J pressure test for a minimum of 8 hours at a minimum pressure of 1.25 times MAOP within 24 months after the Class 1 to Class 3 location segment change);

(vi) Pipe with direct current (DC), low frequency electric resistance welded (LF–ERW), electric flash welded (EFW), or lap-welded seams, or pipe with a longitudinal joint factor below 1.0; or

(vii) Pipe with cracking in the pipe body, seam, or girth welds in or within 5 miles of the Class 1 to Class 3 location segment that is over 20 percent of the pipe wall thickness, has a predicted failure pressure less than 100 percent of SMYS, has a predicted failure pressure less than 1.50 times MAOP, has experienced a leak or a rupture due to pipe cracking, or for which analysis in accordance with paragraph (e) of this section indicates the pipe could fail in brittle mode.

(viii) Poor pipe external coating that requires a minimum negative cathodic polarization voltage shift of 100 millivolts or linear anodes along the Class 1 to Class 3 location segment to maintain cathodic protection in accordance with § 192.463, or a Class 1 to Class 3 location segment with tape wraps or shrink sleeves.

(ix) Pipe that transports gas whose composition quality is not suitable for sale to gas distribution customers, including, but not limited to, pipe with free-flowing water or hydrocarbons, water vapor content exceeding acceptable limits for gas distribution customer delivery, hydrogen sulfide ($H_2S$) greater than one grain per 100 cubic feet, or carbon dioxide ($CO_2$) greater than 3 percent by volume.

(x) Pipelines operating in accordance with § 192.619(c) or (d).

(xi) A Class 1 to Class 3 location segment, in-line inspection segment, or portion of it that has been previously denied by the special permit process in § 190.341.

(b) *Pipeline integrity assessments.* In addition to the requirements specified in subpart O of this part, pipeline integrity assessments for the in-line inspection segment, including the Class 1 to Class 3 location segment, must meet the following:

(1) *Assessment method.* Operators must perform pipeline assessments using the following in-line inspection tools or alternative methods as applicable for the pipeline integrity threats being assessed:

(i) In-line inspection with a high-resolution magnetic flux leakage (HR–MFL) tool or an equivalent internal inspection device;

(ii) In-line inspection with a high-resolution deformation tool (HR-Deformation), with sensors and extension arms outside the tool cups, or an equivalent internal inspection device;

(iii) In-line inspection with an electromagnetic acoustic transducer (EMAT) tool or an equivalent internal inspection device;

(iv) In-line inspection with an inertial measurement unit (IMU) tool or an equivalent internal inspection device;

(v) An operator may use alternative methods, such as pressure testing or other technology (excluding direct assessment), upon submitting a notification to PHMSA 90 days prior to using the alternative method, in accordance with § 192.18.

(vi) If an operator chooses not to conduct the in-line inspection as required in paragraphs (iii) or (iv) on a pipeline segment with a history of pipe body or weld cracking or pipe movement, then the operator must notify PHMSA in accordance with § 192.18.

(2) *Initial assessment.* Within 24 months of the Class 1 to Class 3 location segment change, an operator must identify and document each integrity threat to which the pipeline segment is susceptible and conduct initial pipeline integrity assessments of the entire in-line inspection segment for each threat in accordance with §§ 192.917, 192.921, and paragraph (b)(1) of this section.

(3) *Reassessments.* The operator must conduct periodic reassessments in accordance with § 192.937 and paragraph (b)(1) of this section at least once every 7 calendar years, with intervals not to exceed 90 months, as specified in § 192.939(a).

(4) *In-line Inspection Validation.* Operators must validate the results of all in-line inspections, for each type in-line inspection tool run conducted in accordance with this section, to Level 3 standards in accordance with API Standard 1163 (incorporated by reference, *see* § 192.7).

(i) An operator must analyze and account for uncertainties in reported results (*e.g.,* tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) when identifying and characterizing anomalies.

(ii) For each threat type assessed by ILI tool type, an operator must validate the in-line inspection tool tolerance for each in-line inspection tool run using a minimum of 4 anomaly validations or 100 percent of anomalies, whichever is

less, either from new excavations or from past excavations in the in-line inspection segment, with documented anomaly dimensions (width, depth, length, and location) or other known pipe features that are appropriate for the in-line inspection tool.

