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Federal Register
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Tuesday, November 17, 2020

Presidential Documents

Title 3—

The President

Executive Order 13959 of November 12, 2020

Addressing the Threat From Securities Investments That Finance Communist Chinese Military Companies

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that the People's Republic of China (PRC) is increasingly exploiting United States capital to resource and to enable the development and modernization of its military, intelligence, and other security apparatuses, which continues to allow the PRC to directly threaten the United States homeland and United States forces overseas, including by developing and deploying weapons of mass destruction, advanced conventional weapons, and malicious cyber-enabled actions against the United States and its people.

Key to the development of the PRC's military, intelligence, and other security apparatuses is the country's large, ostensibly private economy. Through the national strategy of Military-Civil Fusion, the PRC increases the size of the country's military-industrial complex by compelling civilian Chinese companies to support its military and intelligence activities. Those companies, though remaining ostensibly private and civilian, directly support the PRC's military, intelligence, and security apparatuses and aid in their development and modernization.

At the same time, those companies raise capital by selling securities to United States investors that trade on public exchanges both here and abroad, lobbying United States index providers and funds to include these securities in market offerings, and engaging in other acts to ensure access to United States capital. In that way, the PRC exploits United States investors to finance the development and modernization of its military.

I therefore further find that the PRC's military-industrial complex, by directly supporting the efforts of the PRC's military, intelligence, and other security apparatuses, constitutes an unusual and extraordinary threat, which has its source in substantial part outside the United States, to the national security, foreign policy, and economy of the United States. To protect the United States homeland and the American people, I hereby declare a national emergency with respect to this threat.

Accordingly, I hereby order:

Section 1. (a) The following actions are prohibited:

(i) beginning 9:30 a.m. eastern standard time on January 11, 2021, any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities, of any Communist Chinese military company as defined in section 4(a)(i) of this order, by any United States person; and

(ii) beginning 9:30 a.m. eastern standard time on the date that is 60 days after a person is determined to be a Communist Chinese military company pursuant to section (4)(a)(ii) or (iii) of this order, any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities, of that person, by any United States person.

(b) Notwithstanding subsection (a)(i) of this section, purchases for value or sales made on or before 11:59 p.m. eastern standard time on November 11, 2021, solely to divest, in whole or in part, from securities that any United States person held as of 9:30 a.m. eastern standard time on January 11, 2021, in a Communist Chinese military company as defined in section 4(a)(i) of this order, are permitted.

(c) Notwithstanding subsection (a)(ii) of this section, for a person determined to be a Communist Chinese military company pursuant to section 4(a)(ii) or (iii) of this order, purchases for value or sales made on or before 365 days from the date of such determination, solely to divest, in whole or in part, from securities that any United States person held in such person, as of the date 60 days from the date of such determination, are permitted.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. (a) The Secretary of the Treasury, after consultation with the Secretary of State, the Secretary of Defense, the Director of National Intelligence, and the heads of other executive departments and agencies (agencies) as deemed appropriate by the Secretary of the Treasury, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, to carry out the purposes of this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All agencies shall take all appropriate measures within their authority to carry out the provisions of this order.

(b) Rules and regulations issued pursuant to this order may, among other things, establish procedures to license transactions otherwise prohibited pursuant to this order. But prior to issuing any license under this order, the Secretary of the Treasury shall consult with the Secretary of State, the Secretary of Defense, and the Director of National Intelligence.

Sec. 4. *Definitions.* For purposes of this order:

(a) the term ''Communist Chinese military company'' means

(i) any person that the Secretary of Defense has listed as a Communist Chinese military company operating directly or indirectly in the United States or in any of its territories or possessions pursuant to section 1237 of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375, as of the date of this order, and as set forth in the Annex to this order, until such time as the Secretary of Defense removes such person from such list;

(ii) any person that the Secretary of Defense, in consultation with the Secretary of the Treasury, determines is a Communist Chinese military company operating directly or indirectly in the United States or in any of its territories or possessions and therefore lists as such pursuant to section 1237 of Public Law 105–261, as amended by section 1233 of Public Law 106–398 and section 1222 of Public Law 108–375, until such time as the Secretary of Defense removes such person from such list; or

(iii) any person that the Secretary of the Treasury publicly lists as meeting the criteria in section 1237(b)(4)(B) of Public Law 105–261, or publicly lists as a subsidiary of a person already determined to be a Communist

Chinese military company, until the Secretary of the Treasury determines that such person no longer meets that criteria and removes such person from such list.

(b) the term ''entity'' means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''person'' means an individual or entity;

(d) the terms ''security'' and ''securities'' include the definition of ''security'' in section 3(a)(10) of the Securities Exchange Act of 1934, Public Law 73–291, as codified as amended at 15 U.S.C. 78c(a)(10), except that currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, shall be a security for purposes of this order.

(e) the term ''transaction'' means the purchase for value of any publicly traded security; and

(f) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, the Secretary of Defense, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

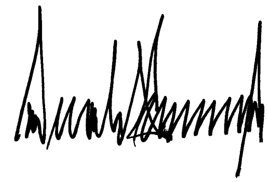
Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
November 12, 2020.

Billing code 3295–F1–P

Annex

Aero Engine Corp of China

Aviation Industry Corporation of China, Ltd. (AVIC)

China Academy of Launch Vehicle Technology (CALT)

China Aerospace Science & Technology Corporation (CASC)

China Aerospace Science & Industry Corporation (CASIC)

China Communication Construction Group Company, Ltd.

China Electronics Corporation (CEC)

China Electronics Technology Group Corporation (CETC)

China Mobile Communications

China National Chemical Corporation (ChemChina)

China National Chemical Engineering Group Co., Ltd. (CNCEC)

China National Nuclear

China Nuclear Engineering & Construction Corporation (CNECC)

China General Nuclear Power

China Railway Construction Corporation (CRCC)

China Shipbuilding Industry Corporation (CSIC)

China South Industries Group Corporation (CSGC)

China Spacesat

China State Construction Group Co., Ltd.

China State Shipbuilding Corporation (CSSC)

China Telecommunications

China Three Gorges Corporation Limited

China United Network Communications Group Co Ltd

CRRC Corporation

Dawning Information Industry Co. (Sugon)

Hikvision

Huawei

Inspur Group

Norinco

Panda Electronics

Sinochem Group Co Ltd

[FR Doc. 2020–25459
Filed 11–16–20; 8:45 am]
Billing code 3295–F1–C

Rules and Regulations

Federal Register

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Tuesday, November 17, 2020

DEPARTMENT OF COMMERCE

15 CFR Chapter VII

[Docket Number: 201109–0297]

RIN 0605–XD009

Identification of Prohibited Transactions To Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain; Preliminary Injunction Order by a Federal District Court

AGENCY: Office of the Secretary, U.S. Department of Commerce.

ACTION: Notification of preliminary injunction.

SUMMARY: The U.S. Department of Commerce (''Department'') is issuing this document to inform the public of a preliminary injunction ordered by a Federal district court on October 30, 2020, preventing the implementation of specific Department actions.

DATES: The court order was effective October 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kathy Smith, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1859.

For media inquiries: Meghan Burris, Director, Office of Public Affairs, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4883.

SUPPLEMENTARY INFORMATION: On September 24, 2020, the Department published the ''Identification of Prohibited Transactions to Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency with Respect to the Information and Communications Technology and Services Supply Chain'' (the ''Identification'') in the **Federal Register** at 85 FR 60061. The Identification provided that the following transactions would be prohibited:

1. Any provision of services to distribute or maintain the TikTok mobile application, constituent code, or application updates through an online mobile application store, or any online marketplace where mobile users within the land or maritime borders of the United States and its territories may download or update applications for use on their mobile devices;
2. Any provision of internet hosting services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;
3. Any provision of content delivery network services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;
4. Any provision of directly contracted or arranged internet transit or peering services enabling the functioning or optimization of the TikTok mobile application within the land and maritime borders of the United States and its territories;
5. Any utilization of the TikTok mobile application's constituent code, functions, or services in the functioning of software or services developed and/or accessible within the land and maritime borders of the United States and its territories; or
6. Any other transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd., or its subsidiaries, including TikTok Inc., in which any such company has any interest, as may be identified at a future date under the authority delegated under Executive Order 13942.

Transactions identified in paragraph 1 above were to be prohibited at 11:59 p.m. eastern standard time on September 27, 2020; transactions identified in paragraphs 2, 3, 4, and 5 above were to be prohibited at 11:59 p.m. eastern standard time on November 12, 2020.

Preliminary Injunction

On September 18, 2020, Plaintiffs, who are three content creators using the TikTok mobile app, filed a lawsuit in the United States District Court for the Eastern District of Pennsylvania (*Douglas Marland et al.* v. *Trump et al.,* No. 20–cv–4597), seeking various relief, including a court order to prohibit the Department from implementing Executive Order 13942 or the identified prohibited transactions. Plaintiffs subsequently filed a motion for a preliminary injunction to pursue such relief, limited to the prohibited transactions in Paragraph 1. On September 26, 2020, the District Court denied the Plaintiffs' motion.

However, on October 30, 2020, the District Court issued an Order granting the Plaintiffs' renewed motion for a preliminary injunction. This Order enjoined the Department from enforcing the Identification and the prohibition on transactions identified in Paragraphs 1–6 above.

The Department is complying with the terms of this Order. Accordingly, this serves as NOTICE that the Secretary's prohibition of identified transactions pursuant to Executive Order 13942, related to TikTok, HAS BEEN ENJOINED, and WILL NOT GO INTO EFFECT, pending further legal developments.

Any further guidance and updates regarding the subject litigation will be posted on the Department website (*www.commerce.gov*) on an ongoing basis.

Dated: November 9, 2020.

This document of the Department of Commerce was signed on November 9, by Wilbur Ross, Secretary of Commerce. That document with the original signature and date is maintained by the Department of Commerce. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Commerce 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 Commerce. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on November 12, 2020.

Asha Mathew,

Federal Register Liaison Officer, U.S. Department of Commerce.

[FR Doc. 2020–25360 Filed 11–12–20; 4:15 pm]

BILLING CODE 3510–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 248

[201A2100DD/AAKC001030/ A0A501010.999900253G]

RIN 1076–AF61

Columbia River In Lieu Fishing Sites

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: This rule replaces references to outdated position titles and office names with references to current positions and offices and corrects two typographical errors. These corrections will clarify the regulation, including clarifying that appeals of decisions of the Bureau of Indian Affairs (BIA) Regional Director made regarding Columbia River In-Lieu Fishing Sites go to the Assistant Secretary.

DATES: Effective November 17, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, Office of the Assistant Secretary—Indian Affairs, (202) 273–4680, *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: The current regulation at 25 CFR part 248 addresses rights of persons to use ''in lieu fishing sites,'' which are lands acquired by the Secretary of War and transferred to the Secretary of the Interior in 1945, to replace Indian fishing grounds submerged or destroyed as a result of the construction of the Bonneville Dam. *See* 59 Stat. 22. The regulations refer to outdated positions and offices. This rule updates those outdated terms as shown in the table below:

Outdated term	Updated term	Sections affected
Area Director	Regional Director	248.1, 248.3, 248.4, 248.6, 248.8, 248.9, 248.10
Portland Area Office	Northwest Regional Office	248.1
Commissioner of Indian Affairs	Assistant Secretary—Indian Affairs	248.10

These changes are necessary to clarify who is responsible for the actions listed in these sections and to clarify in § 248.10 that decisions of the Regional Director go to the Assistant Secretary—Indian Affairs, rather than any other official.

This rule also corrects two typographical errors. The first, in § 248.2, uses the term ''is accordance'' instead of ''in accordance.'' The second, in § 248.10, refers to a decision ''on'' the official, rather than ''of'' the official.

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 rules. OIRA has determined that this 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. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This action is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. 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 would not impose any economic effects on small governmental entities.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because this rule only replaces outdated references to position titles. This 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.

E. Unfunded Mandates Reform Act

This 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 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.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this 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.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 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.

I. 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 rule under the Department's consultation policy and under the criteria in E.O. 13175 and have determined there are no substantial direct effects on federally recognized Indian Tribes that will result from this rulemaking because the rule is limited to updating outdated terms.

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We 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.

K. National Environmental Policy Act

This 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 this is an administrative and procedural regulation. (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.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

M. Determination To Issue Final Rule Without the Opportunity for Public Comment and With Immediate Effective Date

BIA is taking this action under its authority, at 5 U.S.C. 552, to publish regulations in the **Federal Register**. Under the Administrative Procedure Act, statutory procedures for agency rulemaking do not apply ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). BIA finds that the notice and comment procedure are impracticable, unnecessary, or contrary to the public interest, because: (1) These amendments are non-substantive; and (2) the public benefits for accurate identification of agency officials, and further delay is unnecessary and contrary to the public interest. Similarly because this final rule makes no substantive changes and merely reflects updates to titles in the existing regulations, this final rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

List of Subjects in 25 CFR Part 248

Fishing, Indians.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, amends part 248 in title 25 of the Code of Federal Regulations as follows:

PART 248—USE OF COLUMBIA RIVER INDIAN IN-LIEU FISHING SITES

■ 1. The authority for part 248 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9.

§ 248.1 [Amended]

■ 2. In § 248.1, remove the words ''following rules and regulations'' and ''Portland Area Office'' and add, in their place, the words ''rules and regulations in this part'' and ''Northwest Regional Office,'' respectively.

§ 248.2 [Amended]

■ 3. In § 248.2, remove the words ''is accordance'' and add, in their place, the words ''in accordance.''

§ 248.10 [Amended]

■ 4. In § 248.10:

■ a. Remove the reference ''this part 248'' and add, in its place, the reference ''this part.''

■ b. Remove the words ''to the Commissioner of Indian Affairs'' and add, in their place, the words ''to the Assistant Secretary—Indian Affairs''; and

■ c. Remove the words ''on the Commissioner of Indian Affairs'' and add, in their place, ''of the Assistant Secretary—Indian Affairs''.

§§ 248.1, 248.3, 248.4, 248.6, 248.8, 248.9, and 248.10 [Amended]

■ 5. In 25 CFR part 248, remove the words ''Area Director'' and add, in their place, the words ''Regional Director'' wherever they appear in the following places:

■ a. Section 248.1;
■ b. Section 248.3;
■ c. Section 248.4;
■ d. Section 248.6;
■ e. Section 248.8;
■ f. Section 248.9; and
■ g. Section 248.10.

Tara Sweeney,
Assistant Secretary—Indian Affairs.

[FR Doc. 2020–24729 Filed 11–16–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2017–HA–0058]

RIN 0720–AB71

TRICARE: Referring of Physical Therapy and Occupational Therapy by Doctors of Podiatric Medicine Acting Within the Scope of Their License

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD is amending its TRICARE regulation. Specifically, this rule allows coverage of otherwise authorized physical therapy (PT) and occupational therapy (OT) for TRICARE beneficiaries when such services are referred by a TRICARE-authorized Doctor of Podiatric Medicine, also known as a Podiatrist, acting within the scope of his/her license.

DATES: This rule is effective December 17, 2020.

FOR FURTHER INFORMATION CONTACT: Amber Butterfield, Defense Health Agency, TRICARE Health Plan, Medical Benefits and Reimbursement Section, (303) 676–3565 or *amber.l.butterfield.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Rule

This rule permits coverage of services referred by TRICARE-authorized Podiatrists for PT and OT. Prior to the issuance of this regulatory action, the language of Title 32 Code of Federal Regulations (CFR), § 199.4(c)(3)(x) stated that PT and OT may be cost-shared when services are referred and monitored by a physician, certified physician assistant, or certified nurse practitioner. As a result, otherwise authorized PT and OT services for TRICARE beneficiaries were not covered benefits when Podiatrists (even when acting within their scope of license) referred the services. Podiatrists are included in the provider category of ''Other allied health professional'' listed in 32 CFR 199.6(c)(3)(iii) and are recognized by TRICARE statute, 10 U.S.C. 1079(a), as authorized to assess or diagnose illness, injury, or bodily malfunction as a prerequisite for TRICARE coverage of otherwise allowable treatment. According to the American Podiatric Medical Association, all United States jurisdictions recognize podiatrists as independent practitioners and do not limit Podiatrists' authority to refer their patients to PT and OT services. This rule makes it possible for that care to be cost-shared by the TRICARE program.

State governments generally regulate the licensure and practice of health care professionals, and DoD limits TRICARE benefits coverage to services and supplies furnished by otherwise authorized TRICARE individual professional providers performing within the scope of their state license or certification; granted by the applicable state or jurisdiction. State scope of practice laws vary with regard to the range of services, and some include the authority to refer PT and OT. Title 32 CFR 199.6(c)(1) provides that licensing be interpreted as requiring a license to practice in the jurisdiction where services are being furnished; generally a state license in the United States, or for care and treatment provided outside the continental United States, whatever comparable jurisdictional requirements (including licensure or certification) may exist in the host nation. Title 32 CFR 199.1(b) states that the regulation applies in all foreign countries, unless specific exemptions are granted by the Director. After assessing the information available, DoD has determined that it is unnecessarily restrictive not to cover otherwise authorized PT and OT services for TRICARE beneficiaries merely because the services are referred by a Podiatrist. Therefore, the regulation is amended to allow TRICARE coverage of PT and OT services when referred by a Podiatrist who is a TRICARE-authorized provider and acting within the scope of their state licensure or certification.

B. Summary of Major Provisions

This rule allows TRICARE coverage of otherwise authorized PT and OT services when referred by a TRICARE-authorized Podiatrist, acting within the scope of his/her state licensure or certification.

C. Legal Authority for This Program

This rule is issued under 10 U.S.C. 1073 (a)(2) giving authority and responsibility to the Secretary of Defense to administer the TRICARE program. The text of 10 U.S.C. chapter 55 can be found at *https://manuals.health.mil/pages/DisplayManual.aspx?SeriesId=MD.*

II. Regulatory History

The Department of Defense published a proposed rule in the **Federal Register** on April 8, 2019 (84 FR 13855). Comments were accepted for 60 days, and the comment period closed on June 7, 2019. A total of 22 comments were received. Those comments and the resulting changes to the rule text are described in the next section.

III. Discussion of Comments & Changes

The majority of comments received supported the proposed rule as a time and cost-saving measure for TRICARE beneficiaries as well as the TRICARE program. Included were comments received from organizations representing various medical fields regarding specific aspects of the rule. These comments provided feedback that in part, resulted in several changes to the rule text. The changes include: Refocusing to solely address referrals by Podiatrists instead of all ''Other allied health professionals'' to refer for PT and OT; revising the nomenclature for Podiatrists from Doctors of Podiatry or Surgical Chiropody to Doctors of Podiatric Medicine, or Podiatry; adding Podiatrists to the list of providers who can refer and provide ongoing oversight in order for the services of physical therapists and occupational therapists to be considered for benefits on a fee-for service basis; and removing the option in the proposed rule for Podiatrists to refer patients to speech therapy (ST) services based on the lack of direct relationship between such a referral and podiatric practice. A discussion of the more significant comments concerning DoD's proposed rule, and our responses to these comments, are set forth below.

A commenter asked why TRICARE doesn't support the use of Physical Therapist Assistants (PTAs) and Certified Occupational Therapy Assistants (COTAs) in the care of its beneficiaries. The commenter also stated that TRICARE was the only payer source to have that restriction. The Department published a final rule on March 17, 2020, (85 FR 15061) which added certified or licensed PTAs and OTAs as TRICARE-authorized providers when supervised by a TRICARE-authorized physical therapist or occupational therapist in accordance with Medicare's rules for supervision and qualification.

Another commenter asserted that athletic trainers, if recognized by TRICARE as paramedical providers, would support the DoD in providing greater efficiencies through care coordination. The addition of athletic trainers as TRICARE-authorized providers is outside the scope of this rule.

Several commenters requested clarification regarding PTs, OTs, and STs' ability to self-refer where allowed by state law under the proposed rule. The commenters assert that as PTs, OTs and STs are recognized as ''Other allied health professionals'' under 32 CFR 199.6(c)(3)(iii), the proposed rule includes the ability for PTs, OTs, and STs to self-refer as well as refer beneficiaries to another therapy practitioner where allowed by state law. The commenters reason that when state law is silent, no referral from another health care professional is required, whereas when state law imposes a referral requirement, TRICARE coverage will hinge on the PTs, OTs, and STs securing a referral in accordance with state law. This rule is revised to only allow Podiatrists to refer for PT and OT services, therefore, the commenters' issue is moot. However, to respond to this comment generally, self-referral by TRICARE providers is prohibited under 32 CFR 199.6(a)(13)(xi), which directs providers to ''refer CHAMPUS beneficiaries only to providers with which the referring provider does not have an economic interest, as defined in § 199.2.'' Title 32 CFR 199.2 defines economic interest as ''(1) Any right, title, or share in the income, remuneration, payment, or profit of a CHAMPUS-authorized provider, or of an individual or entity eligible to be a CHAMPUS-authorized provider, resulting, directly or indirectly, from a referral relationship; [. . .] (2) A referral relationship exists when a CHAMPUS beneficiary is sent, directed, assigned or influenced to use a specific CHAMPUS-authorized provider, or a specific individual or entity eligible to be a CHAMPUS-authorized provider.'' Under these provisions, TRICARE-authorized providers are barred from self-referral, even if self-referral is acceptable under the state or jurisdiction's licensure or certification requirements.

A commenter also requested clarification as to whether and how the ''ongoing oversight and supervision'' of the program of treatment would apply to ''Other allied health professionals'' who would refer TRICARE beneficiaries for therapy services. As an example, the commenter asked if a social worker [referring] occupational therapy for a TRICARE beneficiary, would have to sign the OT plan of care and would that same social worker have to monitor and sign off on any changes to the plan of care if there is a significant change in function for the TRICARE beneficiary 6 months after they initiated the plan of care. This rule is revised to only allow Podiatrists to refer PT and OT services; therefore the commenter's issue is moot. However to address the commenter, consider a Podiatrist rather than a social worker referring OT for a TRICARE beneficiary. The Podiatrist will provide ongoing and continual supervision by signing the OT plan of care, monitoring treatment and signing off on any changes to the plan of care if there is a significant change in function for the TRICARE beneficiary six months after they initiated the plan of care. Requirements for referral and supervision are defined at § 199.6(c)(2)(iv).

IV. Summary of Changes From NPRM

We adopt the proposed rule with changes as described in the comment responses.