(iii) For pipeline areas of metal loss where in-line inspection tool data for anomaly size and characterization are used in the determination of the predicted anomaly failure pressure, an operator must use Section 6.2.3, Table 1—Characterizing Metal Loss Probabilities of Detection—Depth Detection Threshold, in accordance with API Standard 1163 (incorporated by reference, *see* § 192.7). Using the qualifiers and limitation criteria in Section 6.2.3, Table 1 of API Standard 1163 or technically proven criteria appropriate for the location, size, and type of the anomaly, an operator must evaluate the anomaly based on whether it is an extended metal loss, pit, or groove.

(iv) An operator may use alternative methods for in-line inspection tool verification, such as calibration joints near the upstream and downstream ILI tool launchers and receivers, upon submitting a notification to PHMSA 90 days prior to using the alternative method, in accordance with § 192.18.

(5) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. A condition that presents a potential threat includes, but is not limited to, those conditions that require remediation or monitoring listed under § 192.933 and paragraphs (c), (d), and (e) of this section. An operator must promptly, but no later than 180 days after conducting a pipeline integrity assessment, obtain sufficient information about a condition to make such a determination of an integrity threat that requires remediation.

(c) *Remediation schedule (In-line inspection segment).* In addition to the requirements specified in subpart O of this part, remediation for the in-line inspection segment, including the Class 1 to Class 3 location segment, must meet the following:

(1) *Immediate repair conditions.* An operator must repair the following conditions immediately upon discovery:

(i) Metal loss anomalies where the calculation of the remaining strength of the pipe shows a predicted failure pressure determined in accordance with § 192.712(b) less than or equal to 1.1 times the MAOP at the location of the anomaly.

(ii) Metal loss greater than 80 percent of nominal wall, regardless of dimensions.

(iii) Metal loss preferentially affecting a detected longitudinal seam and where the predicted failure pressure determined in accordance with § 192.712(d) is less than or equal to 1.25 times the MAOP.

(iv) A dent located between the 8 o'clock and 4 o'clock positions (upper ⅔ of the pipe) that has metal loss, cracking, or a stress riser, unless a technically proven engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels will not be exceeded before the next engineering analysis or assessment is conducted.

(v) A crack or crack-like anomaly meeting any of the following criteria:

(A) Crack depth plus any metal loss is greater than 50 percent of pipe wall thickness;

(B) Crack depth plus any metal loss is greater than the inspection tool's maximum measurable depth; or

(C) The crack or crack-like anomaly has a predicted failure pressure, determined in accordance with § 192.712(d), that is less than 1.25 times the MAOP.

(vi) An indication or anomaly that, in the judgment of the person designated by the operator to evaluate the assessment results, requires immediate action.

(2) *One-year conditions.* An operator must repair the following conditions within 1 year of discovery:

(i) A smooth dent located between the 8 o'clock and 4 o'clock positions (upper ⅔ of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12), unless an engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels will not be exceeded before the next engineering analysis or assessment is conducted.

(ii) A dent with a depth greater than 2 percent of the pipeline diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or at a longitudinal or helical (spiral) seam weld, unless an engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels will not be exceeded before the next engineering analysis or assessment is conducted.

(iii) A dent located between the 4 o'clock and 8 o'clock positions (lower ⅓ of the pipe) that has metal loss, cracking, or a stress riser, unless an engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels will not be exceeded before the next engineering analysis or assessment is conducted.

(iv) Metal loss anomalies where a calculation of the remaining strength of the pipe shows a predicted failure pressure, determined in accordance with § 192.712(b), at the location of the anomaly less than or equal to 1.39 times the MAOP for Class 2 locations, and 1.50 times the MAOP for Class 3 and 4 locations. For metal loss anomalies in Class 1 locations outside the Class 1 to Class 3 location segment with a predicted failure pressure greater than 1.1 times MAOP, an operator must follow the remediation schedule specified in ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 7, figure 4. For Class 1 pipe within the Class 1 to Class 3 location segment, a metal loss anomaly with a predicted failure pressure of less than or equal to 1.39 times the MAOP.

(v) Metal loss that is located at a crossing of another pipeline, is in an area with widespread circumferential corrosion, or could affect a girth weld, with a predicted failure pressure determined in accordance with § 192.712(b) less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe, or 1.50 times the MAOP for all other Class 2 locations and all Class 3 and Class 4 locations. For Class 1 pipe within the Class 1 to Class 3 location segment, metal loss with a predicted failure pressure of less than or equal to 1.39 times the MAOP.

(vi) Metal loss preferentially affecting a detected longitudinal seam and where the predicted failure pressure determined in accordance with § 192.712(d) is less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe, or 1.50 times the MAOP for all other Class 2 locations and all Class 3 and Class 4 locations. For Class 1 pipe within the Class 1 to Class 3 location segment, metal loss with a predicted failure pressure of less than or equal to 1.39 times the MAOP.

(vii) A crack or crack-like anomaly that has a predicted failure pressure determined in accordance with § 192.712(d) that is less than or equal to 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe, or 1.50 times the MAOP for all other Class 2 locations and all Class 3 and Class 4 locations. For Class 1 pipe within the Class 1 to Class 3 location segment, a crack or crack-like anomaly with a predicted

failure pressure of less than or equal to 1.39 times the MAOP.

(3) *Remediation schedule (Class 1 to Class 3 location segment).* In addition to the requirements in paragraph (e) of this section, remediation for the Class 1 to Class 3 location segment must meet the following:

(i) *One-year condition.* An operator must repair the following conditions within 1 year of discovery:

(A) Pipe wall thickness loss greater than 40 percent.

(B) A crack with depth greater than 40 percent of the pipe wall thickness.

(ii) [Reserved].

(4) *Two-year condition for crack repairs (in-line inspection segment).* An operator must repair the following condition within 2 years of discovery:

(i) A crack or crack-like anomaly that has a predicted failure pressure determined in accordance with § 192.712(d) that is greater than or equal to 1.39 times MAOP, and the crack depth is greater than or equal to 40 percent of the pipe wall thickness.

(ii) [Reserved].

(5) *Monitored condition.* An operator does not have to schedule the following conditions for remediation but must record and monitor the conditions during subsequent risk assessments and integrity assessments for any change that may require remediation. Monitored conditions are the least severe and will not require examination and evaluation until the next scheduled integrity assessment interval, provided an analysis shows they are not expected to grow to dimensions meeting a 1-year condition prior to the next scheduled assessment. Monitored conditions are:

(i) A dent with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12) located between the 4 o'clock position and the 8 o'clock position (bottom ⅓ of the pipe);

(ii) A dent located between the 8 o'clock and 4 o'clock positions (upper ⅔ of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12), and an engineering analysis conducted in accordance with § 192.712(c) demonstrate that critical strain levels on the dent will not be exceeded;

(iii) A dent with a depth greater than 2 percent of the pipeline diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or longitudinal or helical (spiral) seam weld, and an engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels on the dent and girth or seam weld will not be exceeded;

(iv) A dent that has metal loss, cracking, or a stress riser, and an engineering analysis conducted in accordance with § 192.712(c) demonstrates that critical strain levels will not be exceeded;

(v) Metal loss preferentially affecting a detected longitudinal seam and where the predicted failure pressure determined in accordance with § 192.712(d) is greater than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe, or 1.50 times the MAOP for all other Class 2 locations and all Class 3 and Class 4 locations. For Class 1 pipe within the Class 1 to Class 3 location segment, metal loss with a predicted failure pressure of less than or equal to 1.39 times the MAOP; and

(vi) A crack or crack-like anomaly for which the predicted failure pressure, determined in accordance with § 192.712(d), is greater than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe, or 1.50 times the MAOP for all other Class 2 locations and all Class 3 and Class 4 locations. For Class 1 pipe within the Class 1 to Class 3 location segment, a crack or crack-like anomaly with a predicted failure pressure greater than 1.39 times the MAOP.

(d) *Special requirements for crack anomalies.* If cracks are discovered in the Class 1 to Class 3 location segment that meet the criteria in paragraph (a)(4)(vii) of this section, the operator must implement the requirements in § 192.611(a)(1), (2), or (3) within 2 years. Until the pipe is replaced, operators must remediate cracks as specified in paragraph (c) of this section.