V. Regulatory Analysis

A. Regulatory Planning and Review

a. Executive Orders

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action. The rule does not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

E.O. 13771 seeks to control costs associated with the government imposition of private expenditures required to comply with Federal regulations and to reduce regulations that impose such costs. Consistent with the analysis of transfer payments under OMB Circular A–4, this rule does not involve regulatory costs subject to E.O. 13771.

b. Summary

This rule allows TRICARE coverage of otherwise authorized PT and OT services when referred by a TRICARE-authorized Podiatrist acting within the scope of his/her license.

c. Affected Population

This rule impacts all TRICARE beneficiaries, TRICARE-authorized providers, the TRICARE program and its Managed Care Support Contractors (MCSC). Beneficiaries will spend less time and expense obtaining referrals from their TRICARE-authorized primary care provider for PT and OT services related to foot and ankle conditions. Beneficiaries' courses of treatment will not be unnecessarily delayed by the need to obtain a referral from their primary care provider. TRICARE-authorized primary care providers and specialists will not need to spend unnecessary time seeing patients requiring PT or OT referrals for foot and ankle conditions, resulting in savings to the TRICARE program. TRICARE-authorized Podiatrists will be able to prescribe and oversee their patients' PT and OT courses of treatment. MCSCs will also be minimally impacted as this rule will require them to update their systems to accommodate the change.

d. Costs

Once beneficiaries initiate an episode of care with a Podiatrist for a covered disease or condition, they need not return to their primary care provider or specialist for an office visit to obtain an examination and a referral for PT and OT services. Assuming two hours by appointment (appointment, travel, waiting room, exam room), beneficiaries will save approximately 20,000 hours each year by not having to visit their referring provider prior to seeking PT or OT services. Referring providers will also save time, approximately 2,200 hours (15 minutes for a podiatrist to consult with a referring provider regarding a PT prescription) each year, as a result of reduced coordination and paperwork.

The amendment covers PT and OT services, when referred by a TRICARE-authorized Podiatrist acting within the scope of their license, and is not expected to increase the amount of otherwise covered PT and OT services. This is because referrals for such services are currently being written by those providers authorized to do so under the TRICARE program or those providers are countersigning prescriptions or referrals from a Podiatrist. The DoD does anticipate, however, that there may be a marginal increase in administrative costs to accommodate changes to our contractors' systems, although the overall result of this change will create an efficiency in the process.

This rule does not create new costs to the government, because it falls under the Transfer Payment clause in accordance with OMB Circular A–4. As this rule states, TRICARE payments for PT and OT services provided to military beneficiaries and prescribed by TRICARE-authorized Podiatrists, represents an ''Insurance Payment'' as described in OMB Circular A–4.

e. Benefits

The primary impact of this rule will result in less time and expense spent by beneficiaries and referring providers to obtain necessary medical services and supplies. Almost 10,000 beneficiaries visited a primary care provider after seeking care from a Podiatrist, but prior to PT services, in 2017. With an average copay/cost-share of $24 across networks and TRICARE programs, this rule will conservatively save beneficiaries up to $230,000 per year in cost-sharing and will conservatively save TRICARE $1.1 million per year as a result of reduced visits to referring providers.

f. Alternatives

DoD considered several alternatives to this rulemaking. The first alternative involved taking no action. Although this alternative would be the most cost neutral for DoD, it was rejected as not benefitting TRICARE beneficiaries in need of PT and OT services during the regular course of foot and ankle treatment. For example, and according to ''American Podiatric Medical Association,'' plantar fasciitis is treated with conservative efforts such as PT and OT services before turning to surgery. Additionally following foot or ankle surgery PT and OT services are necessary as a part of the post-operative treatment. This alternative also placed TRICARE at odds with common practice by other health care entities.

The second alternative DoD considered, and the regulatory change offered in the proposed rule, was allowing all TRICARE-authorized ''Other allied health professionals'' to refer PT, OT and ST services. After the proposed rule was published, the Department received input from internal and external stakeholders and ultimately determined that this alternative was problematic because more the half of the 18 types of TRICARE-authorized ''Other allied health professionals'' do not have the authority to diagnose and treat a mental or physical illness, injury or bodily malfunction in accordance with 10 U.S.C. 1079(a)(12). Commenters also raised concerns over self-referrals, causing the Department to re-evaluate this alternative. Moreover, in accordance with 32 CFR 199.6(c)(3)(iii), the majority of TRICARE-authorized ''Other allied health professionals'' require the ongoing monitoring and supervision of a physician for a program or episode of treatment. Those TRICARE-authorized ''Other allied health professionals'' who may not provide covered care independent of a physician include: Certified Physician Assistant, Anesthesiologist Assistant, Licensed Registered Nurse, Audiologist, Licensed Registered Physical and Occupational Therapists, Licensed Registered Speech Therapist, Nutritionist, Registered Dietician, and TRICARE Certified Mental Health Counselor. While certified physician assistants require supervision of a physician, they were given authority to refer for therapy services under a rule published on August 10, 2018 (75 FR 50882) due to changes in the way billing occurred under the national provider identification system, and to align with Medicare's allowance for nonphysician providers to provider referrals for therapy services. DoD finds it is appropriate to continue to allow certified physician assistants to refer and oversee therapy services due to the direct relationship physician assistants have with physicians, and because they often serve as a patient's primary care provider, while not extending this privilege to other providers that may not provide independent care. Therefore DoD reconsidered this alternative and found it to be in conflict with current Program law. DoD considers the approach described in this final rule to be the most beneficial to both TRICARE beneficiaries and the TRICARE program. It offers time and cost savings and optimum continuity of care to beneficiaries, at no additional costs to the TRICARE program and affords the program the opportunity to expand health care delivery options.

B. Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Department of Defense certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

C. Congressional Review Act

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

D. Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. This final rule will not mandate any requirements for State, local, or tribal governments, nor will affect private sector costs.

E. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rulemaking does not contain a ''collection of information'' requirement, and will not impose additional information collection requirements on the public under Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. chapter 35).

F. Executive Order 13132, ''Federalism''

E.O. 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.4 is amended by revising paragraph (c)(3)(x)(A) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(x) * * *

(A) The services are prescribed and monitored by a physician, certified physician assistant, certified nurse practitioner or Doctor of Podiatric Medicine (Podiatrist) acting within the scope of their license.

* * * * *

■ 3. Section 199.6 is amended by:

■ a. Revising paragraph (c)(3)(iii)(C);

■ b. Revising paragraph (c)(3)(iii)(K)(*2*) introductory text;

■ c. Removing paragraph (c)(3)(iii)(K)(*2*)(*iii*); and

■ d. Adding paragraph (c)(3)(iii)(K)(*3*).

The revisions and addition read as follows:

§ 199.6 TRICARE-authorized providers.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(C) *Doctors of Podiatric Medicine or Podiatrists.*

* * * * *

(K) * * *

(*2*) The services of the following individual paramedical providers of care to be considered for benefits on a fee-for-service basis may be provided only if: The beneficiary is referred by a physician, certified physician assistant, certified nurse practitioner, or podiatrist; and a physician, certified physician assistant, certified nurse practitioner, or podiatrist must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

* * * * *

(*3*) Licensed registered speech therapists (speech pathologists). In order to be considered for benefits on a fee-for-service basis, the services of a licensed registered speech therapist as an individual paramedical provider of care may be provided only if: (1) The beneficiary is referred by a physician, a certified physician assistant, or a certified nurse practitioner; and (2) a physician, a certified physician assistant, or a certified nurse practitioner must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

* * * * *

Dated: November 12, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–25361 Filed 11–16–20; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO–T–2019–0027]

RIN 0651–AD42

Trademark Fee Adjustment

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office or USPTO) is setting or adjusting certain trademark fees, as authorized by the Leahy-Smith America Invents Act (AIA), as amended by the Study of Underrepresented Classes Chasing Engineering and Science Success Act of 2018 (SUCCESS Act). The changes will allow the USPTO to continue to recover the prospective aggregate costs of strategic and operational trademark and Trademark Trial and Appeal Board (TTAB or Board) goals (based on workload projections included in the USPTO fiscal year (FY) 2021 Congressional Justification), including associated administrative costs. They will also further USPTO strategic objectives by better aligning fees with costs, protecting the integrity of the trademark register, improving the efficiency of agency processes, and ensuring financial sustainability to facilitate effective trademark operations. USPTO has weighed carefully current economic conditions and the potential hardship that the fee increase could create for businesses and individuals. The Office paused development of the fee rule because of uncertainty about the economy earlier this year. The latest economic data point to continued recovery in many sectors of the economy. Because of this and the relatively small annual cost to businesses and individuals from USPTO's trademark applications and maintenance fees, the Office has decided to finalize the fee rule for implementation in January 2021.

DATES: This rule is effective on January 2, 2021.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–8946, or by email at *TMPolicy@uspto.gov.*

SUPPLEMENTARY INFORMATION: The USPTO conducted a fee review in FY 2019 that formed the basis for this regulatory process to adjust and set new trademark user fees. While trademark-related costs of operations have risen, trademark fees have not changed since January 2017. The revenue and workload assumptions in this rule are based on the assumptions found in the FY 2021 Congressional Justification (*i.e.,* the USPTO's FY 2021 budget submission to Congress). However, projections of aggregate revenues and costs are based on point-in-time estimates, and the circumstances surrounding these assumptions can change quickly. Notably, since the FY 2021 Congressional Justification was published, some fee collections have been lower than anticipated, due to lower than expected post-registration and Madrid filings.

Although economic circumstances have changed substantially since the FY 2021 budget was developed, the USPTO determined it remains the most appropriate starting point for developing this Final Rule. First, the USPTO's projections of aggregate revenues and costs are necessarily estimates that can change substantially from one point in time to the next due to numerous factors outside the USPTO's control, including cyclical economic changes or exogenous shocks, such as COVID–19, changes in the laws governing USPTO revenues or expenditures, and other events. Nevertheless, the USPTO has historically used its most recent budget assumptions when setting fees because they are the most recent complete evaluation of the USPTO's budget expectations and requirements, and they provide assumptions for stakeholders to use when formulating their comments. Those projections were developed in late calendar year 2019, prior to the COVID–19 outbreak, and they assumed continuing stable economic growth, not the sharp economic downturn and rebound of 2020.

As part of the multi-year fee-setting process, the Trademark Public Advisory Committee (TPAC) held a public hearing at the USPTO on September 23, 2019. The Office considered and analyzed all comments, advice, and recommendations received from the TPAC in proposing the fees set forth in the notice of proposed rulemaking (NPRM) published in the **Federal Register** on June 19, 2020, at 85 FR 37040. In formulating this rule, the USPTO considered the state of the U.S. economy, the operational needs of the agency, and public comments submitted pursuant to the NPRM and made adjustments to the substance of this rule based on these considerations.

The USPTO has considered the state of the U.S. economy, the operational needs of the agency, and the comments and advice received from the public during the 45-day comment period. The current economic conditions illustrate the need for the increases set forth in this rule. The majority of USPTO's trademark revenue comes from new applications, but the initial costs to examine applications exceed the revenues from those applications. These examination costs have been increasing over the years while the USPTO has kept filing fees low enough to encourage broad public participation in the trademark system by offsetting examination costs with revenues generated with intent-to-use (ITU) and maintenance filings. Despite this balancing of front- and back-end costs, the USPTO has been observing multi-year consistent trends that have begun to adversely affect this model. The USPTO is receiving record levels of new trademark application filings, carrying with them larger front-end examination costs, while the percentage of ITU and maintenance filings are decreasing, resulting in less back-end revenue. With larger net costs that are not being offset by back-end revenue, the USPTO would be unable to maintain an operating reserve, which puts the Office on an unsustainable funding model.

The USPTO has observed these trends taking place whether the economy is doing well or facing turmoil, but the present situation is particularly challenging in light of the impact of the pandemic and its effect on the economy and filings. In particular, over the last six months, the USPTO has experienced a surge in new applications while maintenance filings continue to be impacted by lower rates of payment from one-time filers and individual applicants. The surge is also undermining the other traditional revenue sources that have historically offset front-end costs, such as ITU, since the USPTO is receiving more use-based applications, especially from foreign filers. While the USPTO is observing a surge in filings at present, given past experience, we expect a future decline to bring filings in line with the underlying economic dynamism. Although the timing and the magnitude of a future correction may be difficult to anticipate with complete accuracy, given past experience, the USPTO anticipates that a correction in filing levels could generate funding shortfalls that quickly drain our reserves and affect our operations and financial stability.

The USPTO received some comments urging the Office not to raise any fees. As noted below, in the discussion of the Regulatory Flexibility Act, one regulatory alternative that was considered was to leave all trademark fees as currently set. This alternative was rejected because, due to changes in demand for certain services and rising costs described herein, the Office has determined that a fee increase is needed to meet future budgetary requirements as described in the FY 2021 Congressional Justification. As discussed further below, the alternative of making no changes to trademark fees would not have achieved the goals of this rulemaking. Those goals are to assist in promoting access to the trademark system, protect the integrity of the register, and promote the efficiency of the trademark registration process by incentivizing: (1) Maintenance of registrations for goods and services for which marks are actually in use, (2) more timely filing of applications and other documents, and (3) faster resolution of appeals and inter partes proceedings at the TTAB.

USPTO has weighed carefully current economic conditions and the potential hardship that the fee increase could create for businesses and individuals. The USPTO has undertaken many efforts to provide various types of relief, including deadline extensions and fee postponements. Additionally, in the FY 2021 Congressional Justification, implementation of the fee rule was slated for August of 2020. Considering the impact of the pandemic, uncertainty about the economy, and stakeholder feedback, the USPTO paused development of the fee rule over the summer of 2020. The latest economic data point to continued recovery in many sectors of the economy. Because of this and the relatively small annual cost to businesses and individuals from USPTO's trademark applications and maintenance fees, the Office has decided to finalize the fee rule for implementation in January 2021.

I. Purpose: The USPTO protects consumers and provides benefits to businesses by effectively and efficiently carrying out the trademark laws of the United States. As a fee-funded agency, appropriate fees are critically important for the USPTO to maintain the quality and timeliness of examination and other services, and to stabilize and modernize aging information technology (IT) infrastructure on which the Office and its customers rely. The fee schedule enacted in this rulemaking is estimated to provide aggregate revenue to recover the USPTO's aggregate estimated future costs and ensure the USPTO can achieve strategic and operational goals. These goals include effectively using resources to maintain low trademark pendency and high quality, fostering business effectiveness, stabilizing and modernizing trademark IT systems, continuing programs for stakeholder and public outreach, enhancing operations of the TTAB, and ensuring financial sustainability to facilitate effective trademark operations.

Section 10 of the AIA authorizes the Director of the USPTO (Director) to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* as amended (the Trademark Act or the Act) for any services performed by, or materials furnished by, the Office. *See* section 10 of the AIA, Public Law 112–29, 125 Stat. 284, 316–17, as amended by the SUCCESS Act, Public Law 115–273, 132 Stat. 4158. Section 10 of the AIA prescribes that trademark fees may be set or adjusted only to recover the aggregate estimated costs to the USPTO for processing, activities, services, and materials related to trademarks, including administrative costs to the USPTO with respect to such trademark and TTAB operations. This authority includes the flexibility to set individual fees to advance key policy objectives. Thus, the Director may set individual fees at, below, or above their respective associated costs, while taking into account the aggregate estimated costs to the USPTO.

The USPTO estimates, based on the assumptions found in the FY 2021 Congressional Justification, that the additional aggregate revenue derived from the fee schedule set forth here will recover the future costs of implementing strategic and operational goals, including the cost of necessary IT stabilization and modernization activities. Also, the additional revenue will allow the USPTO to achieve sustainable funding by gradually building the operating reserve, which mitigates the risk of immediate unplanned financial disruptions that can adversely affect pendency and quality. Based on the assumptions found in the FY 2021 Congressional Justification, the Office estimates reaching the optimal six-month trademark operating reserve level in FY 2025. However, projections of aggregate revenues and costs are based on point-in-time estimates, and the circumstances surrounding these assumptions can change quickly. Notably, since the FY 2021 Congressional Justification was published, some fee collections have been lower than anticipated, due to lower than expected post-registration and Madrid filings.

II. Summary of Major Provisions: The USPTO is setting or adjusting trademark fees codified in 37 CFR parts 2 and 7. Fees are increased for all application filing types (*i.e.,* paper applications, applications filed via the Trademark Electronic Application System (TEAS), and requests for extension of protection under section 66(a) of the Trademark Act, 15 U.S.C. 1141f). The per-class fee increases range from $25 for a TEAS Plus application to $150 for a paper application. In addition, fees for filing affidavits or declarations of use or excusable non-use under section 8 or section 71 of the Act (section 8 or section 71 affidavits), 15 U.S.C. 1058, 1141k, are increasing by $100 per class. As described in further detail below, these increases address policy considerations related to ensuring a more accurate register as well as reflecting increased processing costs to the Office in handling these filings.

This rule creates two levels of fees for petitions. There is one fee for petitions to the Director under §§ 2.146 and 2.147, and a lower fee for a petition to revive an abandoned application under § 2.66. Currently, the fees for these petitions are $200 if filed on paper and $100 if filed through TEAS. This rule sets the fee for petitions under §§ 2.146 and 2.147 at $350 if filed on paper and $250 if filed through TEAS. The fees for a petition to revive under § 2.66 are set at $250 if filed on paper and $150 if filed through TEAS. These fees take into account the different processing costs of these filings.

The USPTO is also setting a new $50 fee for filing a letter of protest, along with new regulations that codify letter-of-protest procedures. The new fee and procedures are designed to help offset processing costs and deter the filing of unsupported or irrelevant letters of protest, while not discouraging the filing of relevant, well-supported letters of protest. The new regulatory section is based on existing, longstanding procedures for letters of protest, which are currently set forth in the Trademark Manual of Examining Procedure (TMEP), as well as the procedures set out in the patents rules in 37 CFR 1.290 and 1.291 and the Manual of Patent Examining Procedure (MPEP) governing third-party submissions concerning pending applications, which serve a function similar to letters of protest.

As discussed further below, some of the fee adjustments made in this rule are meant to adjust applicant behaviors that put an undue burden on the trademark system and that can adversely affect the quality and integrity of the trademark register. Some of these behavior adjustments are accomplished with new fees (*e.g.,* post audit deletion of goods and services) or with targeted increases (*e.g.* TEAS Plus vs. TEAS Standard to promote more efficient, higher quality, and most cost effective filings, especially for small businesses, or increases for paper filing fees to encourage electronic filing). As a further example, the rule also sets a new fee structure to encourage registrants to perform due diligence before filing a section 8 or section 71 affidavit to maintain a registration, so as to determine the goods or services for which the registered mark is no longer in use and to delete those goods, services, and/or classes from the registration. The rule sets two fee levels for amendments to registrations to delete goods, services, and/or classes that depend on when the amendment is submitted. The first is a $0 fee if the only amendment made in a request under section 7 of the Act (section 7 request), 15 U.S.C. 1057(e), that is filed prior to submission of a section 8 or section 71 affidavit, is the deletion of goods, services, and/or classes. The current practice that results in no amendment fee for section 8 or section 71 affidavits that specify fewer than all of the goods or services listed in the registration when the affidavit is filed, which results in the deletion of goods, services, and/or classes not included in the affidavit from the registration, is unchanged. However a fee will be assessed if goods, services, and/or classes are deleted in either a section 7 request, a response to an Office action, or a voluntary amendment filed after submission, but prior to acceptance, of a section 8 or section 71 affidavit. This is a per-class fee of $250 for submissions filed through TEAS and $350 for submissions permitted to be filed on paper. To implement the new fee requirement, corresponding new regulations are enacted at §§ 2.161(c) and 7.37(c). In addition, the rule revises the section titles and restructures §§ 2.161 and 7.37 to set out the requirements for section 8 and section 71 affidavits more clearly. Except for the new provision regarding the fee required for deletions made after submission and prior to acceptance of the affidavit, the substantive text of §§ 2.161 and 7.37 is not otherwise revised.

Finally, as discussed below, 16 fees related to TTAB filings (8 for electronic filings and 8 for paper filings) are established or adjusted in this rule. Ten existing fees (5 electronic/5 paper) are increased, specifically, those for initiating an ex parte appeal from an examining attorney's refusal to register a mark, for initiating an opposition proceeding, for initiating a cancellation proceeding, and for filing each of two different types of extensions of time to oppose. Six new filing fees (3 electronic/3 paper) are established, which are explained below. The new and adjusted fees are generally designed to recover more of the costs of TTAB procedures, reduce the extent to which they are subsidized by other trademark fee collections, and advance policy objectives. The USPTO also revises § 2.114(a) to provide that a partial refund of the filing fee for a petition to cancel may be made in cases involving only a nonuse or abandonment claim, when default judgment is entered in the case, where there was no appearance by a defendant, and where no filings were made other than the petition to cancel.

III. Rulemaking Goals and Strategies: Consistent with federal fee setting standards, the Office conducted a biennial review of fees, costs, and revenues that began in FY 2019 and found that fee adjustments were necessary to provide the resources needed to improve trademark operations and to implement the USPTO 2018–2022 Strategic Plan (Strategic Plan). As a result, the fee adjustments in this rule directly align with the Office's strategic goals and key objectives as outlined in this section. Consistent with the USPTO's strategic goals and obligations under the AIA, the overall objective of this rule is to ensure the fee schedule generates sufficient revenue to recover the prospective aggregate costs of trademark and TTAB strategic improvements and operations, including the associated administrative costs. Fees must be set at levels projected to cover the cost of future budgetary requirements and maintain an operating reserve at a sufficient level.

Trademark applications in FY 2019 represented filings in a record number of over 673,000 classes of goods/services. During ordinary economic times, application filings generally have increased by an average historical rate of between 7% and 8% per year. To ensure its ability to keep pace with demand, the USPTO is in the midst of a multi-year IT systems and infrastructure upgrade, which is critical to the future of the U.S. trademark registration system and represents a significant cost to the Office.