(e) *Pipe and weld cracking inspections.* Except for pipe coated with fusion-bonded or liquid-applied epoxy coatings and excavations performed in accordance with § 192.614(c), an operator must inspect any pipe in the in-line inspection segment, including the Class 1 to Class 3 location segment, that is uncovered for any reason to evaluate the pipe for cracking where the coating is removed. An operator must use non-destructive examination methods and procedures appropriate for the type of non-destructive examination method, and for the type of pipe and integrity threat conditions in the ditch. If an operator finds any cracking, the operator must conduct an analysis in accordance with § 192.712 and remediate anomalies in accordance with paragraphs (c) and (d) of this section.

(f) *Additional preventive and mitigative measures.* For a Class 1 to Class 3 location segment, an operator must conduct the following operations and maintenance actions and surveys within 2 years of the Class 1 to Class 3 location segment change, evaluate the findings, and remediate as follows:

(1) Close interval surveys with an ''on and off'' current at a maximum 5-foot spacing. An operator must evaluate in accordance with § 192.463 and remediate the unprotected pipe segments within 1 year of the survey. Operators must conduct close interval surveys on reassessment intervals of at least once every 7 calendar years, with intervals not to exceed 90 months.

(2) At least 1 cathodic protection pipe-to-soil test station must be located within the Class 1 to Class 3 location segment with a maximum spacing of ½ mile between test stations. In cases where obstructions or restricted areas prevent test station placement, the test station must be placed in the closest practical location. Annual monitoring of the cathodic protection pipe-to-soil test stations must meet §§ 192.463 and 192.465 for the Class 1 to Class 3 location segment.

(3) Install and maintain line-of-sight markers visible on the pipeline right-of-way, except in agricultural areas or large water crossings, such as lakes, where line-of-sight markers are not practical. An operator must replace line-of-sight markers as necessary and within 30 days after identifying a missing line-of-sight marker.

(4) Interference surveys to address induced alternating current (AC) from parallel electric transmission lines, and other interference issues, such as direct current (DC), that may affect the Class 1 to Class 3 location segment. If an interference survey finds the interference current is greater than or equal to 100 amps per meter squared, impedes the safe operation of a pipeline, or may cause a condition that would adversely impact the environment or public safety, an operator must correct these instances within 15 months of the interference survey.

(5) Depth of cover must conform with § 192.327 for a Class 1 to Class 3 location segment or be remediated by adding markers at locations that do not meet the requirements of § 192.327 for a Class 1 location, lowering the pipe, adding cover, or installing safety barriers. Where the depth of cover is less than 24 inches in areas of non-consolidated rock, the operator must either lower the pipe or add cover over the Class 1 to Class 3 location segment.

(6) Right-of-way patrols in accordance with paragraphs (a) and (c) of § 192.705 at least once per month, with intervals not to exceed 45 days for Class 1 to Class 3 location segments.

(7) Leakage surveys at intervals not exceeding 4½ months, but at least four times each calendar year for Class 1 to Class 3 location segments.

(8) For shorted casings in Class 1 to Class 3 location segments, operators must clear the metallic short no later than 1 year after the short is identified. For an electrolytic casing short, operators must remove the electrolyte from the casing/pipe annular space no later than 1 year after the short is identified.

(g) *Remote-control or automatic shutoff valves.* Mainline valves on both sides of Class 1 to Class 3 location segments, and isolation valves on any crossover or lateral pipe designed to isolate a leak or rupture in a Class 1 to Class 3 location segment, must be operational remote-controlled or automatic shutoff valves with pressure sensors on each side of the mainline valves. The maximum distance between such mainline valves must not exceed 20 miles.

(1) Valves installed in accordance with this paragraph must be closed as soon as practicable after a rupture is identified, but not to exceed 30 minutes.

(2) Valves installed in accordance with this paragraph must be operational at all times, controlled by a SCADA system, and monitored in accordance with § 192.631.

(3) Valves installed in accordance with this paragraph must be maintained in accordance with §§ 192.631(c)(2) and (c)(3), and 192.745.

(4) Automatic shutoff valves installed in accordance with this paragraph must be set so that, based on operating conditions and minimum and maximum flow model gradients, they will fully close within a maximum of 30 minutes following rupture identification. Automatic shutoff valve set-points must not be less than those required to actuate the valve before a downstream remote-control valve actuates. The automatic shutoff valve procedure and results for determining shutoff times must be reviewed for accuracy at least once each calendar year, with intervals not to exceed 15 months.

(h) *Documentation.* In addition to the documentation requirements specified in § 192.947, each operator must maintain records of all actions implemented to comply with paragraph (e) of this section for the life of the pipeline, including but not limited to subpart J pressure test records in accordance with § 192.517; and records of any pipeline assessments, surveys, remediations, maintenance, analyses, and other implemented actions.

(i) *Notifications to PHMSA of integrity assessment program for class 1 to class 3 location segment changes.* Each operator of a gas transmission pipeline that uses the integrity assessment program option for managing a Class 1 to Class 3 location segment change must notify PHMSA electronically in accordance with § 191.22(c)(2).

■ 8. Amend § 192.712 by revising the section heading and adding paragraph (c) to read as follows:

**§ 192.712 Analysis of predicted failure pressure and critical strain level.**

* * * * *

(c) *Dents.* To evaluate dents and other mechanical damage that could result in a stress riser, an operator must perform an engineering critical assessment, as follows:

(1) Evaluate potential threats for the pipe segment in the vicinity of the anomaly or defect including movement, external loading, cracking, and corrosion;

(2) Review high-resolution magnetic flux leakage (HR–MFL) and high-resolution deformation inline inspection data for damage in the dent area and any associated weld region;

(3) Perform pipeline curvature-based strain analysis using recent HR-Deformation inspection data;

(4) Compare the dent profile between the most recent and previous in-line inspections to identify significant changes in dent depth and shape;

(5) Identify and quantify all significant loads acting on the dent;

(6) Evaluate the strain level associated with the anomaly or defect and any nearby welds using Finite Element Analysis, or another technology in accordance with paragraph (c)(8) of this section;

(7) The analyses performed in accordance with this section must account for material property uncertainties and model inaccuracies and tolerances;

(8) Dents with geometric strain levels that exceed the critical strain must be remediated in accordance with § 192.713 or § 192.933, as applicable;

(9) Using operational pressure data, a valid fatigue life prediction model, and assuming a reassessment safety factor of 2, estimate the fatigue life of the dent by Finite Element Analysis or other analytical technique in accordance with this section;

(10) An operator using other technologies or techniques to comply with paragraph (c) of this section must submit advance notification to PHMSA in accordance with § 192.18.

■ 9. In § 192.903, amend the definition of *high consequence area* by revising paragraphs (1) and (2) to read as follows:

**§ 192.903 What definitions apply to this subpart?**

* * * * *

*High consequence area* means an area established by one of the methods described in paragraphs (1) or (2) as follows:

(1) An area defined as—

(i) A Class 3 location under § 192.5; or

(ii) A Class 4 location under § 192.5; or

(iii) Any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or

(iv) Any area in a Class 1 or Class 2 location where the potential impact circle contains an identified site; or

(v) Any Class 1 to Class 3 location segment designated as a high consequence area in accordance with § 192.618(a).

(2) The area within a potential impact circle containing—

(i) 20 or more buildings intended for human occupancy, unless the exception in paragraph (4) applies; or

(ii) An identified site; or

(iii) Any Class 1 to Class 3 location segment designated as a high consequence area in accordance with § 192.618(a).

* * * * *

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**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

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# FEDERAL REGISTER

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Part III

## The President


Proclamation 10096—Birthday of Founding Father Caesar Rodney

Proclamation 10097—Leif Erikson Day, 2020

Federal Register
Vol. 85, No. 199
Wednesday, October 14, 2020

# Presidential Documents

Title 3—

The President

Proclamation 10096 of October 6, 2020

## Birthday of Founding Father Caesar Rodney

**By the President of the United States of America**

**A Proclamation**

Today is the 292nd birthday of Founding Father Caesar Rodney. Rodney was a soldier, a sheriff, a justice on the Delaware Supreme Court, a delegate from Delaware to the Continental Congress, a Brigadier General in the Continental Army, and a signer of the Declaration of Independence. He is an American legend.