Trademark filings—and, therefore, total revenue—are sensitive to general economic conditions. In the last two recessions, new application filings declined (2001, by −21.0%; 2002, by −12.7%; and 2009, by −12.3%). So far, in the current uncertain economic environment, trademark application filings are showing some resilience; however, with a protracted pandemic, the risk of a major filing decline remains high. The USPTO anticipates a return to historical growth rates as trademark applicants return to expected activities. However, current fees have not kept up with increases in salary, IT and other costs, and a return to traditional growth rates means a return to additional costs for new staff and supporting resources including information technology. In general, the proposed increases are commensurate with the size of the cost recovery shortfalls in trademark examination and TTAB proceedings. As discussed above, with the larger net costs from applications, revenue surpluses derived from other services, such as ITU and maintenance payments, are being reduced. The increases in this rule are designed to address those shortfalls, which as noted above are projected to increase in the future without the fee adjustments being made in this rule.

The USPTO, as a fully fee-funded agency, retains an operating reserve to ensure sufficient financial resources are available to support and promote public confidence in the U.S. intellectual property (IP) system. The operating reserve enables the USPTO to maintain operations by absorbing and responding to immediate and temporary changes in its economic and operating environments or circumstances, such as unexpected economic downturns, reducing the risk for short-term financial actions and providing the security for long-term strategic investments, such as IT development projects that are crucial to operations and customer support. An adequate operating reserve also allows the USPTO to continue serving its users in the event of a short-term lapse in congressional appropriations or other disruptions to the agency's cash flow.

The fee schedule in effect prior to this rulemaking was insufficient to satisfy future budgetary requirements to: (1) Meet the expenses that will result from projected filings; (2) recover the costs necessary to support trademark and TTAB operations and administrative services; (3) make necessary investments in IT systems, IP policy, and USPTO programs related to trademark and TTAB operations; and (4) achieve optimal operating reserve levels to ensure financial sustainability. Budgetary requirements increased to address unplanned pay raises, additional review of filings for potential fraud, post-registration audits, agency administrative operations, and continued investments in IT that required additional funding beginning in FY 2020. IT investments include modernization of IT systems to create a fully electronic workflow and state-of-the-art technological resources for external and internal users. New systems will also be deployed that enhance access for external trademark customers and stakeholders. Operational gains from these IT investments will allow for a broader public base to more efficiently and effectively apply for, register, and maintain trademark registrations and to continue to invest in and reap the benefits of strong brands, which will ultimately benefit American consumers and sustain economic activities.

Without the fee adjustments enacted in this rule, based on the assumptions found in the FY 2021 Congressional Justification, budgetary requirements would exceed revenues and available operating reserve balances beginning in FY 2022 through FY 2025 (*see* Table 1).

TABLE 1—TRADEMARK FINANCIAL OUTLOOK WITHOUT FINAL RULE FEES—FY 2021–FY 2025

	Dollars in millions				
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Projected Fee Collections	$367	$390	$412	$430	$447
Other Income	6	6	6	6	6
Total Projected Fee Collections and Other Income	373	396	418	436	453
Budgetary Requirements	419	460	462	478	497
Funding to (+) and from (−) Operating Reserve	(46)	(64)	(44)	(42)	(44)
Operating Reserve Balance	26	(38)	(81)	(123)	(167)
Over/(Under) Minimum Level	(49)	(113)	(156)	(198)	(242)
Over/(Under) Optimal Level	(184)	(268)	(312)	(362)	(415)

Table 2 below shows the available revenue and operating reserve balances by fiscal year, after including the new fee rates in the projected fee collections. The numbers in the table below were developed in late calendar year 2019, prior to the COVID–19 pandemic, in support of the FY 2021 Congressional Justification, and have been updated to remove the previously proposed fee for requests for reconsideration filed more than three months from the date of issuance of a final Office action. Under current circumstances, it is difficult to predict what the actual numbers will be. However, since the USPTO was projecting insufficient funding even during an economic expansion (*see* Table 1), and the trademark financial outlook has worsened since the onset of the pandemic, the fee increase is a necessary step to put the Office on a sustainable financial path.

TABLE 2—TRADEMARK FINANCIAL OUTLOOK INCLUDING FINAL RULE FEES—FY 2021–FY 2025

	Dollars in millions				
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Projected Fee Collections	$443	$471	$497	$518	$538
Other Income	6	6	6	6	6
Total Projected Fee Collections and Other Income	449	477	503	524	544
Budgetary Requirements	419	460	462	478	497
Funding to (+) and from (−) Operating Reserve	30	17	41	46	47
Operating Reserve Balance	101	118	159	206	253
Over/(Under) Minimum Level	26	43	84	131	178
Over/(Under) Optimal Level	(108)	(112)	(72)	(33)	4

Additional information on estimated costs can be found in the USPTO FY 2021 Congressional Justification at *https://www.uspto.gov/about-us/performance-and-planning/budget-and-financial-information,* which includes two revenue estimates, one based on the current fee schedule and another based on the fee schedule proposed in the NPRM (*see* Appendix IV: USPTO Fees—Change from FY 2020 PB to FY 2021 PB).

Another fee setting goal of this rulemaking is to set individual fees to further key IP protection policy objectives while taking into account the cost of a particular service. The USPTO seeks to enhance trademark protection for IP rights holders by offering application processing options and promoting IP protection strategies.

A. Aligning Fees With Costs: The first fee setting policy consideration is to set and adjust trademark fees to more closely align them with the costs of providing the relevant services. The overall goal is to achieve total cost recovery from fee collections for trademark and TTAB operations, including associated administrative services. In determining which fees to set or adjust, this rule targets changes to the category of fees in which the gap between the cost of the service and the current fee rate is the greatest, and where narrowing that gap serves policy objectives. As noted above, application filing fees, petition fees, and TTAB fees do not fully cover the costs of processing and examination for those services. Instead, these costs are recovered or subsidized from fees paid for intent-to-use and post-registration maintenance filings that return more than the costs of processing such filings. As noted above, the USPTO anticipates, based on current trends, that this shortfall in cost recovery for these front-end services will continue absent the fee adjustments made in this rule. For example, using FY 2019 earned revenue compared to costs or expenses, application filing fees recovered 65% of expenses, petition (trademark processing) fees recovered 50% of expenses, and TTAB fees recovered just 31% of expenses (*see* Table 3).

TABLE 3—EARNED REVENUE VS. EXPENSE BY TRADEMARK PRODUCT

[Dollars in millions]

Trademark products	FY 2019 earned revenue	FY 2019 expense	FY 2019 variance	Earned revenue vs. expense or cost recovery (percent)
Application Filings	$190	$292	$(102)	65
Intent to Use/Use Fees	50	17	33	291
Trademark Processing Fees	3	5	(2)	50
Maintaining Exclusive Rights	80	14	66	571
Madrid Protocol	4	1	3	427
Other Trademark Fees	11	9	2	119
Trademark Trial and Appeal Board	8	28	(20)	31
Total	346	366	(20)	95

The fee schedule enacted in this rule will increase the percentage of fee revenues collected over a five year period for application filings by 21%, for petition filings by 73%, and for TTAB filings by 58% overall, thereby increasing the cost recovery for these services (*see* Table 4).

TABLE 4—INCREASE IN CUMULATIVE REVENUE OVER FIVE YEARS, BY PRODUCT

[Dollars in millions]

Trademark products	Projected cumulative revenue, FY 2021–FY 2025		% Increase
	Current fee rates (baseline)	Final fee rates	
Application Filings	$1,079	$1,301	21
Maintaining Exclusive Rights	518	659	27
Intent to Use/Use	293	293	0
Madrid	29	42	45
TTAB	53	83	58
Petition	18	30	73
Other Processing Fees	58	58	0
Total	2,047	2,467	20

Estimated revenues account for adjustments made to fee rates after considering public comments received in regard to this rulemaking.

B. Protecting the Integrity of the Trademark Register: The second fee setting policy consideration is to set or adjust fees to provide resources necessary to improve the accuracy of the trademark register. The trademark register is a reflection of marks that are actually in use in commerce in the United States for the goods and/or services identified in the registrations and its accuracy serves a critical purpose for the public and for all registrants. An accurate register allows the public to rely on the register to determine potential trademark rights. By registering trademarks, the USPTO has a significant role in protecting consumers, as well as providing important benefits to American businesses, by allowing them to strengthen and safeguard their brands and related investments. The public relies on the register to determine whether a chosen mark is available for use or registration. When a person's search of the register discloses a potentially confusingly similar mark, that person may incur a variety of resulting costs and burdens, such as those associated with investigating the actual use of the disclosed mark to assess any conflict, initiating proceedings to cancel the registration or oppose the application of the disclosed mark, engaging in civil litigation to resolve a dispute over the mark, or changing business plans to avoid the use of that person's chosen mark. In addition, such persons may incur costs and burdens unnecessarily if a registered mark is not actually in use in commerce in the United States or is not in use in commerce in connection with all the goods and/or services identified in the registration. An accurate and reliable trademark register helps avoid such needless public costs and burdens.

This rule sets and adjusts fees to encourage actions by trademark filers that help facilitate more efficient processing and the prompt conclusion of application prosecution by assessing fees for second and subsequent extension requests to file appeal briefs. In addition, filings that may result in a less accurate register, including post-registration filings to maintain registrations that may include goods or services for which the mark is no longer in use, are among those filings targeted under this objective. The new fee structure for requests to delete goods, services, and/or classes from a registration will protect and improve the integrity of the register and the efficiency of the process by incentivizing both more timely filings and proactive action by registrants to ensure the accuracy of their registrations. The increased efficiencies realized through this rule will benefit all applicants and registrants by allowing registrations to be granted sooner and more efficiently by removing unused marks and unsupported goods and services from the register. In addition, revenue generated by this rule allows for continuing development of methods for detecting and addressing filing practices that threaten the integrity of the register.

C. Improving the Efficiency of USPTO Processes: The third fee setting policy consideration pertains to improving the efficiency of the trademark and TTAB processes. To that end, this rule targets changes to fees that will administratively improve application and appeal processing by incentivizing more complete and timely filings and prosecution. For example, TEAS Plus, the lowest-cost TEAS application filing option, has more stringent initial application requirements and thus tends to result in a more complete application, which expedites processing, shortens pendency, minimizes manual processing and the potential for data-entry errors, and is thus more efficient for both the filer and the USPTO. While the per-class fee for TEAS Plus is increasing by $25 (to $250) under this rule, the per-class fee for TEAS Standard, which has less stringent initial application requirements, is increasing by $75 (to $350), resulting in a difference of $100 in the per-class fees of the respective filing options (double the current difference of $50), providing a greater financial incentive to choose the more efficient TEAS Plus filing option.

D. Ensuring Financial Sustainability to Facilitate Effective Trademark Operations: The fourth fee setting policy consideration pertains to ensuring sufficient revenue to recover the aggregate costs of Trademark and TTAB operations in future years. Additional resources are necessary to fund the multi-year project to upgrade IT systems and infrastructure and other business improvements, while also maintaining a sufficient operating reserve balance to ensure sustainable funding that will mitigate the risk of unplanned financial disruptions that could threaten operations and planned investments.

Operating reserves are intended to mitigate operational risk caused by a lack of financial resources. The USPTO defines an optimal balance and a minimum acceptable balance for the trademark operating reserve. The optimal balance sets the goal for building and maintaining the operating reserve—it defines the desired level of operating reserves the USPTO wishes to maintain. The USPTO analyzes risks related to spending and fee collections, considering the likelihood and consequence of each and its impact to financial stability, in determining the optimal reserve level. The USPTO has determined six months of operating or budgetary requirements to be the optimal trademark reserve.

This rule will provide a stable financial foundation to fulfill the USPTO mission and maintain performance. The budgetary requirements of the USPTO are comprised of substantial fixed costs, which require increased fee rates to ensure revenue sufficient to recover aggregate costs. Based on the assumptions found in the FY 2021 Congressional Justification, this rule will produce sufficient revenue to recover the aggregate costs of Trademark and TTAB operations, including executing USPTO strategic goals, policy objectives, and initiatives; creating a better and fairer cost-recovery system that balances subsidizing costs to encourage broader usage of IP rights-protection mechanisms and participation by more trademark owners; promoting a strong incentive for more efficient filing behaviors; and protecting the federal trademark register as a reliable indicator of marks in use in commerce.

Based on the assumptions found in the FY 2021 Congressional Justification, the USPTO projects that trademark fee collections in total would increase by an average of 20% per year, or $76 million to $91 million per year, over the five-year planning period as compared to the baseline (*see* Table 5).

TABLE 5—ANNUAL INCREASES IN AGGREGATE REVENUE

[Dollars in millions]

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Average
Aggregate Revenue—Baseline	$367	$390	$412	$430	$447	$409
Aggregate Revenue—Final Rule	$443	$471	$497	$518	$538	$493
$ Increase	$76	$81	$85	$88	$91	$83
% Increase	21%	21%	20%	20%	20%	20%

The projections of both aggregate revenues and costs are based on point-in-time estimates and assumptions that are subject to change. There is considerable uncertainty in estimating both fee collections and budgetary requirements in ordinary times, and even more so now. In addition to the COVID–19 pandemic, a number of other risks could materialize (*e.g.,* lower application volumes, decreased renewals, recompetition of major contracts, lease renewals, changing assumptions about presidentially authorized or congressionally mandated employee pay raises, etc.) that could change the USPTO's budgetary outlook. These estimates are refreshed annually in the formulation of the USPTO's Budget, and the USPTO continues to gain new data as the pandemic unfolds.

IV. Comments and Responses: In response to the NPRM published on June 19, 2020, the USPTO received comments from four intellectual property organizations and fifteen individual commenters, representing law firms, small business owners, and individuals. These comments are posted on the *Regulations.gov* website at *https://beta.regulations.gov/document/PTO-T-2019-0027-0001*.

The Office received comments both generally supporting the need to increase fees and objecting to particular proposed fee increases. Four major user groups representing thousands of trademark professionals and trademark owners, who run the gamut from large corporations, to small businesses and individuals submitted comments on behalf of their members. The user groups generally acknowledged and supported the need to increase fees to further USPTO's strategic objectives and facilitate effective operations, including encouraging e-filing and enabling needed improvements in technology and technology infrastructure. However, the user groups objected to or had comments regarding some specific fee increases, as discussed below. In addition, at least one user group noted that some business owners struggle to pay the current fees and suggested that the USPTO consider the state of the U.S. economy before issuing the final rule. Several of the other commenters objected to any increase in fees, as they believed such increases placed hardships on small business owners. Multiple commenters requested additional information on the rationales for the increases and that the Office take the current economy into consideration before issuing a final rule.

The USPTO appreciates the commenters' support of the need to increase revenue as well as their concerns regarding the impact of the rule on small businesses owners. As noted above, in formulating this rule, the USPTO considered the state of the U.S. economy, the operational needs of the agency, and comments submitted in response to the NPRM. The USPTO is also mindful of the current difficulties many USPTO users are experiencing as a result of the COVID–19 pandemic. The USPTO has undertaken many efforts to provide various types of relief, including deadline extensions and fee postponements. Additionally, in the FY 2021 Congressional Justification, implementation of the fee rule was slated for August of 2020. Considering the impact of the pandemic, and in response to the stakeholder feedback, the USPTO paused development of the fee rule over the summer of 2020 and deferred the timing of implementation of the fee rule from August 2020 to January 2021. This is the first change of trademark fee rules in almost four years. Fees were adjusted in January 2017, and many of those changes were to encourage electronic filing by increasing fees for certain paper submissions. See 81 FR 78042 and FR 81 72694. Since that time, the USPTO has made electronic filing mandatory except in limited circumstances.

Further, after considering all comments, the Office has withdrawn the proposed fee for requests for reconsideration filed more than three months from the date of issuance of a final Office action, which commenters noted are a frequently used option for applicants prosecuting applications.

It should also be noted that USPTO's fees for trademark services remain relatively small compared to the legal fees many applicants incur in seeking those services. Many applicants engage attorneys to handle their filing with the Office, and based on data concerning the cost of trademark representation, including from the American Intellectual Property Law Association's 2019 Report of the Economic Survey, USPTO understands that trademark fees represent a small fraction of the legal fees a filer would generally pay to have an attorney represent them during the application process. In a TTAB proceeding, where even more time and work is required by an attorney representing a party before the Board, the fees for TTAB services would generally be an even smaller fraction of attorney fees associated with the representation. Understanding that legal fees are a significant expense, the USPTO will continue to help to minimize the cost of the application process for small businesses through the USPTO's law school clinic program, which enables qualified individuals and small businesses in need of trademark legal services to receive pro bono assistance in filing applications and responding to Office actions in trademark applications.

The Office also notes that some of the fees being increased in this rule are paid by only a relatively small number of applicants—such as TTAB fees and letter of protest fees, which are not incurred by the majority of applicants with trademark business before the Office—and therefore these fee increases are unlikely to impact a large number of applicants, including small business owners.

Some commenters also expressed concerns with specific individual fees. In the interest of providing context, when the USPTO received comments about a specific fee, they are summarized, and the USPTO's responses are provided, in the discussion below of the individual fee rationale.

V. Individual Fee Rationale: Based on the assumptions found in the FY 2021 Congressional Justification, the USPTO projects the aggregate revenue generated from this rule will recover the prospective aggregate costs of its trademark and TTAB operations and associated administrative services. However, each individual fee is not necessarily set at an amount equal to the estimated cost of performing the activities related to the fee. Instead, as described above, some of the fees are set to address increases in budgetary requirements as well as balance several key policy considerations, and executing these policy considerations through the trademark fee schedule is consistent with the goals and objectives outlined in the Strategic Plan. Once the cost recovery and key policy considerations are factored in, fees are set at, above, or below individual cost-recovery levels for the service provided. Additional details on the cost methodologies used to derive the historical fee unit expenses can be found in ''USPTO Fee Setting—Activity Based Information and Trademark Fee Unit Expense Methodology'' at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting*.

A. Trademark application filing fees: This rule increases all application filing fees by varying amounts. The filing fee for a paper trademark application is increasing by $150, from $600 per class to $750 per class. The TEAS Plus application filing fee is increasing by $25, from $225 per class to $250 per class. The TEAS Standard application filing fee is increasing by $75, from $275 per class to $350 per class. The fee for filing an application under section 66(a) of the Act is increasing by $100, from the equivalent of $400 per class, as paid in Swiss francs, to the equivalent of $500 per class, as paid in Swiss francs.

Comments: One commenter expressed support for the increase in the paper application filing fee. Four commenters expressed concerns about the increase in electronic initial application fees. Of those four comments, one generally commented that increases will impact small businesses, while the others expressed concern about the amount of the increase in the TEAS Standard application and resulting gap in cost between TEAS Plus and TEAS Standard applications.

Response: The USPTO appreciates the commenter's support of the need to increase the paper application fee. The USPTO also appreciates commenters' concerns regarding the increase in the TEAS Standard fees and impact on small business owners. Initial application fees are generally kept lower than the full processing cost in order to enable broader participation in the trademark registration system. The increase in the fees will help close the gap between the processing cost and incoming revenue while still keeping the fees below the full processing cost. The USPTO also notes that filers continue to have the option to select TEAS Plus, which is only increasing by $25, from $225 per class to $250 per class, which is less than current TEAS Standard fee rates, and encourages filers, including individuals and small business owners, to use this less expensive filing option.

This rule also decreases the processing fee for failure to meet the filing requirements under § 2.22(a) for a TEAS Plus application from $125 to $100 per class. Thus, if the processing fee is required in a TEAS Plus application, the resulting per-class fee will equal the per-class fee for a TEAS Standard application. If a decrease in the processing fee were not enacted, the per-class fee for an application initially filed as TEAS Plus would exceed the fee for a TEAS Standard application, creating a disincentive to choose TEAS Plus, which, as noted above, tends to be more efficient for both filers and the USPTO.

B. Fees for Paper Trademark Filings: This rule maintains the cost differential for all paper filings to better align fees with costs by setting all trademark processing fees for paper filings $100 to

$200 higher than the corresponding electronic filing fees (per class, when applicable). Overall, it is more costly for the USPTO to process paper filings than electronic filings, and that cost is not recovered by the current fees for paper filings. Raising the fees for paper filings will help offset the higher processing costs and move the USPTO closer to total cost recovery.

A final rule published on July 31, 2019 (84 FR 37081), which became effective on February 15, 2020 (84 FR 69330), requires applicants and registrants to file electronically through TEAS all trademark applications based on section 1 and/or section 44 of the Act, 15 U.S.C. 1051, 1126, and all submissions filed with the USPTO concerning applications or registrations, with limited exceptions. This followed a final rule published on October 7, 2016 (81 FR 69950), which became effective on January 14, 2017, requiring all parties in TTAB proceedings to file electronically through the Electronic System for Trademark Trials and Appeals (ESTTA). At present, the vast majority of filings are submitted electronically. For example, in FY 2019, less than 0.02% of initial applications were filed on paper. Thus, an increase in paper filing fees will have no impact on the vast majority of applicants, registrants, and parties to Board proceedings, who already meet the requirement to file documents electronically.

C. Other Trademark Processing Fees: This rule also increases certain other trademark processing fees to further key policy goals. The rule sets out increases to the fees for petitions to the Director as well as section 8 and section 71 affidavits. In addition, the rule sets new fees and procedural regulations for filing a letter of protest, and for deleting goods, services, and/or classes from a registration after submission and prior to acceptance of a section 8 or section 71 affidavit. Finally, the USPTO decided not to implement the proposed new fee for a request for reconsideration filed more than three months, but within six months, after the issue date of a final action or with a petition to revive an abandoned application.

(1) Petitions to the Director in Trademark Matters: This rule separates petitions to the Director into two types. Each type has a new and distinct fee amount with different levels of increases from the current single fee. The rule increases the fee for filing a petition to the Director for petitions filed under §§ 2.146 or 2.147 by one amount and establishes a separate fee code for petitions to revive filed under § 2.66 that increases the fee by less than the fee for petitions filed under §§ 2.146 or 2.147. The fees enacted herein are intended to facilitate effective trademark operations. The fee for electronically filing a petition to the Director under §§ 2.146 or 2.147 is increasing from the current fee of $100 to $250, and the fee for filing on paper is increasing from $200 to $350. The fee for electronically filing a petition to revive an abandoned application under § 2.66 is increasing from the current fee of $100 to $150, and the fee for filing on paper is increasing from $200 to $250.

Generally, petitions under §§ 2.146 or 2.147 extend the trademark registration and post-registration processes by introducing additional processing and examination into the timeline, which may lead to applications and registration maintenance documents remaining in a pending status for longer periods of time, potentially blocking others. They can also be used to delay processing of TTAB matters. By increasing fees for these filings, the USPTO discourages misuse of the process through unnecessary filings that delay prosecution of an application or registration maintenance document.