Rodney rode into American history when, despite suffering from cancer and asthma, he traveled 80 miles overnight from Dover to Philadelphia through a raging thunderstorm in time to cast Delaware's deciding vote for independence on July 2, 1776. His heroic act helped ensure that the Declaration of Independence would be passed unanimously. Upon entering Independence Hall, Rodney is said to have uttered these words: ''As I believe the voice of my constituents and all sensible and honest men is in favor of independence, and as my own judgment concurs with them, I give my vote for independence.''

Rodney was not just a Founding Father, he was a fighter for American freedom, serving under the command of General George Washington at Trenton during the Revolution. Washington bestowed his ''sincerest thanks'' for Rodney's service, commending his character as deserving of the ''highest honor'' and describing his devotion to the American cause as ''the most distinguished.''

After the Revolution, Rodney continued to fight through cancer and serve the State of Delaware as Speaker of the Upper House of its General Assembly. As the years went by, Rodney's cancer grew worse. Finally, he became so weak that he could not travel to participate in the legislative session. But Rodney's presence was so significant and his statesmanship was so revered by his fellow colleagues that they would not proceed without him and voted to meet at Rodney's own home so that he could still lead them from his bed.

For more than two centuries, Delaware honored the patriotism and sacrifice of Caesar Rodney. In 1934, Delaware donated a statue of Caesar Rodney holding the Declaration of Independence to the United States Capitol. In 1976, the State issued a postage stamp commemorating Caesar Rodney to celebrate the bicentennial, and the Delaware Bicentennial Commission published an entire history of Rodney's life, proclaiming him ''Delaware's hero for all times and all seasons,'' ''the patron saint of his native state,'' and ''Delaware's principal hero of the American Revolutionary War.'' The 1999 State Quarter of Delaware bears Caesar Rodney's image. At the University of Delaware, students live in Caesar Rodney Residence Hall. Boy Scouts in Delaware travel the historic Caesar Rodney Trail. Each year, Delaware residents participate in the Caesar Rodney Half Marathon and 5K. In Camden, both the High School and School District are named after Caesar Rodney, and one can drive down Caesar Rodney Avenue.

Even the Federal Government has taken action to preserve the memory of Caesar Rodney and honor the history of Rodney's ride for independence. In 2013, President Obama designated the First State National Monument in Delaware, which protected as an object of ''historic interest'' the very

assembly room where Caesar Rodney introduced a bill to prohibit the importation of slaves into Delaware and where Rodney presided as Speaker when the Delaware Assembly declared independence from the British Crown in 1776. At the First State National Monument, park officials tell the story of Caesar Rodney's 18-hour ride through severe storms to vote for the Declaration of Independence.

But today, the memory and remarkable history of Caesar Rodney's midnight ride is at risk of being erased forever. In the center of downtown Wilmington, Delaware is Rodney Square, named after Caesar Rodney. Until recently, a majestic equestrian statue of Caesar Rodney riding to Philadelphia had stood there for nearly a century. In 2011, Rodney Square and the Caesar Rodney Equestrian Statue were placed on the National Register of Historic Places after the State of Delaware nominated them for the honor. The nomination notes that, at the time of its design, the Caesar Rodney Equestrian Statue was ''considered by many sculptors to be one of the most beautiful equestrian statues in the world.'' But, on June 12, 2020, the Caesar Rodney Equestrian Statue was removed as part of an ongoing, radical purge of America's founding generation.

The empty pedestal in Rodney Square in Wilmington is the end result of an extreme anti-American historical revisionism propagated by organizations like the New York Times and its 1619 Project, critical race theorists on college campuses, cancel culture adherents in corporate boardrooms, and flag-burning mobs on city streets who seek to reframe our Nation's history around the idea that the United States is not an exceptional country but an evil one. Caesar Rodney is an early casualty of these reckless ''re-education'' attempts that, if allowed to progress, will erase the names of every one of the heroes of 1776 from American memory and blot out their noble legacy from the history books. The students of Howard Zinn and the 1619 Project have already pledged to remove the Jefferson Memorial and the Washington Monument next. If Caesar Rodney cannot be defended, then there is no principle by which the other signers of the Declaration can be shielded from similar eradication.

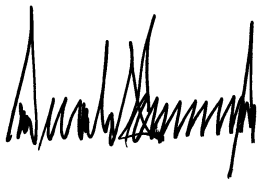
Radicals will continue their efforts to tear down our Founding Fathers until Americans demand that it stop and demand that the truth of American history be once again taught in our schools. That is why, on Constitution Day, I announced the creation of a new national commission to promote patriotic education. The ''1776 Commission'' will champion efforts to teach the truth about America's heroic founding and make plans to honor the 250th anniversary of the American founding.

At the White House Conference on American History, I also announced that a statue of Caesar Rodney would be added to the National Garden of American Heroes, a vast outdoor park that will feature the statues of the greatest Americans who have ever lived. As I said this past Constitution Day, ''America will give this Founding Father, this very brave man, who was so horribly treated, the place of honor he deserves.''

Today, we celebrate the life and legacy of a patriot who rode as hard and as fast as he could to pledge his life, his fortune, and his sacred honor to the cause of American Independence and American Freedom. On Caesar Rodney's 292nd birthday, I proclaim that his name will never be forgotten or removed from the record of history and his heroic ride for independence will be honored, preserved, and remembered for centuries to come.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 7, 2020, as the 292nd Anniversary of the birth of Caesar Rodney. I invite the people of the United States to observe the day in schools and churches and customary places of meeting with appropriate ceremonies in commemoration of the birth of Caesar Rodney.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.



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**Proclamation 10097 of October 8, 2020**

## Leif Erikson Day, 2020

**By the President of the United States of America**

**A Proclamation**

More than 1,000 years ago, the Norse explorer and Viking Leif Erikson made landfall in modern-day Newfoundland, likely becoming the first European to discover the New World. Today, Leif Erikson represents over a millennium of shared history between the Nordic countries and the Americas and symbolizes the many contributions of Nordic Americans to our great Nation.

Accomplished in the face of daunting danger and carried out in service of Judeo-Christian values, Leif Erikson's story reflects the fundamental truths about the American character. On a mission to evangelize Greenland, Leif Erikson and his crew were blown off course. They had to brave the cold waters of the northern Atlantic to find safe harbor on the North American coastline. In surviving this ordeal, these hardened Vikings tested the limits of human exploration in a way that continues to inspire us today.

In 1825, six Norwegian families repeated this voyage, landing their sloop in New York Harbor in the first organized migration to the United States from Scandinavia. Like the Puritans and pilgrims before them, these people came to our Nation seeking religious freedom and safety from persecution. Now, more than 11 million Americans can trace their roots to Denmark, Finland, Iceland, Norway, and Sweden, and among them stand Nobel Laureates, Academy Award winners, and Legion of Merit recipients. Across our Nation, from the Danish villages of western Iowa to the Norwegian Ridge in Minnesota and the Finns of Michigan's Upper Peninsula, Nordic Americans have left their mark on our culture, economy, and society.

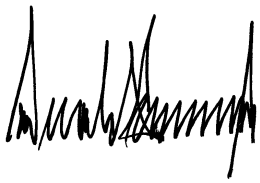
Nordic countries remain strong economic partners and military allies of our Nation. They each hold important roles in the Arctic Council, facilitating cooperation on economic development, environmental conservation, and indigenous rights. As North Atlantic Treaty Organization Allies and partners, all five Nordic countries greatly contribute to the peace and stability of the transatlantic community and the entire world. The United States greatly values their continued friendship.

On Leif Erikson Day, we celebrate Nordic Americans whose firm faith and resolve are woven into the fabric of our Nation, and we commit to continuing our strong diplomatic relationship with Scandinavian nations for years to come.

To honor Leif Erikson, son of Iceland and grandson of Norway, and to celebrate our Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President of the United States to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 9, 2020, as Leif Erikson Day. I call upon all Americans to celebrate the contributions of Nordic Americans to our Nation with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.



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