Comments: One commenter indicated that they did not oppose the increase to the fee for petitions to the Director under § 2.66 to revive an abandoned application and also generally supported or are neutral regarding the increase in the fee for petitions to the Director under §§ 2.146 and 2.147. Another commenter noted that the amount of the increase for petitions under §§ 2.146 and 2.147, from $100 to $250, seems significantly beyond the rate that is appropriate for periodic increases.

Response: The USPTO appreciates the feedback regarding the increase in fees for a petition to the Director. The fee for filing a petition to the Director has not increased since the fee was established, more than 30 years ago. Under this rule, petitions to the Director have been separated by type. Petitions under § 2.66 to revive an application abandoned for failure to respond to an Office action or notice of allowance are increased by a smaller amount because they cost less to process. These petitions generally require less processing when the filer complies with certain criteria in the submission itself. Petitions to the Director under §§ 2.146 and 2.147 usually include unique facts that require a lengthier review process. The increase in the fees for each type of petition will help to recoup more of the costs to process these filings. Additionally, the increase will further policy considerations consistent with the goals and objectives outlined in the Strategic Plan because this fee should discourage misuse of the petition process through unnecessary filings that delay prosecution of an application or registration maintenance document, or an appeal or trial proceeding before the TTAB.

(2) Section 8 or Section 71 Affidavits: Fees from post-registration filings have historically been set to recover more than the costs of processing the filings. The fees are used to help offset the cost of application processing and examination as well as TTAB trial proceedings and appeals—services for which the fees charged generally do not recover the full cost. In general, fewer post-registration maintenance filings are made by pro se and foreign registrants, who comprise a growing share of new applicants. Based on recent pre-pandemic trends, the overall percentage of registrations being maintained is decreasing. Therefore, the USPTO anticipates that it will face a continuing decrease in revenue from maintenance filings going forward if adjustments are not made. Increasing fees for section 8 and section 71 affidavits is necessary to continue to enable the USPTO to achieve aggregate cost recovery while allowing other fees to remain below their individual unit costs.

This rule also increases the fees for these filings in part because of the post-registration audit program, which was implemented as a result of the 2012 Post Registration Proof of Use Pilot Program (pilot program). During the pilot program, section 8 or section 71 affidavits for 500 registrations were reviewed as to actual use of the marks in connection with the goods and/or services identified in the registrations in order to assess the accuracy and integrity of the trademark register. The findings of the pilot program demonstrated a need for ongoing measures for additional review of these filings on a permanent basis. Since codifying the authority to require additional information and evidence concerning the use of registered marks in connection with section 8 and 71 maintenance filings in 2017 (82 FR 6259), the USPTO has conducted additional reviews of the actual use of the marks in 8,276 section 8 or section 71 affidavits through January 1, 2020. In more than 50% of the registrations undergoing the additional review, the registrations have either been removed from the register or had goods or services deleted, resulting in a more accurate trademark register. The fee increases implemented in this rule will also support the cost of this additional review.

Comments: Three commenters expressed concerns about the increase in fees for filing a section 8 or section 71 affidavit. One commenter stated that the increase of $100 is excessive in light of the $25 increase four years ago. A second commenter indicated the increases will decrease renewal filings, particularly among small business owners. The third commenter stated that the increase in fees is significant. This commenter also mentioned increases to the section 15 fee. The USPTO notes that although an increase to the section 15 fee was initially considered, it was not proposed in the NPRM.

Response: The USPTO appreciates the commenters' concerns regarding the increase in the fees. These post-registration filing fees have historically been set to recover more than the costs of processing the filings in order to offset costs in other parts of the process. In addition, these fees are increasing to offset the cost of the legal examination required to conduct the post registration audit program, a valuable tool for improving the accuracy and integrity of the trademark register.

Costs for this additional examination were discussed in the last fee adjustment in 2017. At that time, the Office was in the process of reviewing the findings from the pilot program and codifying regulations for the permanent audit program. The results of this ongoing audit program indicate that not only should this program continue, but also that the need for legal examination of an increasing number of filings is warranted. Based on these findings, the increase in fees is necessary to help offset costs for this program and allow other fees to remain below their individual unit costs.

(3) Letters of Protest in Trademark Applications: This rule sets a new $50 fee for filing a letter of protest. A letter of protest allows a third party to bring to the attention of the USPTO evidence bearing on the registrability of a mark in a pending application. In this way, the letter-of-protest procedure can potentially improve the quality of the examination of a given application. The procedure is not, however, a substitute for the statutory inter partes opposition and cancellation procedures available to third parties who believe they would be damaged by the registration of the involved mark. A letter of protest, properly supported, should aid in examination without causing undue delay or compromising the integrity and objectivity of the ex parte examination process, which is designed to involve communications regarding an application only between the applicant and the Office. For this reason, the protestor is not permitted to submit legal arguments, contact the examining attorney assigned to the subject application, or participate in any Office proceedings relating to the protest or the application to which it is directed. The limited involvement of the third party ends with the filing of the protest. The questions of whether evidence is relevant to a ground for refusal appropriate in ex parte examination, whether a refusal should be made, or whether a registration will issue are matters for the Office to determine during the ex parte examination process that occurs between the applicant and the Office acting on behalf of the public.

The Office incurs costs associated with the work of reviewing and processing each letter. The filing volume for letters of protest has steadily increased in recent years, with the USPTO receiving 2,726 in FY 2017; 3,480 in FY 2018; and 4,106 in FY 2019. Thus, letters of protest continue to generate increasing additional expenses, which will likely further increase in the future.

Comments: The Office received comments both generally supporting and objecting to the new fee to file a letter of protest. Commenters supporting the fee stated that the amount is reasonable and appropriate to recoup costs. Two of the commenters indicated that the fee should be kept as low as possible, with one suggesting that the fee should be set at $25 instead of $50, and one suggesting that the fee should be refunded if the letter of protest is granted. Several other commenters expressed concerns about the impact to small businesses by requiring a fee to file a letter of protest. These commenters also noted that letters of protest aid the Office by bringing to light information and/or refusals that an examining attorney may miss. These commenters stated that the Office should not charge a fee for a process that allows the public to aid in the registration process.

Response: The USPTO understands the desire to keep the fee low so as to not discourage the use of the letter-of-protest process. However, given the costs to process these filings, the USPTO has determined that a fee is necessary to help offset some of the processing costs. Similar to petitions under §§ 2.146 and 2.147, review of letters of protest cannot be automated because they include unique facts requiring review by staff attorneys to ensure guidelines are met before the information is sent to the examining attorney for review. In FY 2019, the evidence in approximately 25% of pre-publication letters of protest and 94% of post-publication letters of protest was not forwarded to the examining attorney. This suggests that a significant portion of filings do not contain relevant information or evidence, do not meet the requirements for a letter of protest, or are otherwise unnecessary. These filings generate additional costs without a proportionate corresponding benefit. The fee set by this rule is below the amount required to recoup the full processing cost. The fee is intended to be at a level high enough to partially offset processing costs and deter the filing of unsupported or irrelevant filings, but low enough so as not to discourage the filing of relevant, well-supported letters of protest. This fee is also consistent with the recommendations contained in the TPAC report that it fall within the $20 to $100 fee range. The USPTO does not anticipate that the letter of protest fee will impact a large number of parties with business before the Office. The letter of protest is a purely voluntary process that most applicants and registrants do not use. In addition, the letter of protest process was developed many years ago when examining attorneys had limited resources for gathering evidence to support refusals of registration. The tools available to examining attorneys today are far more advanced, reducing the need for letters of protest.

In connection with this fee, the USPTO also codifies a new regulatory section at 37 CFR 2.149, which sets out the procedures for letters of protest. The new regulatory section is based on the existing longstanding procedures for letters of protest, which are currently set forth in the TMEP, with appropriate modifications that more closely align the procedures with those for similar third-party submissions and protests in patent applications under 37 CFR 1.290 and 1.291 and as set out in MPEP §§ 1134 and 1901. This action is being undertaken at this time due to the rising volume of letters of protest in recent years, which has resulted in the need to codify procedures for submission of such protests in the regulations and to adjust those procedures to deal efficiently with this higher volume of filings.

Under the procedures set forth in the regulatory text at § 2.149, a letter of protest must be timely filed through TEAS and must include: (1) The fee; (2) the serial number of the pending application that is the subject of the protest; (3) an itemized evidence index that includes identification of the documents, or portions of documents, being submitted as evidence and a concise factual statement of the relevant grounds for refusal of registration appropriate in ex parte examination that each identified item supports; and (4) a clear and legible copy of the supporting evidence identified in the evidence index. If the letter of protest is filed before publication of the subject application, the evidence must be relevant to the identified ground(s) for refusal. If filed on the date of or within 30 days after publication of the subject application, the evidence must establish a prima facie case for refusal on the identified grounds, such that failure to issue a refusal or make a requirement would likely result in issuance of a registration in violation of the Act or regulations.

The letter-of-protest process is intended to provide an opportunity for the protestor to efficiently and effectively provide relevant evidence in support of the proposed legal grounds for refusing registration of the application identified in the submission. It is inappropriate for the protestor to ''dump'' evidence and leave it to the Office to determine its possible relevance. Therefore, an index is required for all submissions listing the documents submitted as evidence and the ground(s) for refusal each item of evidence supports. In addition, the procedures also require that the submission not total more than 10 items of evidence in support of a specified ground of refusal and not more than 75 total pages of evidence without a detailed and sufficient explanation that establishes the special circumstances that necessitate providing more than 10 items of evidence per refusal ground or more than 75 total pages of evidence. This requirement encourages the submission of evidence that is succinct, not duplicative, and limited to the most relevant evidence. It should be a rare situation in which more than 10 items of evidence or 75 total pages of evidence is necessary to support the proposed legal grounds for refusal. However, some examples of situations that might constitute such special circumstances are when: (1) A subject application includes multiple classes and the protestor needs to provide evidence of relatedness of the goods and/or services for all classes in the application; (2) evidence submitted to support a refusal for descriptiveness consists of fewer than 10 discrete items, but each item comprises multiple pages, totaling more than 75 pages; or (3) a protestor raises more than one ground for refusal and the evidence necessary to support all grounds raised totals more than 10 items or 75 pages.

A letter of protest submitted by a third party is not made part of the application record to preserve the ex parte nature of examination. If the USPTO determines that the submission complies with the proposed regulations, only the specified grounds for refusal and the provided evidence relevant to the grounds for refusal would be included in the application record for consideration by the examining attorney. A third party filing a letter of protest will not receive any communication from the USPTO relating to the submission other than acknowledgement that it has been received by the Office and notification of whether the submission is found to be compliant or non-compliant. Also, the Office will not accept amendments to a non-compliant submission that was previously filed or requests to reconsider a compliance determination. Rather, the third party may submit a new letter of protest that is compliant if the time period for submitting a letter of protest has not closed. A protestor does not, by the mere filing of a protest, obtain a ''right'' to argue the protest before the Office. As noted above, the questions of whether evidence is relevant to a refusal ground appropriate in ex parte examination, whether a refusal will be made, or whether a registration will issue are matters for the Office to determine as part of the ex parte examination process that occurs between the applicant and the Office acting on behalf of the public. Therefore, the procedures also provide that: (1) The Office's determination whether to include submitted evidence in the record of an application would be final and non-petitionable, (2) the limited involvement of the third party ends with the filing of the letter of protest, and (3) the third party may not directly contact the examining attorney assigned to the application.

(4) Requests for Reconsideration in Trademark Applications: The USPTO has decided not to implement the proposed new fee for a request for reconsideration filed more than three months, but within six months, after the issue date of a final action or with a petition to revive an abandoned application. The proposed fee was $400 for a TEAS submission and $500 for a paper submission. No fee was proposed to be incurred for requests filed within three months of the issue date of a final action.

Comments: Seven commenters objected to and expressed a variety of concerns regarding implementation of a fee for requests for reconsideration of a trademark application. One commenter noted that the proposed fee would impose a significant financial burden late in the process. Another commenter noted that the proposed fee would be higher than the initial application fee.

Response: After further review, the USPTO has determined that the proposed fee might not provide significant enhancement to the timeliness or quality of the examination process and would impose an additional financial burden to administer. Given these considerations and the public concerns about such a fee, including the impact of potential fee increases on small businesses and individuals, the USPTO withdraws this proposed fee.

(5) Deletion of Goods, Services, and/or Classes from Registrations: Currently, amendments to registrations may be made by filing a section 7 request for amendment or correction of a registration for $100, if submitted through TEAS, or $200, if filed on paper. This rule sets a $0 fee for a section 7 request that is filed through TEAS prior to the submission of a section 8 or section 71 affidavit and that consists only of a request to delete specified goods, services, and/or classes. As noted above, the current practice that results in no additional amendment fee for section 8 or section 71 affidavits that specify fewer than all of the goods or services listed in the registration when the affidavit is filed, which results in the deletion of goods, services, and/or classes not included in the affidavit from the registration, is unchanged. However, a fee will be assessed if goods, services, and/or classes are deleted in a section 7 request, a response to an Office action, or a voluntary amendment filed after submission, but prior to the acceptance, of a section 8 or section 71 affidavit. This rule sets a new fee of $250 per class, if filed through TEAS, or $350 per class, if a paper filing is permitted, for deleting goods, services, and/or classes from the registration under such circumstances.

The $0 fee option is available to, and the $250 (or $350) per-class fee will be assessed against, all registrants. Thus, the fees are not related to the post-registration audit program or a TTAB finding. The fees are intended to improve the accuracy and integrity of the register by encouraging all registrants to perform due diligence before filing a section 8 or section 71 affidavit to maintain a registration, so as to determine the goods, services, and/or classes for which the registered mark is no longer in use and to delete them from the registration.

Comments: One commenter indicated support for a $0 fee for a section 7 request to delete goods or services prior to filing a section 8 or 71 affidavit. Two commenters expressed concern for offsetting the cost to the USPTO to mail an updated paper registration certificate to filers who take advantage of the $0 fee.

Response: The comments have been considered; however, the USPTO anticipates that other fees will help offset these costs. The decision to implement this fee as proposed prioritizes the key policy objective of incentivizing improvement of the accuracy and integrity of the register.

Comments: Five commenters expressed concerns regarding the new fee to delete goods, services, and/or classes from a registration after a section 8 or 71 affidavit has been submitted. One commenter indicated there should be no fee for changes made online. Three commenters indicated the amount of the fee is too high, with two commenters suggesting the fee should be $100 per class. Finally, one commenter expressed concerns regarding the post-registration audit program and use of the fee to incentivize an increase in audited files.

Response: Applicants and registrants are required to submit all trademark filings electronically (*i.e.,* online). 37 CFR 2.23. Since the fee is intended to incentivize all registrants to perform the due diligence necessary to ensure that the mark is in use on all goods and/or services recited in the registration prior to the submission of a section 8 or 71 affidavit, not implementing the fee for an electronic filing would undermine the USPTO's express purpose in proposing the fee. Further, the fee is not charged if the registrant performs its due diligence and deletes any goods, services, and/or classes for which the mark is not in use within the section 8 or 71 affidavit at the time of filing.

As noted above, the fee structure for requests to delete goods, services, and/or classes from a registration will protect and improve the integrity of the register and the efficiency of the process by incentivizing both more timely filings and proactive action by registrants to ensure the accuracy of their registrations. Undermining the quality of the register will generate potentially exorbitant undue costs and hardship on registrants, applicants, and the agency. The new fee needs to be high enough to reflect the significance of incomplete due diligence. At the same time, the fee should not be so low as to have limited deterrence. The USPTO believes that $250 is the appropriate fee to incentivize the desired practices. Further, the increased efficiencies realized through this rule will benefit all applicants and registrants by allowing registrations to be granted sooner and more efficiently by removing unused marks and unsupported goods and services from the register. In addition, revenue generated by this rule allows for continuing development of methods for detecting and addressing filing practices that threaten the integrity of the register.

The USPTO assures the public that any decision to increase the number of registrations audited after submission of a post-registration maintenance document would be made to promote the accuracy and integrity of the register and not because of the possibility that it might increase revenue. As noted above, the no-fee option is available to, and the $250 (or $350) per-class fee will be assessed against, all registrants. The fee is applied to all registrations in which goods or services are deleted after submission, but prior to acceptance, of a section 8 or 71 affidavit, not only to deletions in registrations being audited.

When filing a section 8 or 71 affidavit, all registrants are required to specify the goods and/or services for which the mark is in use in commerce. These fees will serve to improve the integrity and quality of the register by incentivizing all registrants to perform the due diligence necessary before submission of a section 8 or 71 affidavit to maintain a registration. Thus, registrants who ensure that their marks are in use in commerce in connection with the goods and/or services listed in the registration before the submission of a section 8 or 71 affidavit, and who delete those goods, services, and/or classes for which the mark is not in use when the affidavit is submitted, are not subject to this fee. However, registrants who later determine, either as part of an audit or not, that some of the goods, services, and/or classes included in the affidavit must be deleted are subject to the fee.

D. TTAB Fees: This rule sets or adjusts 16 TTAB-related fees (8 for electronic filings and 8 for paper filings). Ten existing fees (5 electronic/5 paper) are increased, specifically, those for initiating an ex parte appeal from an examining attorney's refusal to register a mark, for initiating an opposition proceeding, for initiating a cancellation proceeding, and for filing each of two different types of extensions of time to oppose. Six new filing fees (3 electronic/3 paper) are established, and are explained below. The rule also codifies that the TTAB has discretion to grant a refund of a portion of the filing fee for a petition to cancel. While the percentage increase for a number of TTAB fees is larger than the application filing fees discussed above, the USPTO notes that many of the TTAB fees remain below cost recovery, considering the significant costs the Board incurs in conducting proceedings. In addition, TTABs fees are a small percentage of the total litigation costs incurred by a party before the Board, considering the attorney fees and other expenses of litigation.

(1) Existing Fees for Trial Cases: To better align the costs of providing TTAB services with the fees charged for them, this rule increases the fee for petitions for cancellation and notices of opposition by $200 per class. The rule also amends § 2.114(a) to allow the USPTO discretion to refund a portion of the petition fee in cases of default judgment where there is no appearance by a defendant and no filings are made other than the petition to cancel, reflecting reduced work needed on the part of the TTAB. The resulting lower net fee for a petition to cancel that meets these characteristics also furthers the policy goal of not discouraging the filing of petitions to cancel by petitioners with knowledge that a registered mark is no longer in use, or was never put to use, and therefore should be removed from the register. The refund will be in the amount of $200 per class, as explained below.

Comments: Four IP stakeholder organizations provided comments on the proposed $200 per class increases in the fees for trial cases (Notices of Opposition and Petitions for Cancellation). Three of the four noted the increases of four years ago, and stated that they consider the proposed increases ''steep'' or ''excessive.''

Response: The percentage of TTAB costs associated with processing of trial cases varies a great deal, as compared to the uniform per class filing fee. Clearly, in an opposition or cancellation case in which no appearance by a defendant is made, no filing other than the plaintiff's initial complaint is made, and the case is decided by way of default judgment, a higher percentage of TTAB operational costs is covered than in a case involving significant motion practice and a full trial. The original set of fee proposals discussed in the TPAC fee setting hearing with the public and stakeholders included a discussion of shifting some of the costs of TTAB trials to heavier users of trial case services, for example, by requiring a fee for the filing of a motion for summary judgment. However, initial stakeholder input during the fee setting hearing clearly indicated a preference for more uniform filing fees and fewer user fees for particular filings.

The costs associated with processing trial cases are more substantial than with appeal cases because of the larger number of trial cases and the procedural complexities. For example, the Board's staff of 18 interlocutory attorneys exists primarily to handle contested motions in trial cases. Since parties in trial cases pay no fees associated with the myriad motions, voluminous evidentiary submissions, and many briefs that can be filed, trial case filing fees need to be set for all commenced trial cases at a level that furthers cost recovery for all such cases. In addition, as noted above, USPTO initial fees for filing trial cases at the TTAB, compared to other costs associated with financing litigation, such as attorney fees, remain a small part of overall litigation costs.

As noted in the NPRM, TTAB fee revenue presently covers only 31% of TTAB operating costs. Applicants and registrants making filings in the trademark operation, the vast majority of whom do not use TTAB services, subsidize TTAB costs. The TTAB can recover a more substantial percentage of its operating costs, thereby reducing the subsidization of TTAB operations, while still keeping TTAB filing fees low as a portion of the overall cost of litigation by attaching fees to the TTAB filings that are significant enough in number to bring in appreciable revenue. The most effective means for raising revenue that will allow the Board to recover more of its operating costs lies in filing fees for trial cases, and in particular, oppositions

(2) Partial Refunds of Qualifying Cancellation Fees:

Comments: Three IP stakeholder organizations addressed the proposal to grant the TTAB discretion to provide partial refunds in cancellation cases asserting abandonment or nonuse of a registered mark, where there is no appearance by a defendant, no filings are made other than the petition to cancel, and where a default judgment is entered. Commenters sought clarification regarding how the Board would exercise such discretion, whether the refund would be processed as a matter of course by the Board, or whether a refund request must be filed and whether the refund of $200 is per class or per proceeding. One of these commenters also sought clarification as to whether the petitioner would need to have a deposit account for the refund to issue.

Response: First, the Office is granted discretion under revised § 2.114(a) precisely because it must have the discretion to refund any portion of a fee otherwise required. The TTAB will process refunds as a matter of course during the process of termination of a cancellation case, so long as the stated requirements are met. Paralegals will have no need to exercise individual discretion to determine whether to provide a refund or not.

Second, refunds will be handled by TTAB paralegals, during the process of terminating cancellation proceedings. The petitioner will not have to request the refund. The refund will be processed in the same way that refunds now are processed for cases that should not have been instituted and are dismissed as a nullity. Therefore, a filer who did not use a deposit account to pay the filing fee would not need to establish an account just for the purpose of receiving a refund.

Third, as explained in the NPRM, under this rule a petitioner filing only an abandonment or nonuse claim, where no other filings are made, and in which a default judgment is entered, would receive a $200 per class refund of the filing fee. That is, the net filing fee would be the same as it was prior to this rule. Notwithstanding the pressing need to cover more of the TTAB's operating costs, the refund of a portion of the fee for a petition to cancel provided for by this rule, under defined circumstances, means that many filers of petitions for cancellation will see no increase in the filing fee for such cases.

Comments: One commenter sought clarification as to what would happen if the Board granted a motion to reopen a case in which the Board had entered default judgment.

Response: To ensure that cancellation petitioners who do not obtain default judgments are treated equally, if a motion to reopen was granted in a cancellation case that was originally decided by default, the petitioner would be assessed the amount of the refund processed at the time of default.

Comments: One commenter suggested that the refund conditions be expanded to allow for filing of some documents prior to entry of a default judgment (*e.g.,* ''no substantive filings'' were made or only ''simple, procedural'' filings were made).

Response: The Office appreciates the comment that some cancellation cases asserting only abandonment or nonuse claims may have few filings and no ''substantive'' filings prior to entry of default judgment. However, the refund procedure is established with clear guidelines for determining when a refund will be provided to avoid case-by-case discretionary judgments on whether a filing was substantive or a ''simple, procedural filing.''

The Office will not expand the refund process to cancellation cases asserting abandonment that involve filing of more than just the initial complaint prior to entry of judgment. Extending the refund to cancellation cases asserting abandonment and that involve filings other than the initial complaint would require time-consuming case-by-case judgments regarding whether the filings were substantive or not or were simple and procedural. Moreover, cases that did not involve substantive filings might still involve many procedural filings that could cause the case to remain pending for a long period of time, and the refund proposal is designed to benefit cases that are terminated rapidly. In addition, decisions by TTAB personnel regarding whether filings were substantive or simple could then be subject to review on petition and would result in additional delays prior to termination.

Comments: Commenters also proposed that a refund should be available in opposition cases and for all cases of default judgment, regardless of the grounds asserted by the plaintiff. Of the two stakeholder organizations that addressed the issue of the frequency with which default judgment is entered in opposition proceedings, one stated that the reported experience of its members is that default judgments are just as frequent in opposition proceedings as they are in cancellation proceedings. In contrast, the other acknowledged that default judgments are rare in opposition proceedings.

Response: The TTAB's expedited cancellation proceeding pilot confirmed only the high rate of default judgment in cancellation cases asserting abandonment or nonuse alone. Thus, the Board did not have any basis to propose refunds in opposition cases or in cancellation cases asserting other grounds. The NPRM refund proposal was limited to cancellation cases asserting only abandonment or nonuse, in which the defendant does not enter an appearance, the only filing was the initial complaint, and that results in default judgment. This was rooted in the recognition of the high number of abandonment or nonuse claims, the high rate of default in cases in which those are the only claims, and the ability to handle refund processing in the normal course of terminating a cancellation proceeding. Based on statistics from the TTAB's recent two-year expedited cancellation proceeding pilot program, abandonment is the most common claim in cancellation proceedings, appearing in 34% of filings. The default rate in cancellation cases in which abandonment is the only claim is 60%. The decision to process refunds in such cases results in no net increase in the cancellation filing fee for many petitioners and also encourages filings that help ensure the integrity of the register. Cancellation cases involving assertion of other grounds serve other purposes that may be unrelated to the integrity of the register. Opposition cases typically do not involve abandonment claims and, even if they result in default judgments do not result in removal of registered but unused marks from the register.

(3) Fees for Extensions of Time to Oppose: This rule also increases fees for filing requests for an extension of time to file an opposition. Prior to enactment of this rule, applicants could request: (1) An initial 30-day extension for no fee, (2) a subsequent 60-day extension (or an initial 90-day extension) for a fee of $100 for electronic filings and $200 for paper filings, and (3) a final 60-day extension for a fee of $200 for electronic filings and $300 for paper filings. This rule maintains this tiered structure with an increase of $100 for the first 60-day (or initial 90-day) electronic extension and $200 for the final 60-day electronic extension. Paper-filed extension requests will increase by $200 for each filing. The fees are per application, not per class.

These fees are designed to yield efficiencies by encouraging potential opposers to make decisions regarding filing an opposition sooner, thus reducing delays to applicants whose filings have been made the subject of extensions of time to oppose. Additionally, by encouraging earlier decisions to initiate proceedings, the uncertainty experienced by these applicants will be ameliorated by having their applications proceed to determination on the merits sooner. This will also help protect the integrity of the trademark register by encouraging timely decisions and filings to ensure that the rights of other applicants and the public are not adversely affected.

Further, currently about two-thirds of the cost of TTAB operations is subsidized by revenue from other trademark processing fees. The increases in existing TTAB fees set by this rule, and the new fees set by this rule, will not recover the full costs of TTAB operations, but they are estimated to increase cost recovery by 7% and to bring the TTAB incrementally closer to full cost recovery.

Finally, the extension of time to oppose fees will help offset TTAB processing costs. In FY 2019, the USPTO received 20,502 requests for extensions of time to file a notice of opposition. It is customary for requests that delay processing of records, such as extensions, to incur a fee, which offsets costs associated with processing the filing, as well as the overall cost of processing appeals and trials. These fees are necessary to help achieve primary Office goals of recovering the aggregate costs of operations, along with key policy considerations, such as encouraging efficient processing.

Comments: Two IP stakeholder organizations and one law firm provided comments on the extension of time to oppose fees. One stakeholder organization noted only the proposed fee for the final 60-day extension of time to oppose, and it is unclear whether the organization's comment concerns only that extension or both types of extensions that carry fees. All commenters noted that fees for these filings were first levied four years ago and that the proposed increases are, percentage-wise, substantial. Comments also suggested that an applicant engaged in settlement talks with a potential opposer could attempt to force an increase in costs for the potential opposer to continue settlement talks by not responding to attempts to settle the parties' differences. The law firm suggested that potential opposers might proceed to file a notice of opposition rather than pay the increased fees for the extensions of time to oppose. The law firm also suggested that processing of extensions of time to oppose is largely automated and, therefore, the fee increase cannot be justified on the grounds of cost recovery.

Response: Many potential opposers are aware of applications that have been filed and that are perceived as potentially conflicting well before a mark is published for opposition, as demonstrated by the large number of Letters of Protest filed each year, many of which seek to ensure an examining attorney is aware of the protestor's prior registration or other concerns. A potential opposer and an applicant can initiate settlement discussions as soon as the application is approved for publication in the *Trademark Official Gazette* and before it actually publishes. Then, upon publication, there is a 30-day opposition period, and a 30-day extension of that period can be obtained at no cost. Extension of time to oppose fees do not apply until 60 days after the date of publication. The additional 60 days that can be obtained for the period covering 60–120 days from publication carry a fee that is charged per application, not per class of goods or services in the application. A final extension for another 60 days can be obtained for a higher fee, also per application, not per class. The fee structure encourages parties to discuss settlement of differences, but charges more the longer the discussions go on and applications are delayed.

When fees for extensions were first proposed, commenters posited that potential opposers might file oppositions rather than pay the extension fees. The Board has not seen any evidence of a significant change in practice. On the contrary, the number of extensions of time to oppose filed has generally increased on an annual basis. Opposition fees are paid per class for the opposed application, while fees that are required for extensions of the opposition period accrue on a per-application basis. As such, filing an opposition to avoid paying an extension fee when negotiations to avoid commencement of an opposition are progressing would in most instances cost a potential opposer more. When negotiations are not progressing, the potential opposer may wish to consider an earlier determination as to whether filing of an opposition is desirable. In trial cases, it is not unusual for the Board to be informed that an adversary is not willing to engage in settlement talks. The Board has limited ability to force such discussions. In addition, the Board has received objections to its approval of extensions of time to oppose from applicants who assert that the potential opposer has no real basis for an opposition and seeks only to delay the application. Thus, the extension fees are intended to facilitate earlier discussion of settlement and recognize that delay can be a concern for both parties.

As noted above in the discussion of increases in filing fees for trial cases, cost recovery by the TTAB is not assessed solely on the basis of each particular type of filing or Board proceeding. As stakeholders have indicated a preference for spreading out cost recovery over many filings, rather than be faced with steeply higher costs for involved and protracted proceedings, cost recovery for all Board operations is facilitated by apportionment of fees on filings that are most frequently made. Extensions of time to oppose are filed on an annual basis at three times the rate of the filing of notices of opposition. Therefore, they are a logical type of filing for which to charge nominal fees for longer extensions. In addition, the fact that processing of extensions of time to oppose is largely automated does not mean that there are no costs associated with their processing. Development and enhancements of automated processing systems cost a great deal.

(4) Fees for Filing an Appeal Brief: This rule increases the fee for filing a notice of appeal by $25 per class, based on inflation, and establishes new fees for filing an appeal brief of $300 per class if filed on paper and $200 per class if filed through ESTTA. These fees

address the TPAC report recommendations to apply the majority of the aggregate increases in appeal fees to the costs incurred when an appeal brief is filed, which increases the likelihood that the appeal will have to be decided on the merits.

(5) Fees for Filing Requests for Extension of Time to File an Appeal Brief: This rule sets fees for second and subsequent requests for extensions of time to file an appeal brief at $200 per application if filed on paper and $100 per application if filed through ESTTA. These fees yield efficiencies by encouraging applicants to move forward with their appeals, resulting in a quicker resolution of the appeal, the pendency of which can adversely impact the rights of other applicants and registrants. Implementing a tiered fee structure minimizes costs to all applicants, including smaller entities, as there is no fee for a first request for extension of time to file the appeal brief.

(6) Fees for Oral Hearing: This rule sets the fee for a request for an oral hearing at $500 per proceeding. Oral hearings are not requested in the vast majority of cases before the TTAB. They are optional and are most useful when cases involve complex issues, a complex record, or highly technical goods and/or services. This fee will help offset the costs of scheduling and conducting the hearing, as well as the maintenance of equipment for remote participation.

Comments: Two IP stakeholder organizations and one law firm addressed the proposed fee for an oral hearing in an ex parte appeal or trial case. One organization noted its concern but did not provide an explanation of the basis for its concern, though it did suggest limiting the fee to in-person arguments. The other organization concluded that the fee will discourage the use of oral hearings and could weaken a party's chance of success in a matter before the TTAB. The law firm considers trademark cases to be inherently complex and long and the fee to be a disservice to the bar, to the parties, and to fair determinations of cases.

Response: This fee appropriately places Board costs on actual users of this service. Approximately 100 hearings have been requested on an annual basis in recent years. While some practitioners routinely request an oral argument for cases in which they are involved, most do not. The Board has no evidence that outcomes for parties that request an oral argument are appreciably different than for those that do not. No Board case is decided without thorough review of the record and briefs, which, as frequently stated, are of paramount importance. However, hearings are available for those who request them.

Because there is no current fee for requesting an oral hearing, it is not unusual for a party to request one only to cancel shortly before the hearing. Charging a fee for requesting a hearing may help deter requests for hearings that could later be cancelled. Hearings incur costs that are not associated with cases submitted for decision on the briefs. The scheduling and running of hearings requires a dedicated staff position, and the TTAB must maintain a hearing room for use when in-person hearings are held and the technical infrastructure necessary to offer parties the option to appear by video rather than incur the costs associated with having to travel to the USPTO. This infrastructure has a finite lifespan and needs regular upgrading or replacement.

Discussion of Rule Changes

The USPTO revises § 2.6(a)(1)(i) to increase the per-class fee for filing an initial application on paper from $600 to $750.

The USPTO revises § 2.6(a)(1)(ii) to increase the per-class fee for filing an application under section 66(a) of the Act from $400 to $500.

The USPTO revises § 2.6(a)(1)(iii) to increase the per-class fee for filing a TEAS Standard application from $275 to $350.

The USPTO revises § 2.6(a)(1)(iv) to increase the per-class fee for filing a TEAS Plus application from $225 to $250.

The USPTO revises § 2.6(a)(1)(v) to decrease the processing fee under § 2.22(c) from $125 to $100 per class.

The USPTO adds § 2.6(a)(11)(iii) to establish a fee of $0 for filing a section 7 request to amend a registration through TEAS prior to submission of a section 8 or section 71 affidavit and that consists only of the deletion of goods, services, and/or classes.

The USPTO revises § 2.6(a)(12)(i) and (ii) to increase the per-class fee for filing a section 8 affidavit from $225 to $325 for a paper submission and from $125 to $225 for a TEAS submission.

The USPTO adds § 2.6(a)(12)(iii) and (iv) to establish fees for the deletion of goods, services, and/or classes after submission and prior to acceptance of a section 8 affidavit. The addition of § 2.6(a)(12)(iii) and (iv) sets the per-class fee at $350 for a paper submission and $250 for a TEAS submission.

The USPTO revises § 2.6(a)(15) to establish separate fees for petitions to the Director under §§ 2.146 or 2.147 and petitions to revive an abandoned application under § 2.66. The revisions to § 2.6(a)(15)(i) and (ii) set the fee for filing a petition to the Director under §§ 2.146 or 2.147 at $350 for a paper submission and $250 for a TEAS submission. The addition of § 2.6(a)(15)(iii) and (iv) sets the fee for filing a petition to revive an abandoned application under § 2.66 at $250 for a paper submission and $150 for a TEAS submission.

The USPTO revises § 2.6(a)(16)(i) and (ii) to increase the per-class fee for filing a petition to cancel from $500 to $700 for a paper submission and from $400 to $600 for an ESTTA submission.

The USPTO revises § 2.6(a)(17)(i) and (ii) to increase the per-class fee for filing a notice of opposition from $500 to $700 for a paper submission and from $400 to $600 for an ESTTA submission.

The USPTO revises § 2.6(a)(18) to increase the fee for filing an ex parte appeal and to establish new fees for requests for an extension of time to file an appeal brief and for filing a brief in an ex parte appeal. The revisions to § 2.6(a)(18)(i) and (ii) increase the per-class fee for filing an ex parte appeal from $300 to $325 for a paper submission and from $200 to $225 for an ESTTA submission. The addition of § 2.6(a)(18)(iii) sets the per-application fee for filing a first request for an extension of time to file an appeal brief at $0. The addition of § 2.6(a)(18)(iv) and (v) sets the per-application fee for filing a second or subsequent request for an extension of time to file an appeal brief at $200 for a paper submission and $100 for an ESTTA submission. The addition of § 2.6(a)(18)(vi) and (vii) sets the per-class fee for filing a brief in an ex parte appeal at $300 for a paper submission and $200 for an ESTTA submission.

The USPTO revises § 2.6(a)(22)(i) and (ii) to increase the fee for filing a request for an extension of time to file a notice of opposition pursuant to § 2.102(c)(1)(ii) or (c)(2) from $200 to $400 for a paper submission and from $100 to $200 for an ESTTA submission.

The USPTO revises § 2.6(a)(23)(i) and (ii) to increase the fee for filing a request for an extension of time to file a notice of opposition pursuant to § 2.102(c)(3) from $300 to $500 for a paper submission and from $200 to $400 for an ESTTA submission.

The USPTO adds § 2.6(a)(24) to establish a fee for filing a request for an oral hearing before the TTAB of $500 per proceeding.

The USPTO adds § 2.6(a)(25) to establish a fee of $50 for the filing of a letter of protest per subject application.

The USPTO revises § 2.114(a) to provide that a partial refund of the fee for a petition to cancel, equal to the increase in that fee otherwise enacted in this rulemaking, may be made in cases of default judgment where there was no appearance by a defendant and no filings are made other than the petition to cancel.

The USPTO adds § 2.149, which codifies the procedures and requirements for letters of protest.

The USPTO revises the section title and restructures § 2.161 to set out the requirements for section 8 affidavits or declarations more clearly. The USPTO also adds, at revised § 2.161(c), a provision stating that if goods, services, and/or classes are deleted from a registration after submission and prior to the acceptance of a section 8 affidavit or declaration, the deletion must be accompanied by the relevant fee under § 2.6(a)(12)(iii) or (iv) for each class from which goods, services, and/or classes are deleted.

The USPTO revises § 7.6(a)(6)(i) and (ii) to increase the per-class fee for filing a section 71 affidavit from $225 to $325 for a paper submission and from $125 to $225 for a TEAS submission.

The USPTO adds § 7.6(a)(6)(iii) and (iv) to establish fees for the deletion of goods, services, and/or classes after submission and prior to acceptance of a section 71 affidavit. The added § 7.6(a)(iii) and (iv) set the per-class fee at $350 for a paper submission and $250 for a TEAS submission.

The USPTO revises the section title and restructures § 7.37 to set out the requirements for section 71 affidavits or declarations more clearly. The USPTO also adds, at revised § 7.37(c), a provision stating that if goods, services, and/or classes are deleted from a registration after submission and prior to acceptance of a section 71 affidavit or declaration, the deletion must be accompanied by the relevant fee under § 7.6(a)(6)(iii) or (iv) for each class from which goods, services, and/or classes are deleted.

Rulemaking Requirements

A. America Invents Act: This rulemaking sets and adjusts fees under section 10(a) of the AIA as amended by the SUCCESS Act. Section 10(a) of the AIA authorizes the Director to set or adjust by rule any trademark fee established, authorized, or charged under the Trademark Act for any services performed by, or materials furnished by, the USPTO (*see* section 10 of the AIA, Pub. L. 112–29, 125 Stat. 284, 316–17, as amended by Pub. L. 115–273, 132 Stat. 4158). Section 10(e) of the AIA sets forth the general requirements for rulemakings that set or adjust fees under this authority. In particular, section 10(e)(1) requires the Director to publish in the **Federal Register** any proposed fee change under section 10 and include in such publication the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change. For such rulemakings, the AIA requires that the USPTO provide a public comment period of not less than 45 days.

The TPAC advises the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management, policies, goals, performance, budget, and user fees of trademark operations. When adopting fees under section 10 of the AIA, the AIA requires the Director to provide the TPAC with the proposed trademark-related fees at least 45 days prior to publishing them in the **Federal Register**. The TPAC then has at least 30 days within which to deliberate, consider, and comment on the proposal, as well as hold a public hearing(s) on the proposed fees. The TPAC must make a written report available to the public of the comments, advice, and recommendations of the committee regarding the proposed fees before the USPTO issues any final fees. The USPTO will consider and analyze any comments, advice, or recommendations received from the TPAC before finally setting or adjusting fees.

Consistent with the requirements of the AIA, on August 28, 2019, the Director notified the TPAC of the USPTO's intent to set or adjust trademark fees and submitted a preliminary trademark fee proposal with supporting materials. The preliminary trademark fee proposal and associated materials are available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

The TPAC held a public hearing in Alexandria, Virginia, on September 23, 2019. Transcripts of this hearing and comments submitted to the TPAC in writing are available for review at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The TPAC subsequently issued a report, dated October 31, 2019, regarding the preliminary proposed fees. The report can be found online at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

B. Final Regulatory Flexibility Analysis: The USPTO publishes this Final Regulatory Flexibility Analysis (FRFA) as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) to examine the impact of the USPTO's proposed changes to trademark fees on small entities. Under the RFA, whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish an NPRM, the agency must prepare and make available for public comment a FRFA, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities (*see* 5 U.S.C. 603, 605). The USPTO published an Initial Regulatory Flexibility Analysis (IRFA), along with the NPRM, on June 19, 2020 (85 FR 37040). The USPTO received no comments from the public directly applicable to the IFRA, as stated below in Item 2.

Items 1–6 below discuss the six items specified in 5 U.S.C. 604(a)(1)–(6) to be addressed in a FRFA. Item 6 discusses alternatives considered by the Office.

1. Succinct statement of the need for, and objectives of, the rule:

The USPTO is setting and adjusting certain trademark fees as authorized by section 10 of the AIA, as amended by Public Law 115–273, 132 Stat. 4158 (the SUCCESS Act). The fee schedule established under section 10 in this rulemaking will, based on the assumptions found in the FY 2021 Congressional Justification, recover the aggregate estimated costs to the USPTO while achieving strategic and operational goals, such as implementing measures to maintain trademark pendency and high trademark quality, modernizing the trademark IT systems, continuing important programs for stakeholder and public outreach, enhancing operations of the TTAB, and maintaining a sufficient operating reserve. Aggregate costs are estimated through the USPTO budget formulation process with the annual preparation of a five-year performance-based budget request. Revenues are estimated based on the projected demand (workload) for trademark products and services and fee rates.

The policy objectives of the rule are to: (1) Better align fees with costs, (2) protect the integrity of the trademark register, (3) improve the efficiency of USPTO processes related to trademark and TTAB operations, and (4) ensure financial sustainability to facilitate effective trademark operations. The legal basis for the rule is section 10 of the AIA, as amended, which provides the authority for the Director to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* as amended. *See also* section 31 of the Trademark Act, 15 U.S.C. 1113.

2. A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, *and a statement of any changes made in the proposed rule as a result of such comments:*

The USPTO did not receive any public comments in response to the IRFA. However, the Office received comments about fees in general, as well as particular fees, and their impact on small entities, which are further discussed in the preamble.

3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments:

The USPTO did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

4. Description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:

The USPTO does not collect or maintain statistics in trademark cases on small- versus large-entity applicants, and this information would be required in order to determine the number of small entities that would be affected by the proposed rule.

This rule applies to any entity filing trademark documents with the USPTO. The USPTO estimates, based on the assumptions found in the FY 2021 Congressional Justification, that during the first full fiscal year under the fees as proposed, the USPTO would expect to collect approximately $76 million more in trademark processing and TTAB fees in FY 2021. The USPTO would receive an additional $40 million in fees from applications for the registration of a mark, including requests for extension of protection and subsequent designations; $2 million more from petitions and letters of protest; and $27 million more for section 8 and section 71 affidavits. TTAB fees would increase by $6 million.

Trademark fees are collected for trademark-related services and products at different points in time in the trademark application examination process and over the lifecycle of the registration. Approximately 55% of all trademark fee collections are from application filing fees. Fees for TTAB proceedings and appeals comprise 2.5% of revenues. Fees from other trademark activities, petitions, assignments and certifications, and Madrid processing are approximately 5% of revenues. Fees for filing post-registration and intent-to-use filings, which subsidize the costs of filing, search, examination, and TTAB activities, comprise 37.5%.

The USPTO's five-year estimated aggregate trademark fee revenue is based on the number of trademark applications and other fee-related filings it expects to receive for a given fiscal year and work it expects to process in a given fiscal year (an indicator of future fee workload and budgetary requirements). Within the iterative process for estimating aggregate revenue, the USPTO adjusts individual fee rates up or down based on policy and cost considerations and then multiplies the resulting fee rates by appropriate workload volumes to calculate a revenue estimate for each fee, which is then used to calculate the aggregate revenue. Additional details about the USPTO's aggregate revenue, including projected workloads by fee, are available at *https://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

5. Description of the reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:

The final rule imposes no new reporting or recordkeeping requirements. The main purpose of the final rule is to set and adjust trademark fees. The final rule also codifies new procedural regulations at 37 CFR 2.149 for the submission of letters of protest. The USPTO does not collect or maintain statistics in trademark cases on small- versus large-entity applicants and is unable to provide an estimate of the classes of small entities that will be subject to the new procedural requirements. However, the USPTO does not anticipate that the final rule would have a disproportionate impact upon any particular class of small or large entities.

6. Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected:

The USPTO considered four alternatives, based on the assumptions found in the FY 2021 Congressional Justification, before enacting this rule: (1) The adjustments included in this final rule, (2) an across-the-board adjustment of 22%, (3) the unit cost of providing services based on FY 2019 costs, and (4) no change to the baseline of current fees. The alternatives are each explained here with additional information regarding how each alternative was developed and the aggregate revenue estimated. A description of the Aggregate Revenue Methodologies is available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

The USPTO is setting or adjusting trademark fees codified in 37 CFR parts 2 and 7. Fees are adjusted for all application filing types (*i.e.,* paper applications, applications filed via TEAS, and requests for extension of protection under section 66(a) of the Trademark Act (15 U.S.C. 1141f)). The USPTO also sets or adjusts certain other trademark processing fees to further effective administration of the trademark system. For example, the rule increases the fees for certain petitions to the Director as well as section 8 and section 71 affidavits, sets a new fee and proposes procedural regulations for filing a letter of protest, and sets new fees for deleting goods, services, and/or classes from a registration after submission and prior to acceptance of a section 8 or section 71 affidavit.

The USPTO chose the alternative established in this rule because it will enable the Office to achieve its goals effectively and efficiently without unduly burdening small entities, erecting barriers to entry, or stifling incentives to innovate. The alternative established here secures the USPTO's objectives for meeting the strategic goals of encouraging broader usage of IP rights-protection mechanisms and participation by more trademark owners and more efficient resolution of appeals and inter partes proceedings at the TTAB by increasing revenue to meet the Office's aggregate future costs. In particular, the new fee structure for requests to delete goods, services, and/or classes from a registration will protect the integrity of the register and the efficiency of the process by incentivizing both more timely filings and proactive action by applicants and registrants. The increased efficiencies realized through this rule will benefit all applicants and registrants by allowing registrations to be granted in a timely manner and more efficiently by removing unused marks and unsupported goods and services from the register. All trademark applicants and registrants should benefit from the efficiency that will be realized under the final rule.

With regard to the new regulations governing the filing of letters of protest, the USPTO anticipates that the impact to affected entities will be small. The proposed fee of $50 is set at a level high enough to recognize there are processing costs and deter the filing of unsupported or irrelevant filings, but low enough so as not to discourage the filing of relevant, well-supported letters of protest. In addition, the new procedural regulations for filing letters of protest are not anticipated to significantly impact affected entities because the new regulations are based on existing informal procedures set out in the TMEP.

Finally, the new provision at § 2.114(a) provides that a partial refund of the fee for a petition to cancel may be made in cases of default judgement where there was no appearance by a defendant and no filings were made other than the petition to cancel. This change will balance the cost recovery obtained from the increase in the fee for a petition to cancel, a case type that has increased markedly in recent years, against the benefit of having petitions to cancel filed to remove registrations from the register when petitioners have determined through their investigations that the registered marks are no longer in use. In such situations, default judgments often result, efficiently clearing the register of marks that would otherwise stand as potential bars to applications seeking to register similar marks. This reduces costs for applicants filing such applications.

The fee schedule for this alternative (labeled ''Alternative 1—Final Rule'') is available in the document entitled ''Final Regulatory Flexibility Act Tables'' at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

Another alternative to setting and adjusting fees that was considered was to increase all fees by the same 22% across the board. This alternative would maintain the status quo structure of cost recovery, where processing and examination costs are subsidized by fees paid for intent-to-use and post-registration maintenance filings (both of which exceed the cost of performing these services), given that all fees would be adjusted by the same escalation factor. This structure would promote innovation strategies and allow applicants to gain access to the trademark system through fees set below cost, while registrants would pay maintenance fees above cost to subsidize the below-cost front-end fees. This alternative was ultimately rejected. Although this alternative generates sufficient aggregate revenue to recover aggregate operating costs, unlike the final rule fee structure, there would be no improvements in fee schedule design. As such, this alternative would not accomplish the stated objective of enhancing the integrity of the register by incentivizing users to maintain accurate goods and/or services. Further, it would not enhance the efficiency of the process, as it would offer no new incentives for users to timely file applications and other filings or to resolve appeals and inter partes proceedings at the TTAB more expeditiously. The fee schedule for this alternative (labeled ''Alternative 2—Across-the-Board Adjustment'') is available in the document entitled ''Final Regulatory Flexibility Act Tables'' at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

A third alternative that was considered was to set all trademark fees to allow for the USPTO to recover 100% of the unit costs associated with each product or service provided, based on the historical unit costs of the products and services provided by the USPTO. The USPTO uses activity based information to determine the unit costs of activities that contribute to the services and processes provided by individual fees. It is common practice in the Federal Government to set a particular fee at a level that recovers the cost of a given good or service. In Office of Management and Budget (OMB) Circular A–25, User Charges, the OMB states that user charges (fees) should be sufficient to recover the full cost to the Federal Government of providing the particular service, resource, or good, when the Government is acting in its capacity as sovereign. Under the unit cost recovery alternative, fees are generally set in line with the FY 2019 cost of providing the product or service. The USPTO recognizes that this approach does not account for changes in the fee structure or inflationary factors that could likely increase the costs of certain trademark services and necessitate higher fees in the out-years. However, the USPTO contends that the FY 2019 data is the best unit cost data available to inform this analysis. This alternative would produce a structure in which application and processing fees would increase significantly for all applicants, and intent-to-use and post-registration maintenance filing fees would decrease dramatically when compared with current fees. In addition, these fees would change from year to year based on the number of applications submitted. This alternative was rejected because it was determined that the unit costs for any given product or service can vary from year to year, such that a yearly review of all, and an adjustment to many, trademark fees would be continually required and could also lead to consumer confusion regarding the amount at which any given trademark fee was currently set and what the relevant fee would be in the future. Additionally, this alternative does not address improvements in fee design to accomplish the stated objectives of encouraging broader usage of IP rights-protection mechanisms and participation by more trademark owners as well as practices that improve the efficiency of the process. The fee schedule for this alternative (labeled ''Alternative 3—Unit Cost Recovery'') is available in the document entitled ''Final Regulatory Flexibility Act Tables'' at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

A final alternative to setting and adjusting fees would be to take no action at this time regarding trademark fees and to leave all trademark fees as currently set. This alternative was rejected because, due to changes in demand for certain services and rising costs, the Office has determined that a fee increase is needed to meet future budgetary requirements as described in the FY 2021 Congressional Justification. Further, as previously explained, the fee schedule established in this final rule will assist in promoting access to the trademark system, protecting the integrity of the register, and promoting the efficiency of the trademark registration process by incentivizing: (1) Maintenance of registrations for goods and services for which marks are actually in use, (2) more timely filing of applications and other documents, and (3) faster resolution of appeals and inter partes proceedings at the TTAB. The fee schedule for this alternative (labeled ''Alternative 4—Baseline—Current Fee Schedule'') is available in the document entitled ''Final Regulatory Flexibility Act Tables'' at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

C. Executive Order 12866 (Regulatory Planning and Review): This rule has been determined to be Significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3)

selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This final rule is not subject to the requirements of Executive Order 13771 (Jan. 30, 2017) because this final rule involves a transfer payment.

F. Executive Order 13132 (Federalism): This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the comptroller general of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act of 1995: This final rule involves information collection requirements that are subject to review and approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved with this final rule have been reviewed and previously approved by OMB under OMB control numbers 0651–0009, 0651–0027, 0651–0028, 0651–0040, 0651–0050, 0651–0051, 0651–0054, 0651–0055, 0651–0056, and 0651–0061. This final rule establishes and adjusts certain trademark fees, which updates the total annual non-hour cost burdens by $33,440,550 as set out in the following table:

OMB control No.	Information collection title	Estimated update in total annual non-hour cost burdens (fees) due to final rule
0651–0009	Applications for Trademark Registration	$22,853,750
0651–0027	Recording Assignments	0
0651–0028	Fastener Quality Act Insignia Recordal Process	0
0651–0040	Trademark Trial and Appeal Board (TTAB) Actions	4,904,000
0651–0050	Response to Office Action and Voluntary Amendment Forms	−4,300
0651–0051	Madrid Protocol	3,205,450
0651–0054	Substantive Submissions Made During Prosecution of the Trademark Application	148,400
0651–0055	Post Registration (Trademark Processing)	2,159,000
0651–0056	Submissions Regarding Correspondence and Regarding Attorney Representation	0
0651–0061	Trademark Petitions	174,250

This estimated cost burden increase is based on the current OMB approved response volumes associated with these information collections, which may be slightly different than the workflow forecasts cited in other parts of this rule. In addition, updates to the aforementioned information collections as a result of this final rule will be submitted to OMB for approval prior to the rule's effective date.

Notwithstanding any other provision of law, no person is 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 has a currently valid OMB control number.

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

37 CFR Part 7

Administrative practice and procedure, Trademarks.

For the reasons stated in the preamble and under the authority contained in section 10(a) of the AIA; 15 U.S.C. 1113, 1123; and 35 U.S.C. 2, as amended, the USPTO amends parts 2 and 7 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 is revised to read as follows:

Authority: 15 U.S.C. 1113, 1123; 35 U.S.C. 2; sec. 10, Pub. L. 112–29, 125 Stat. 284, unless otherwise noted. Sec. 2.99 also issued under secs. 16, 17, 60 Stat. 434; 15 U.S.C. 1066, 1067.

■ 2. Amend § 2.6 by:
■ a. Revising paragraphs (a)(1)(i) through (v);
■ b. Adding paragraph (a)(11)(iii);
■ c. Revising paragraphs (a)(12), (15) through (18), (22), and (23); and
■ d. Adding paragraphs (a)(24) and (25).

The revisions and additions read as follows:

§ 2.6 Trademark fees.

(a) * * *

(1) * * *

(i) For filing an application on paper, per class—$750.00

(ii) For filing an application under section 66(a) of the Act, per class—$500.00

(iii) For filing a TEAS Standard application, per class—$350.00

(iv) For filing a TEAS Plus application under § 2.22, per class—$250.00

(v) Additional processing fee under § 2.22(c), per class—$100.00

* * * * *

(11) * * *

(iii) For filing an amendment to a registration prior to submission of an affidavit under section 8 or section 71 of the Act and consisting only of the deletion of goods, services, and/or classes—$0.00

(12) *Affidavit under section 8.* (i) For filing an affidavit under section 8 of the Act on paper, per class—$325.00

(ii) For filing an affidavit under section 8 of the Act through TEAS, per class—$225.00

(iii) For deleting goods, services, and/or classes after submission and prior to acceptance of an affidavit under section 8 of the Act on paper, per class—$350.00

(iv) For deleting goods, services, and/or classes after submission and prior to acceptance of an affidavit under section 8 of the Act through TEAS, per class—$250.00

* * * * *

(15) *Petitions to the Director.* (i) For filing a petition under § 2.146 or § 2.147 on paper—$350.00

(ii) For filing a petition under § 2.146 or § 2.147 through TEAS—$250.00

(iii) For filing a petition under § 2.66 on paper—$250.00

(iv) For filing a petition under § 2.66 through TEAS—$150.00

(16) *Petition to cancel.* (i) For filing a petition to cancel on paper, per class—$700.00

(ii) For filing a petition to cancel through ESTTA, per class—$600.00

(17) *Notice of opposition.* (i) For filing a notice of opposition on paper, per class—$700.00

(ii) For filing a notice of opposition through ESTTA, per class—$600.00

(18) *Ex parte appeal.* (i) For filing an ex parte appeal to the Trademark Trial and Appeal Board on paper, per class—$325.00

(ii) For filing an ex parte appeal to the Trademark Trial and Appeal Board through ESTTA, per class—$225.00

(iii) For filing a first request for an extension of time to file an appeal brief, per application—$0.00

(iv) For filing a second or subsequent request for an extension of time to file an appeal brief on paper, per application—$200.00

(v) For filing a second or subsequent request for an extension of time to file an appeal brief through ESTTA, per application—$100.00

(vi) For filing an appeal brief on paper, per class—$300.00

(vii) For filing an appeal brief through ESTTA, per class—$200.00

* * * * *

(22) *Extension of time for filing a notice of opposition under § 2.102(c)(1)(ii) or (c)(2).* (i) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(1)(ii) or (c)(2) on paper—$400.00

(ii) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(1)(ii) or (c)(2) through ESTTA—$200.00

(23) *Extension of time for filing a notice of opposition under § 2.102(c)(3).* (i) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3) on paper—$500.00

(ii) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3) through ESTTA—$400.00

(24) *Oral hearing.* For filing a request for an oral hearing before the Trademark Trial and Appeal Board, per proceeding—$500.00

(25) *Letter of protest.* For filing a letter of protest, per subject application—$50.00

* * * * *

■ 3. Amend § 2.114 by revising paragraph (a) to read as follows:

§ 2.114 Answer.

(a)(1) If no answer is filed within the time initially set, or as later may be reset by the Board, the petition may be decided as in the case of default. The failure to file a timely answer tolls all deadlines, including the discovery conference, until the issue of default is resolved.

(2) If the cancellation proceeding is based solely on abandonment or nonuse and default judgment is entered with no appearance by the defendant, and no filings are made other than the petition to cancel, $200 per class of the petition to cancel fee may be refunded.

* * * * *

■ 4. Add § 2.149 before the center heading "Certificate" to read as follows:

§ 2.149 Letters of protest against pending applications.

(a) A third party may submit, for consideration and entry in the record of a trademark application, objective evidence relevant to the examination of the application for a ground for refusal of registration if the submission is made in accordance with this section.

(b) A party protesting multiple applications must file a separate submission under this section for each application.

(c) Any submission under this section must be filed no later than 30 days after the date the application is published for opposition under section 12(a) of the

Act and § 2.80 of this part. If the subject application cannot be withdrawn from issuance of a registration while consideration of the protest is pending, the protest may be considered untimely.

(d)(1) If the letter of protest is filed before publication of the subject application, the evidence must be relevant to the identified ground(s) for refusal, such that it is appropriate for the examining attorney to consider whether to issue a refusal or make a requirement under the Act or this part.

(2) If the letter of protest is filed on or within 30 days after the date of publication of the subject application, the evidence must establish a prima facie case for refusal on the identified ground(s), such that failure to issue a refusal or to make a requirement would likely result in issuance of a registration in violation of the Act or parts 2 or 7 of this section.

(e) Filing a submission under this section does not stay or extend the time for filing a notice of opposition.

(f) Any submission under this section must be made in writing, filed through TEAS, and include:

(1) The fee required by § 2.6(a)(25);

(2) The serial number of the pending application that is the subject of the protest;

(3) An itemized evidence index that does not identify the protestor or its representatives, does not contain legal argument, and includes:

(i) An identification of the documents, or portions of documents, being submitted as evidence. The submission may not total more than 10 items of evidence in support of a specified ground of refusal and more than 75 total pages of evidence without a detailed and sufficient explanation that establishes the special circumstances that necessitate providing more than 10 items of evidence per refusal ground or more than 75 total pages of evidence; and

(ii) A concise factual statement of the relevant ground(s) for refusal of registration appropriate in ex parte examination that each item identified supports; and

(4) A clear and legible copy of each item identified in the evidence index where:

(i) Copies of third-party registrations come from the electronic records of the Office and show the current status and title of the registration;

(ii) Evidence from the internet includes the date the evidence was published or accessed and the complete URL address of the website; and

(iii) Copies of printed publications identify the publication name and date of publication.

(g) Any submission under this section may not be entered or considered by the Office if:

(1) Any part of the submission is not in compliance with this section;

(2) The application record shows that the examining attorney already considered the refusal ground(s) specified in the submission; or

(3) A provision of the Act or parts 2 or 7 of this chapter precludes acceptance of the submission.

(h) If a submission is determined to be in compliance with this section, only the specified ground(s) for refusal and the provided evidence relevant to the ground(s) for refusal will be included in the application record for consideration by the examining attorney. An applicant should not reply to the entry into the application record of evidence entered under this section.

(i) Any determination whether to include in an application record the ground(s) or evidence for a refusal of registration in a submission under this section is not petitionable.

(j) A third party filing a submission under this section will not receive any communication from the Office relating to the submission other than acknowledgement that it has been received by the Office and notification of whether the submission is found to be compliant or non-compliant with this section. Communications with the third party will not be made of record in the application. The Office will not accept amendments to a non-compliant submission that was previously filed. Instead, a third party who previously filed a non-compliant submission may file another submission that meets the requirements of paragraph (f) of this section, provided the time period for filing a submission in paragraph (c) of this section has not closed.

(k) The limited involvement of the third party ends with the filing of the submission under this section. The third party may not directly contact the examining attorney assigned to the application.

■ 5. Revise § 2.161 to read as follows:

§ 2.161 Requirements for a complete affidavit or declaration of use in commerce or excusable nonuse; requirement for the submission of additional information, exhibits, affidavits or declarations, and specimens; and fee for deletions of goods, services, and/or classes from a registration.

(a) *Requirements for a complete affidavit or declaration.* A complete affidavit or declaration under section 8 of the Act must:

(1) Be filed by the owner within the period set forth in § 2.160(a);

(2) Include a verified statement attesting to the use in commerce or excusable nonuse of the mark within the period set forth in section 8 of the Act. This verified statement must be executed on or after the beginning of the filing period specified in § 2.160(a);

(3) Include the U.S. registration number;

(4)(i) Include the fee required by § 2.6 for each class that the affidavit or declaration covers;

(ii) If the affidavit or declaration is filed during the grace period under section 8(a)(3) of the Act, include the grace period surcharge per class required by § 2.6; and

(iii) If at least one fee is submitted for a multiple-class registration, but the fee is insufficient to cover all the classes, and the class(es) to which the fee(s) should be applied is not specified, the Office will issue a notice requiring either submission of the additional fee(s) or specification of the class(es) to which the initial fee(s) should be applied. Additional fees may be submitted if the requirements of § 2.164 are met. If the additional fee(s) is not submitted within the time period set out in the Office action, and the class(es) to which the original fee(s) should be applied is not specified, the Office will presume that the fee(s) covers the classes in ascending order, beginning with the lowest numbered class;

(5)(i) Specify the goods, services, or nature of the collective membership organization for which the mark is in use in commerce, and/or the goods, services, or nature of the collective membership organization for which excusable nonuse is claimed under paragraph (a)(6)(ii) of this section; and

(ii) Specify the goods, services, or classes being deleted from the registration, if the affidavit or declaration covers fewer than all the goods, services, or classes in the registration;

(6)(i) State that the registered mark is in use in commerce; or

(ii) If the registered mark is not in use in commerce on or in connection with all the goods, services, or classes specified in the registration, set forth the date when such use of the mark in commerce stopped and the approximate date when such use is expected to resume, and recite facts to show that nonuse as to those goods, services, or classes is due to special circumstances that excuse the nonuse and is not due to an intention to abandon the mark; and

(7) Include one specimen showing how the mark is in use in commerce for each class in the registration, unless excusable nonuse is claimed under paragraph (a)(6)(ii) of this section. When requested by the Office, additional

specimens must be provided. The specimen must meet the requirements of § 2.56.

(8) Additional requirements for a collective mark: In addition to the above requirements, a complete affidavit or declaration pertaining to a collective mark must:

(i) State that the owner is exercising legitimate control over the use of the mark in commerce; and

(ii) If the registration issued from an application based solely on section 44 of the Act, state the nature of the owner's control over the use of the mark by the members in the first affidavit or declaration filed under paragraph (a)(1) of this section.

(9) Additional requirements for a certification mark: In addition to the above requirements, a complete affidavit or declaration pertaining to a certification mark must:

(i) Include a copy of the certification standards specified in § 2.45(a)(4)(i)(B);

(A) *Submitting certification standards for the first time.* If the registration issued from an application based solely on section 44 of the Act, include a copy of the certification standards in the first affidavit or declaration filed under paragraph (a)(1) of this section; or

(B) *Certification standards submitted in prior filing.* If the certification standards in use at the time of filing the affidavit or declaration have not changed since the date they were previously submitted to the Office, include a statement to that effect. If the certification standards in use at the time of filing the affidavit or declaration have changed since the date they were previously submitted to the Office, include a copy of the revised certification standards;

(ii) State that the owner is exercising legitimate control over the use of the mark in commerce; and

(iii) Satisfy the requirements of § 2.45(a)(4)(i)(A) and (C).

(10) For requirements of a complete affidavit or declaration of use in commerce or excusable nonuse for a registration that issued from a section 66(a) basis application, see § 7.37.

(b) *Requirement for the submission of additional information, exhibits, affidavits or declarations, and specimens.* The Office may require the owner to furnish such information, exhibits, affidavits or declarations, and such additional specimens as may be reasonably necessary to the proper examination of the affidavit or declaration under section 8 of the Act or for the Office to assess and promote the accuracy and integrity of the register.

(c) *Fee for deletions of goods, services, and/or classes from a registration.* Deletions by the owner of goods, services, and/or classes from a registration after submission and prior to acceptance of the affidavit or declaration must be accompanied by the relevant fee in § 2.6(a)(12)(iii) or (iv).

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

■ 6. The authority citation for part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 7. Amend § 7.6 by revising paragraph (a)(6) to read as follows:

§ 7.6 Schedule of U.S. process fees.

(a) * * *

(6) *Affidavit under section 71.* (i) For filing an affidavit under section 71 of the Act on paper, per class—$325.00

(ii) For filing an affidavit under section 71 of the Act through TEAS, per class—$225.00

(iii) For deleting goods, services, and/or classes after submission and prior to acceptance of an affidavit under section 71 of the Act on paper, per class—$350.00

(iv) For deleting goods, services, and/or classes after submission and prior to acceptance of an affidavit under section 71 of the Act through TEAS, per class—$250.00

* * * * *

■ 8. Revise § 7.37 to read as follows:

§ 7.37 Requirements for a complete affidavit or declaration of use in commerce or excusable nonuse; requirement for the submission of additional information, exhibits, affidavits or declarations, and specimens; and fee for deletions of goods, services, and/or classes from a registration.

(a) *Requirements for a complete affidavit or declaration.* A complete affidavit or declaration under section 71 of the Act must:

(1) Be filed by the holder of the international registration within the period set forth in § 7.36(b);

(2) Include a verified statement attesting to the use in commerce or excusable nonuse of the mark within the period set forth in section 71 of the Act. The verified statement must be executed on or after the beginning of the filing period specified in § 7.36(b). A person who is properly authorized to sign on behalf of the holder is:

(i) A person with legal authority to bind the holder;

(ii) A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the holder; or

(iii) An attorney, as defined in § 11.1 of this chapter, who has an actual written or verbal power of attorney or an implied power of attorney from the holder;

(3) Include the U.S. registration number;

(4)(i) Include the fee required by § 7.6 for each class that the affidavit or declaration covers;

(ii) If the affidavit or declaration is filed during the grace period under section 71(a)(3) of the Act, include the grace period surcharge per class required by § 7.6;

(iii) If at least one fee is submitted for a multiple-class registration, but the fee is insufficient to cover all the classes, and the class(es) to which the fee(s) should be applied is not specified, the Office will issue a notice requiring either submission of the additional fee(s) or specification of the class(es) to which the initial fee(s) should be applied. Additional fees may be submitted if the requirements of § 7.39 are met. If the additional fee(s) is not submitted within the time period set out in the Office action, and the class(es) to which the original fee(s) should be applied is not specified, the Office will presume that the fee(s) covers the classes in ascending order, beginning with the lowest numbered class;

(5)(i) Specify the goods, services, or nature of the collective membership organization for which the mark is in use in commerce, and/or the goods, services, or nature of the collective membership organization for which excusable nonuse is claimed under paragraph (a)(6)(ii) of this section; and

(ii) Specify the goods, services, or classes being deleted from the registration, if the affidavit or declaration covers fewer than all the goods, services, or classes in the registration;

(6)(i) State that the registered mark is in use in commerce; or

(ii) If the registered mark is not in use in commerce on or in connection with all the goods, services, or classes specified in the registration, set forth the date when such use of the mark in commerce stopped and the approximate date when such use is expected to resume, and recite facts to show that nonuse as to those goods, services, or classes is due to special circumstances that excuse the nonuse and is not due to an intention to abandon the mark; and

(7) Include one specimen showing how the mark is in use in commerce for each class in the registration, unless excusable nonuse is claimed under

paragraph (a)(6)(ii) of this section. When requested by the Office, additional specimens must be provided. The specimen must meet the requirements of § 2.56 of this chapter.

(8) Additional requirements for a collective mark: In addition to the above requirements, a complete affidavit or declaration pertaining to a collective mark must:

(i) State that the holder is exercising legitimate control over the use of the mark in commerce; and

(ii) State the nature of the holder's control over the use of the mark by the members in the first affidavit or declaration filed under paragraph (a)(1) of this section.

(9) Additional requirements for a certification mark: In addition to the above requirements, a complete affidavit or declaration pertaining to a certification mark must:

(i) Include a copy of the certification standards specified in § 2.45(a)(4)(i)(B) of this chapter;

(A) *Submitting certification standards for the first time.* In the first affidavit or declaration filed under paragraph (a)(1) of this section, include a copy of the certification standards; or

(B) *Certification standards submitted in prior filing.* If the certification standards in use at the time of filing the affidavit or declaration have not changed since the date they were previously submitted to the Office, include a statement to that effect. If the certification standards in use at the time of filing the affidavit or declaration have changed since the date they were previously submitted to the Office, include a copy of the revised certification standards;

(ii) State that the holder is exercising legitimate control over the use of the mark in commerce; and

(iii) Satisfy the requirements of § 2.45(a)(4)(i)(A) and (C) of this chapter.

(b) *Requirement for the submission of additional information, exhibits, affidavits or declarations, and specimens.* The Office may require the holder to furnish such information, exhibits, affidavits or declarations, and such additional specimens as may be reasonably necessary to the proper examination of the affidavit or declaration under section 71 of the Act or for the Office to assess and promote the accuracy and integrity of the register.

(c) *Fee for deletions of goods, services, and/or classes from a registration.* Deletions by the holder of goods, services, and/or classes from a registration after submission and prior to acceptance of the affidavit or declaration must be accompanied by the relevant fee in § 7.6(a)(6)(iii) or (iv).

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–25222 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7]

Air Plan Approval; Iowa; Air Quality Implementation Plan—Muscatine Sulfur Dioxide Nonattainment Area and Start-up, Shutdown, Malfunction SIP Call Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision, submitted by the state of Iowa, through the Iowa Department of Natural Resources (IDNR), to the EPA on May 26, 2016, for the purpose of providing for attainment of the 2010 1-hour primary Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in the Muscatine County, Iowa nonattainment area (NAA). The EPA concludes that Iowa has appropriately demonstrated that its SIP provides for attainment with the 2010 1-hour primary SO_2 NAAQS in the NAA, and that the plan meets the other applicable requirements under the Clean Air Act (CAA or Act). As a part of approving the attainment demonstration, the EPA is taking final action to approve into the Iowa SIP the SO_2 emissions limits and associated compliance parameters for the NAA. The EPA is also applying a policy regarding startup, shutdown, and malfunction (SSM) exemption provisions in the Iowa SIP that is consistent with the EPA's national policy. In light of this policy and the EPA's evaluation of Iowa's SIP, the EPA is withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action.

DATES: This rule will become effective on December 17, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2017–0416. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Atmospheric Programs Section, Air Planning and Development Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. The EPA requests that if at all possible, you contact the person 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 federal holidays.

FOR FURTHER INFORMATION CONTACT: Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7629; email address: *keas.ashley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," and "our" is used, we mean the EPA.

Table of Contents

I. Background for This Action

A. The Muscatine Attainment Plan

On June 22, 2010, the EPA published a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50.[1] On August 5, 2013, the EPA designated the first set of areas of the country as nonattainment for the 2010 1-hour SO_2 NAAQS, including the partial Muscatine County NAA in Iowa.[2] The designations were effective

[1] *See* 75 FR 35520, codified at 40 CFR 50.17(a)b).

[2] *See* 78 FR 47191, codified at 40 CFR part 81, subpart C.

October 4, 2013, which triggered a requirement for Iowa to submit a SIP revision with a plan for how the Muscatine NAA would attain the 2010 1-hour SO_2 NAAQS as expeditiously as practicable in accordance with CAA sections 110, 172 and 191–192. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the 2010 1-hour SO_2 NAAQS to the EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015, in this case. Section 192(a) requires that such plans provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of the nonattainment designation, *i.e.,* no later than October 4, 2018 in this case. Section 172(c) of part D of title I of the CAA lists the required components of a NAA plan submittal. The base year emissions inventory (section 172(c)(3)) is required to show a ''comprehensive, accurate, current inventory'' of all relevant pollutants in the NAA. The NAA plan must identify and quantify any expected emissions from the construction of new sources to account for emissions in the area that might affect reasonable further progress (RFP) toward attainment, or that might interfere with attainment and maintenance of the NAAQS, and it must provide for a nonattainment new source review (NNSR) program (section 172(c)(5)). The attainment demonstration must include a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for RFP and expeditious attainment of the NAAQS (section 172(c)(2), (4), (6) and (7)). The NAA plan must include an analysis of the reasonably available control measures (RACM) considered, including reasonably available control technology (RACT) (section 172(c)(1)). Finally, the attainment plan must provide for contingency measures (section 172(c)(9)) to be implemented either in the case that RFP toward attainment is not made, or in the case that the area fails to attain the NAAQS by the attainment date. The EPA's regulations at 40 CFR part 51, subparts F and G further prescribe the procedural and substantive requirements attainment plans must meet in order to obtain the EPA's approval.

On April 23, 2014, the EPA issued a guidance document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (hereafter April 2014 Guidance).[3] The April 2014 Guidance provides recommendations for the development of SO_2 attainment SIPs to satisfy CAA requirements for NAAs (see, *e.g.,* sections 172 and 191–192). As detailed in the EPA's April 2014 guidance, such attainment plans are to contain six CAA-required elements: An emissions inventory of current emissions for all sources of SO_2 within the NAA; a NNSR permit program; an attainment demonstration using an EPA-approved air dispersion model; contingency measures; RFP; and implementation of a control strategy. The state noted that as part of its control strategy, 58 construction permits in the attainment plan relied on the SIP-called SSM-related provisions in Iowa Administrative Code (IAC) 567–24.1(1) (''Condition 6'' of each permit). Therefore, the state's NAA plan SIP submission requested that the EPA not act on Condition 6 of the included permits, and accordingly this language is not incorporated into the SIP.[4] An attainment demonstration must also meet the requirements of 40 CFR 51.112 and part 51, appendix W, and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The April 2014 Guidance also discusses the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria to ensure attainment of the 2010 1-hour SO_2 NAAQS.

On March 18, 2016, the EPA published a document that the state of Iowa failed to submit the required SO_2 attainment plan for the Muscatine area by the SIP submittal deadline.[5] This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source and highway funding sanctions. Iowa submitted an attainment demonstration for the Muscatine NAA on May 26, 2016 and the SIP became complete by operation of law on November 26, 2016. Due to the SIP submittal becoming complete by operation of law, the sanctions under section 179(a) were never imposed. Additionally, under CAA section 110(c), the finding triggered a requirement that the EPA promulgate a Federal Implementation Plan (FIP) within two years of the finding unless, by that time (a) the state has made the necessary complete submittal and (b) the EPA has approved the submittal as meeting applicable requirements. With this final action to approve the Iowa SIP, the EPA's statutory obligation to issue a FIP no longer applies.

On August 24, 2017, the EPA proposed to approve Iowa's SIP submittal, which included all the specific attainment planning elements mentioned previously and new SO_2 emission limits at Grain Processing Corporation (GPC), Muscatine Power and Water (MPW), and Monsanto, the three primary SO_2 sources located inside the boundaries of the NAA.[6] The emission limits at MPW have an averaging time of 21 days, longer than the 1-hour form of the primary SO_2 NAAQS. These longer-term average limits were developed in accordance with the April 2014 Guidance. The 30-day public comment period closed on September 25, 2017. The EPA received three sets of comments on the proposed approval of Iowa's SIP submission. One set of comments was from an anonymous source and was in support of the proposed rule, a second set of comments was from the Sierra Club, and a third set of comments was from the Iowa Environmental Council (IEC), both of which were adverse to the proposed rule. All of the public comments are available in the docket for this final rulemaking action. Among the adverse comments, the EPA received comment suggesting that insufficient information was provided in the docket to allow the reviewer the ability to fully evaluate the attainment plan and the EPA's proposed action to approve it. Another comment similarly stated that insufficient emissions inventory information for the 2018 attainment year was provided in the proposed action.

As a result of these comments suggesting insufficient information was available, on January 9, 2018, the EPA published, in the **Federal Register**, a supplemental notice of proposed rulemaking (SNPRM) that: (1) Provided additional information in the docket and clarified that all information, including large files, were available upon request; (2) provided an updated 2018 projected emissions inventory;[7] and (3) re-opened the comment period to afford the public an opportunity to comment on the specific additions of

[3] Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions; April 23, 2014.

[4] As discussed in section II of this document, the EPA Region 7 Office is taking final action to apply the policy related to SSM provisions in the Iowa SIP as also detailed in the June 22, 2020, proposal and therefore is also withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. For these reasons, if Iowa requests that the EPA act on Condition 6 of the 58 construction permits submitted to the EPA as part of the control strategy for the attainment plan, the EPA could propose to approve those provisions based on the rationale set forth in this document as well as in the prior proposals and associated RTC document.

[5] *See* 81 FR 14736.

[6] *See* 82 FR 40086.

[7] IDNR concurred with the EPA's updated emissions inventory via email dated December 18, 2017. See Document Q in the docket for this action.

information only.[8] The 30-day public comment period closed on February 9, 2018. The EPA received eight sets of comments during the public comment period for the supplemental notice. One set of comments from the Sierra Club and one set of comments from an anonymous submitter were adverse to the proposed action. The Sierra Club comments were largely related to the longer-term average limits for MPW, while the anonymous submitter requested additional modeling information. Six sets of comments were not directly related to the proposed action.

On both the August 24, 2017, and January 9, 2018, notices of proposed rulemaking, the EPA received adverse comments related to SSM provisions in the Iowa SIP. As a result of adverse comments received on the proposal actions, the EPA published a second SNPRM on June 22, 2020, to provide additional detail regarding technical support for approving the attainment demonstration and control strategy submitted by Iowa for the Muscatine NAA. This proposal also detailed the policy under consideration by the EPA Region 7 Office related to SSM provisions in the Iowa SIP and, if adopted, proposed to withdraw the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. The 30-day public comment period closed on July 22, 2020. The EPA received three sets of comments during this third public comment period. Two sets of comments, one from the SSM Coalition and one from NEDACAP (National Environmental Development Association's Clean Air Project), were supportive of the EPA's proposed action. The third set of comments represents a joint set of adverse comments submitted by several environmental and public health organizations (Earthjustice, Environmental Integrity Project, Iowa Environmental Council, Natural Resources Defense Council, and Sierra Club). All of the public comments received on the three aforementioned proposals [9] are included in the public docket for this action at *www.regulations.gov.* Also included in the docket for this action is a Response to Comment (RTC) document which includes summaries of the adverse comments received on the three proposals along with the EPA's responses to those comments. No response is needed for comments in support of or not related to the proposed actions. For a comprehensive discussion of Iowa's SO_2 attainment SIP and the EPA's analysis and rationale for approval, please also refer to the August 24, 2017, January 9, 2018, and June 22, 2020, proposed rulemakings.[10] The EPA also updated Document A, ''Index of Docket Documents'' in the docket to this rulemaking for ease of referencing supporting materials for this action.

B. The EPA's 2015 SSM SIP Action

On June 30, 2011, Sierra Club (Petitioner) filed a petition for rulemaking (petition) asking the EPA to consider how identified air agency rules in the EPA-approved SIPs treated excess emissions during periods of startup, shutdown, or malfunction of industrial process or emission control equipment. On July 12, 2015, the EPA responded to the petition, restated and updated its national policy regarding SSM provisions in SIPs, and found pursuant to CAA section 110(k)(5) that a number of the identified provisions were ''substantially inadequate'' to meet Clean Air Act requirements, requiring certain states to amend those provisions.[11] This action is referred to as the 2015 SSM SIP Action.[12] In the 2015 SSM SIP Action, among other things, the EPA defined the following terms:

Automatic Exemption

A generally applicable provision in a SIP that would provide that if certain conditions existed during a period of excess emissions, then those exceedances would not be considered violations of the applicable emission limitations.[13]

Emission Limitation

In the context of a SIP, a legally binding restriction on emissions from a source or source category, such as a numerical emission limitation, a numerical emission limitation with higher or lower levels applicable during specific modes of source operation, a specific technological control measure requirement, a work practice standard, or a combination of these things as components of a comprehensive and continuous emission limitation in a SIP provision. In this respect, the term emission limitation is defined as in section 302(k) of the CAA. By definition, an emission limitation can take various forms or a combination of forms, but in order to be permissible in a SIP it must be applicable to the source continuously, *i.e.,* cannot include periods during which emissions from the source are legally or functionally exempt from regulation. Regardless of its form, a fully approvable SIP emission limitation must also meet all substantive requirements of the CAA applicable to such a SIP provision, *e.g.,* the statutory requirement of section 172(c)(1) for imposition of reasonably available control measures and reasonably available control technology (RACM and RACT) on sources located in designated NAAs.[14]

The EPA used the U.S. Court of Appeals for the D.C. Circuit's decision in *Sierra Club* v. *Johnson,* 551 F.3d 1019 (D.C. Cir. 2008) (*Sierra Club*), to further support its position in the 2015 SSM SIP Action that SIPs may not contain SSM exemption provisions. In *Sierra Club,* the D.C. Circuit reviewed an EPA rule promulgated pursuant to CAA section 112 that contained an automatic SSM exemption and found that ''the SSM exemption violates the CAA's requirement that some section 112 standard apply continuously.'' [15] In the 2015 SSM SIP Action, the EPA applied the *Sierra Club* court's interpretation of CAA section 302(k) definition of ''emission limitation'' in the CAA section 112 context to the requirements of CAA section 110. CAA section 110(a)(2)(A) provides that SIPs shall include ''enforceable *emission limitations* and other control measures, means, or techniques . . . as may be necessary or appropriate to meet the applicable requirements of this chapter.'' The EPA's application of the *Sierra Club* decision to CAA section 110 SIP requirements rested on the Agency's premise that the D.C. Circuit's interpretation of the definition of ''emission limitation'' in CAA section 302(k) applied generally to the Act. The EPA thus determined that *Sierra Club* was consistent with the EPA's national policy at that time, expressed through previously issued guidance documents and regulatory actions prohibiting exemption provisions for otherwise applicable emission limits in SIPs (such as automatic exemptions granted for startup, shutdown, and malfunction events). Based on this premise, the EPA interpreted the lack of continuous control as creating a substantial risk that exemptions could permit excess emissions that could ultimately result in a NAAQS violation.

C. The SSM SIP Call for Iowa

As part of the Agency's response to the 2011 petition from Sierra Club, the EPA evaluated dozens of existing SIP provisions across numerous states—including the Iowa SIP—related to automatic excess emission exemptions for consistency with the EPA's national

[8] *See* 83 FR 997.

[9] *See* 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

[10] *See* 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

[11] A CAA section 110(k)(5) finding of substantial inadequacy is known as a ''SIP call'' and referenced as such in this action.

[12] *See* 80 FR 33840.

[13] *See* 80 FR 33840, page 33842.

[14] *See* 80 FR 33840, page 33842.

[15] 551 F.3d at 1027–1028.

policy at that time. As a result, the EPA issued findings in its 2015 SSM SIP Action that certain SIP provisions for 36 states (including Iowa) were substantially inadequate to meet CAA requirements. In the 2015 SSM SIP Action, the EPA granted the Sierra Club's petition with respect to IAC subrule 567–24.1(1), finding that the provision was substantially inadequate and issuing a SIP call for that provision, and the EPA denied the petition with respect to IAC 567–24.1(4).[16] [17]

In the 2015 SSM SIP Action, the EPA found IAC 567–24.1(1) to be substantially inadequate to meet the requirements of the Act on the basis that this provision automatically allows for exemptions from the otherwise applicable SIP emission limitations, which was found at the time to be inconsistent with CAA sections 110(a)(2)(A), 110(a)(2)(C), and 302(k).[18] Specifically, IAC 567–24.1(1) explicitly states that excess emissions during periods of startup, shutdown, and cleaning of control equipment are not violations of the emission standard.[19] Iowa has not submitted a SIP revision in response to the SIP call issued for IAC 567.24.1(1).

D. The EPA's 2020 SSM SIP Guidance Memorandum

On October 9, 2020, the EPA issued a Guidance Memorandum outlining a new national policy related to specific SIP provisions governing excess emissions during SSM events.[20] The new guidance memorandum superseded the guidance provided in the 2015 SSM SIP Action on automatic exemption and affirmative defense provisions, but did not alter the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act. Specifically, in this guidance memorandum, the EPA expressed that exemption provisions—both those referred to as ''automatic exemptions'' [21] and those termed ''director discretion provisions'' [22] in the 2015 SSM SIP Action—may be permissible in SIPs under certain circumstances. The general requirements in CAA section 110 to attain and maintain the NAAQS and the latitude provided to states through the SIP development process create a framework in which a state may be able to ensure attainment and maintenance of the NAAQS notwithstanding the presence of SSM exemptions in the SIP. It is permissible for a SIP to contain SSM exemptions only if the SIP is composed of numerous planning requirements that are collectively NAAQS-protective by design. Such redundancy helps to ensure that the NAAQS are both attained and maintained, which was Congress's goal in creating the SIP development and adoption process. In evaluating whether the requirements of a SIP are collectively NAAQS protective despite the inclusion of an SSM exemption provision, the EPA will conduct an in-depth analysis of the SIP, including a multifactor, weight-of-the-evidence exercise that balances many considerations.

The policy contained in the 2015 SSM SIP Action—that SIPs that included exemption provisions cannot be consistent with CAA requirements—was predicated on the idea that an emission limitation or standard could not apply continuously, in line with the CAA section 302(k)'s definition of ''emission limitation,'' if the SIP permitted exemptions for any period of time from the emission limitation or standard. Under this policy, the presumed lack of ''continuous emission limitations or standards'' was viewed as creating a substantial risk that exemptions could permit excess emissions that could ultimately result in a NAAQS violation. However, for SIPs with overlapping planning requirements that together ensure attainment and maintenance of the NAAQS, a prohibition on exemption provisions was unnecessary and came at the expense of state autonomy and flexibility. The EPA now believes that the general requirements in CAA section 110 to attain and maintain the NAAQS and the inherent flexibilities of the SIP development process create a continuous framework in which a state may, depending on the other features of its SIP, be able to ensure attainment and maintenance of the NAAQS notwithstanding the presence of SSM exemptions in a SIP.

The 2015 SSM SIP Action cited the D.C. Circuit's decision in *Sierra Club,* as discussed in section I.B. of this document, as support for the position that SIPs may not contain SSM exemption provisions. The EPA's application of the *Sierra Club* decision to CAA section 110 SIP requirements rested on the Agency's premise that the D.C. Circuit's interpretation of the definition of ''emission standards'' in CAA section 302(k) applied generally to the whole Act. Although the *Sierra Club* decision does not allow sources to be exempt from complying with CAA section 112 emission standards during periods of SSM, that holding is not binding on the EPA's consideration of SIPs under CAA section 110. In the *Sierra Club* decision, the court explained, ''[i]n requiring that sources regulated under section 112 meet the strictest standards, Congress gave no indication that it intended the application of MACT standards to vary based on different time periods.'' 551 F.3d at 1028. That is, the court found that when the EPA promulgates standards pursuant to CAA section 112, a single or some combination of CAA section 112-compliant standards must apply continuously, but the court did not make any statement applying its holding beyond CAA section 112. *Cf. Sierra Club,* 551 F.3d at 1027 (''When sections 112 and 302(k) are read together, then, Congress has required that there must be continuous section 112-compliant standards.'') *See also id.* (''[s]ection 302(k)'s inclusion of this broad phrase in the definition of 'emission standard' suggests that emissions reduction requirements 'assure continuous emission reduction' without necessarily continuously applying a single standard.''). The general duty provision that applied during SSM periods was ''neither 'a separate and independent standard under CAA section 112(d),' nor 'a free-

[16] IAC 567–24.1(1) states that excess emissions during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a way that is consistent with good practice for minimizing emissions.

[17] IAC 567–24.1(4) states that incidents of excess emissions (other than an incident during start-up, shutdown or cleaning of control equipment) are violations. If the source believes that the excess emissions are due to a malfunction the source must meet the burden of proof that the incident was not preventable by reasonable maintenance and control measures. Meeting the burden of proof does not guarantee that the excess emissions will not be enforced; the rule states that enforcement will be considered after review of the source's report.

[18] *See* 80 FR 33969.

[19] The provision does not provide for an exemption during periods of malfunction. However, for ease of reference, the EPA Region 7 Office refers to Iowa's provision as an ''SSM'' provision in order to align with public comments which regularly reference ''SSM'' events and provisions.

[20] Memorandum from Administrator Wheeler to Regional Administrators, dated October 9, 2020, titled ''Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans.'' *https://www.epa.gov/air-quality-implementation-plans/guidance-inclusion-provisions-governing-periods-startup-shutdown.*

[21] ''Automatic exemption'' means a generally applicable provision in a SIP that would provide that if certain conditions existed during a period of excess emissions, then those exceedances would not be considered violations of the applicable emission limitations.

[22] The term ''director's discretion provision'' means, in general, a regulatory provision that authorizes a state regulatory official unilaterally to grant exemptions or variances from otherwise applicable emission limitations or control measures, or to excuse noncompliance with otherwise applicable emission limitations or control measures.

standing emission limitation that must independently be in compliance' with section 112(d), nor an alternative standard under section 112(h).'' *Id.* at 1028. The decision itself did not address whether the rationale articulated with respect to SSM exemptions in CAA section 112 rules applies to SIPs approved under section 110. It also did not address what forms of SIP provisions could combine to appropriately create continuous protections.

The EPA took the position in the 2015 SSM SIP Action that the legal reasoning in *Sierra Club* applied equally to CAA section 112 rules and section 110 approved SIPs. More specifically, in the 2015 SSM SIP Action, the EPA interpreted CAA section 302(k)'s definition of ''continuous'' to apply broadly to both sections 112 and 110. But further consideration has shown that an alternative reading of the relevant statutory sections is superior as a matter of both law and policy.

Fundamentally, CAA sections 112 and 110 have different goals and establish different approaches for implementation by the state and the EPA. The court in *Sierra Club* recognized that Congress intended ''that sources regulated under section 112 meet the strictest standards,'' a requirement without a similar analog in CAA section 110. *Sierra Club* at 1028. CAA section 112 sets forth specific standards for specific source categories once they are listed for regulation pursuant to CAA section 112(c). Once listed, the statute directs the EPA (not the states) to use a specific and exacting process to establish nationally applicable, category-wide, technology-based emissions standards. *See* 42 U.S.C. 7412(d) (requiring the EPA to establish emission standards, known as ''maximum available control technology'' or ''MACT'' standards, for major sources that ''require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section'' that the EPA determines is achievable considering statutory factors). States do not have a role in establishing section 112 standards and do not generally enjoy flexibility in determining how the ultimate requirements of CAA section 112 will be met.

In contrast, the CAA sets out a different requirement for section 110 SIPs, reflecting that SIP development and implementation rely on a federal-state partnership and are designed to be flexible for each state's circumstances. The CAA sets the minimum requirements to attain, maintain, and enforce ambient air quality standards, while allowing each state to customize its own approach for the sources and air quality challenges specific to its own circumstances. It is important to note that the EPA sets the NAAQS for each criteria pollutant [23] to provide the requisite degree of protection for public health and welfare, but does not direct the states on how to achieve the NAAQS. Implementation of the NAAQS, then, is fundamentally different in nature than the source-specific standards the EPA issues under section 112. Therefore, the D.C. Circuit's concern that section 112 standards must apply ''continuously'' to regulate emissions from a particular source are not necessarily applicable in the context of section 110, where a state's plan may contain a broad range of measures, including limits on the emissions of multiple pollutants from multiple sources of various source categories—all directed towards Congress's broad goal of timely attainment and maintenance the NAAQS.

It is important also to note that the list of potential CAA section 110(a)(2)(A) measures that a state may implement are required only ''as may be necessary or appropriate to meet the applicable requirements of this chapter.'' This language suggests that Congress intended to give states the flexibility to craft a plan that makes the most sense for that state, so long as the set of emissions limitations, control measures, means and techniques, when taken as a whole, meet the requirements of attaining and maintaining the NAAQS.

Because the purposes and mechanisms of CAA sections 110 and 112 are different, it is reasonable to interpret the same term (emission limitation) to have different meanings in those sections; a singular interpretation may not necessarily apply statute-wide. The U.S. Supreme Court has recognized that principles of statutory construction are not so rigid as to necessarily require that the same terminology has the exact same meaning in different parts of the same statute. *See Envtl. Defense* v. *Duke Energy Corp.,* 549 U.S. 561, 574 (2007). The Court explained in *Duke Energy* that there is ''no effectively irrebuttable presumption that the same defined term in different provisions of the same statute must be interpreted identically.'' *Id.* at 575–6. ''Context counts,'' stated the Court; terms can have ''different shades of meaning'' reflecting ''different implementation strategies'' even in the same statute. *Id.* at 574, 76 (citations omitted). *See also Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 320 (2014) (''a statutory term—even one defined in the statute—may take on distinct characters from association with distinct statutory objects calling for different implementation strategies.'' (citations omitted)). Indeed, the D.C. Circuit's decision interpreting section 112 acknowledged that ''the court must examine the meaning of certain words or phrases *in context.*'' *Sierra Club,* 551 F.3d at 1027.

The text of CAA section 110(a)(2)(A) reflects the increased flexibility built into section 110 as compared to section 112. The requirement that the ''emissions standards'' the EPA issues under section 112, *see, e.g.,* section 112(c)(2), apply continuously may, as the D.C. Circuit held, prevent the EPA from providing SSM exemptions in those standards. However, at the same time, it is reasonable to interpret the concept of continuous ''emission limitations'' in a SIP to be focused not on a single standard that applies invariably, but rather on whether the various components of the state's SIP operate together in a continuous manner to ensure attainment and maintenance of the NAAQS. Unlike section 112, which relies exclusively on ''emissions standards,'' section 110 relies on a web of potential control mechanisms—''emission limitations and other control measures, means or techniques (including economic incentives . . .), as well as schedules and timetables for compliance.'' And section 110 gives the State discretion to choose among these mechanisms ''as may be necessary or appropriate to meet the applicable requirements of this chapter.'' Therefore, it is reasonable to conclude that the *Sierra Club* decision's disapproval of SSM provisions under section 112 should not be extended to CAA section 110.

Determining whether a specific exemption provision will be permissible in an identified state SIP will involve an in-depth analysis of the SIP to determine whether it is composed of numerous planning requirements that are, when taken collectively, protective of the NAAQS. The EPA anticipates that this will be a multifactor, weight-of-the evidence exercise that balances many considerations. In such an instance, the EPA believes it may conclude that a SIP

[23] Pursuant to CAA section 108, the EPA was required to publish a list including each air pollutant (and air quality criteria for such pollutant)—emissions of which, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare and the presence of which in the ambient air results from numerous or diverse mobile or stationary sources. Pursuant to CAA section 109, the EPA was required to publish regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria had been issued.

adequately provides for attainment and maintenance of the NAAQS, even if the SIP allows exemptions to specific emission limits for discrete periods, such as SSM events. A state may be able to demonstrate that a combination of emission limitations ''as may be necessary or appropriate'' that apply during normal operations but not during SSM periods and ''other control measures, means, or techniques'' that may apply during SSM periods—such as general duty provisions in the SIP with respect to criteria pollutants, work practice standards, best management practices, or alternative emission limits—are protective of the NAAQS.

In addition to reviewing any information provided by the state, the EPA may consider other available evidence and provide additional analysis, as necessary, when reviewing SSM emission limitation exemptions in SIPs. For example, the EPA could also consider a state's air quality and whether a state has any current nonattainment areas for a NAAQS as factors in its overall weight-of-the-evidence analysis, particularly when considering whether to withdraw a SIP call issued in 2015 for an exemption provision. A state's SIP provisions may be more likely to be protective of the NAAQS where the State has already attained the NAAQS and its current air quality does not exceed the standard.

The EPA will also consider the SSM provision itself. For example, a requirement that sources use best practicable air pollution control practices to minimize emissions during startup, shutdown, or malfunction periods may be considered favorably in determining whether a given exemption provision (in combination with the other provisions of the SIP) is approvable. If the provision contains limitations on whether SSM events are considered emission standard violations or requires that source owners or operators limit the duration and severity of SSM events, it may be reasonable to conclude that such a provision, when considered alongside other factors, will not jeopardize a state's ability to attain and maintain the NAAQS.

II. The EPA's Evaluation of the Iowa SIP

As a result of adverse comments received on the prior proposal actions, the EPA Region 7 Office published a second SNPRM on June 22, 2020, to provide additional detail regarding technical support for approving the attainment demonstration and control strategy submitted by Iowa for the Muscatine NAA. Also in that SNPRM, the EPA Region 7 Office announced that it was considering adopting a policy regarding SSM exemption provisions in the Iowa SIP, and, if adopted, proposed to withdraw the SIP call issued to Iowa as part of the 2015 SSM SIP Action. During the course of preparing a final decision on the June 22, 2020 proposal to withdraw the SIP call issued to Iowa, the EPA issued a guidance memorandum containing a new national policy addressing SSM exemption provisions in SIPs, as discussed in section I.D. of this document. In reliance on the rationale articulated both in the June 22, 2020 proposal and the RTC document associated with this final action, and consistent with this new national policy, the EPA is taking final action to withdraw the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action.

Related to the SSM exemption provisions in the Iowa SIP, and as detailed in the EPA's June 22, 2020, NPRM, the EPA Region 7 Office evaluated the Iowa SIP and identified numerous provisions in the SIP that, when taken as a whole, demonstrate that the SIP in its entirety is protective of the NAAQS.[24] Specifically, as detailed later in this section as well as in the June 22, 2020 NPRM, the Iowa SIP includes a series of overlapping requirements that provide for robust testing, reporting, and accountability for sources, including during periods of excess emissions. Such overlapping requirements enable Iowa Department of Natural Resources (IDNR) to implement the NAAQS, allowing IDNR to maintain oversight, work with sources to maintain compliant operation, and, if necessary, enforce against sources.

Although IAC 567–24.1(1) was SIP called as part of the EPA's 2015 SSM SIP Action, the provision contains limitations on whether SSM events are considered emission standard violations and requires that source owners or operators limit the duration and severity of SSM events. IAC 567–24.1(1) states:

24.1(1) Excess emission during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a manner consistent with good practice for minimizing emissions. Cleaning of control equipment which does not require the shutdown of the process equipment shall be limited to one six-minute period per one-hour period.

While the subrule does allow for an exemption for excess emissions, it also provides for two key backstops that protect air quality and help to ensure attainment and maintenance of the NAAQS: (1) Startup, shutdown and cleaning is to be accomplished expeditiously; and, (2) startup, shutdown, and cleaning is to be accomplished in a way that is consistent with good practice for minimizing emissions. IAC 567–24.1(4) clarifies that an ''expeditious manner'' is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. IAC 567–24.1(4) also states that a ''reasonable period of time'' is eight hours plus the period of time required to shut down the process without damaging the process or control equipment.

In addition to backstops built into the exemption provision itself, the remainder of Iowa's SIP contains further protections. On March 22, 2018, the EPA approved Iowa's 2010 SO_2 infrastructure SIP as submitted to the EPA on July 29, 2013. Therefore, Iowa has the requisite statutory authority that provides an adequate framework for attaining and maintaining the NAAQS.[25] As detailed in the EPA Region 7 Office's technical support document for Iowa's 2010 SO_2 infrastructure SIP approval, the director of the IDNR has the duty to ensure that the NAAQS is attained and maintained in accordance with federal laws and regulations, and is granted broad oversight, authority, and discretion with which to do so.[26]

Iowa Code 455B.132 designates IDNR as the Agency to prevent, abate, or control air pollution. The Environmental Protection Commission (EPC) governs the environmental services of IDNR and has the duty to develop emission limits and compliance schedules in order to abate, control, and prevent air pollution.[27] The EPC adopts, amends, or repeals rules that are necessary to obtain approval of the state SIP under CAA section 110.[28] The EPC is also charged with adopting, amending, or repealing ambient air quality standards necessary to protect public health and welfare.[29] Furthermore, 455B.134(9) states that the director shall issue orders consistent with rules to cause the abatement or

[24] *See* 85 FR 37405.

[25] *See* 83 FR 12486.

[26] *See* 83 FR 12486. The technical support document is included in the docket for the final action on Iowa's 2010 SO_2 infrastructure SIP at Docket ID: EPA–R07–OAR–2017–0267.

[27] Iowa Code 455B.133.1 (''Duties''). The EPC is a panel of nine citizens who provide policy oversight over Iowa's environmental protection efforts. The EPC's members are appointed by the Governor and confirmed by vote of the Senate for 4-year terms.

[28] Iowa Code 455B.133.2.

[29] Iowa Code 455B.133.4.

control of air pollution, or to secure compliance with permit conditions.

The IDNR director's duty to ensure the NAAQS is attained and maintained is reflected in specific provisions throughout Iowa's SIP, as detailed below. First, in adopting the NAAQS into its state regulations, IAC 567–28.1 requires that IDNR implement the NAAQS ''*in a time frame and schedule consistent with implementation schedules in federal laws and regulations.*'' For NAAs, CAA section 172(c), among other relevant statutory provisions, requires state plans to provide for attainment as expeditiously as practicable and for the implementation of reasonable available control measures (RACM) as expeditiously as practicable. As mentioned previously, the EPA has approved Iowa's 2010 SO_2 infrastructure SIP, meaning that the EPA has, through notice and comment rulemaking, found that the SIP provides for the implementation, maintenance, and enforcement of the NAAQS. Other than the Muscatine 2010 1-hour SO_2 NAA, there are no other NAAs, for any criteria pollutant, in the state.[30] As can be seen via recent ambient air quality monitoring data for SO_2, monitored air quality in the Muscatine NAA is well below the NAAQS of 75 parts per billion (ppb). The current 3-year (2017–2019) SO_2 design value for the area is 25 ppb.[31] As detailed in the prior proposals and the RTC document contained in the docket for this action, the highest modeled concentration in the Muscatine NAA, based on permitted emissions limits, is 187.87 ug/m3 or 72 ppb, which demonstrates attainment of the 2010 SO_2 NAAQS. Additionally, all areas in Iowa are currently monitoring air quality design values that are below the NAAQS for all criteria pollutants for the 2017–2019 period.[32]

Furthermore, the SIP provides for emergency powers comparable to that of the EPA Administrator under CAA section 303, and the state has a fully approved emergency episodes plan that meets the applicable requirements of 40 CFR part 51, subpart H, at IAC 567–26.1–4. IAC 567–28.1, in concert with IAC 567–26.1–4 and the state's statutory provisions detailed further below, lay out IDNR's responsibility and authority for ensuring that air quality is protected, and the NAAQS are attained and maintained in the state of Iowa, notwithstanding an exemption for startup-, shutdown-, and cleaning-related excess emissions in the SIP. The attainment status of areas in the State as well as monitored air quality demonstrate successful implementation on the part of the state.

The Iowa SIP also provides IDNR with the specific discretion of whether to issue a construction permit for a source based solely on an analysis of that source's impact on attainment or maintenance of the NAAQS. Specifically, IAC 567–22.3(1) states:

A construction permit shall be issued when the director concludes that (. . .) the expected emissions from the proposed source or modification in conjunction with all other emissions will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28.

Additionally, IAC 567–22.3(5) provides IDNR with the discretion to modify ''*an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard.*'' Accordingly, these provisions provide the state air agency with the authority to limit the issuance of construction permits and modify existing permits to ensure that the NAAQS is attained and maintained. This authority, when considered along with the enforcement, maintenance, and oversight provisions discussed herein, ensures accountability for sources and, when taken as a whole, protects air quality and provides for attainment and maintenance of the NAAQS, even though the Iowa SIP allows exemptions for excess emissions during periods of startup, shutdown, and cleaning. Of note, the State has been implementing its SIP-approved construction program, which includes issuing construction permits with Condition 6 (as mentioned previously, Condition 6 relies upon the SIP-called SSM-related provisions in IAC 567–24.1(1)), and has not monitored a NAAQS violation resulting in the need to revise a permit due solely on emissions from SSM events.

In addition to specific discretion afforded the IDNR director to ensure attainment and maintenance of the NAAQS, there are a number of direct requirements on sources in Iowa's approved SIP. IAC 567–24.1(2) details the initial report that a source owner or operator must submit when an emission limit is exceeded. Such incidences are to be reported to the appropriate IDNR regional office within eight hours of the onset of an incident. Reports are to be submitted via email, in person, or over the telephone. At a minimum, initial incident reports are to include the quantity, duration, cause and remedial steps taken for periods of excess emissions. IAC 567–24.1(3) requires that a written report is to be submitted as a follow-up to all required initial reports to the IDNR within seven days of the onset of the event. The written report is, at a minimum, to include the information required for initial reports under 24.1(2). In addition, written reports are to include, if the owner claims that the excess emission was due to malfunction, documentation to support such a claim.

IAC 567–25.1(6), (7), and (8) detail the testing and sampling requirements for owners and operators of pollution control equipment. Specifically, any facility required to install a continuous monitoring system shall provide regular reports to IDNR, including periods of excess emissions. Furthermore, IDNR is granted the authority to require sources to conduct compliance demonstrations, including testing, which ''*may be required as necessary to determine actual emissions from a source where that source is believed to have a significant impact on the public health or ambient air quality of an area.*'' IDNR may also conduct independent emissions testing as deemed necessary. These provisions require sources to report periods of excess emissions, ensuring that the state is aware of any such events. The state could also require sources to conduct testing during such periods, further enabling the state to protect air quality and ensure attainment and maintenance of the NAAQS.

Owners or operators of any control equipment are also required to maintain and repair equipment or control equipment in such a way that minimizes and remedies any causes of excess emissions. IAC 567–24.2(1) details the maintenance and repair that owners or operators are required to undertake, including maintaining operations that minimize emissions, undertaking scheduled routine maintenance, and remedying any cause of excess emissions in an expeditious manner. (''[E]xpeditious manner,'' as discussed above, is defined in IAC 567–24.1(4)). Furthermore, IAC 567–24.2(1)(c) states that owners or operators shall: *Minimize the amount and duration of any excess emission to the maximum extent possible during periods of such emissions. These measures may include but not be limited to the use of clean fuels, production cutbacks, or the use of alternate process units or, in the case of*

[30] The partial Pottawattamie County 2008 Lead NAAQS nonattainment area was redesignated to attainment in October 2018. *See* 83 FR 50024.

[31] At the time of this document, complete 2020 ambient air quality data had not been certified in the Air Quality System. Annual data certification is not required until May 1 of the following calendar year.

[32] *See https://www.iowadnr.gov/Environmental-Protection/Air-Quality/Monitoring-Ambient-Air.*

utilities, purchase of electrical power until repairs are completed.

IAC 567 24.2(2) provides IDNR with the authority to require owners and operators to develop maintenance plans where, ''*in the judgement of the executive director a continued pattern of excess emissions indicative of inadequate operation and maintenance is occurring.*'' Such maintenance plans have been required of sources over time as appropriate and are to include numerous maintenance and inspection requirements. Most notably, these plans are to include a contingency plan intended to minimize the frequency, duration, and severity of excess emission events.

Lastly, there are a number of Iowa-specific state regulations that help ensure attainment and maintenance of the NAAQS. Iowa Code 455B.139 states that, if the director has evidence that any person is causing air pollution that creates a public health and safety emergency, the director may, without notice, issue an emergency order requiring the immediate discontinuation of emissions. While not SIP-approved, and therefore not federally enforceable, these codes provide supplemental support that the state has considerable oversight and discretion to enforce against sources and ensure attainment and maintenance of the NAAQS.

As further discussed in section I.D. of this document, the EPA issued a new national guidance memorandum related to SIP provisions containing exemptions for excess emissions during SSM events. Through this final action, the EPA Region 7 Office is applying that national policy based on the evaluation of Iowa's SIP. As such, the EPA Region 7 Office is withdrawing the SIP call issued for Iowa as part of the 2015 SSM SIP Action.[33]

III. Final Action

The EPA is taking final action to approve Iowa's SO_2 attainment plan for the Muscatine NAA. The EPA has determined that Iowa's attainment plan and control strategy demonstrates attainment and provides for maintenance of the 2010 1-hour SO_2 NAAQS in the Muscatine NAA and meets the other NAA planning requirements. Specifically, the EPA is approving Iowa's May 26, 2016, SIP revision, which includes the state's modeled attainment demonstration for the Muscatine NAA, RFP, RACT/RACM, base-year and projection-year emission inventories, and contingency measures.

The EPA is further approving numerous permits that Iowa issued containing emission limits and associated monitoring, recordkeeping and reporting requirements that the attainment plan relies on. For Grain Processing Corporation, the EPA is approving permits numbered 75–A–353–S2, 90–A–111–S1, 92–A–383–S2, 92–A–385–S1, 02–A–781–S2, 02–A–782–S2, 03–A–471–S1, 11–A–338–S1, issued on July 6, 2015, and 95–A–374–S4, 15–A–078, 79–A–194–S2, 71–A–067–S4, 75–A–087–S1, 72–A–199–S2, 74–A–014–S1, 74–A–015–S2, 79–A–195–S2, 80–A–149–S5, 80–A–150–S5, 85–A–031–S2, 85–A–032–S2, 85–A–038–P1, 85–A–135–P1, 91–A–068–S2, 93–A–110–P1, 94–A–055–S1, 94–A–061–S1, 09–A–482–S2, 10–A–563–S1, 15–A–202, 15–A–208, 15–A–209, 15–A–326, 06–A–1261–S1, 15–A–354, 15–A–199, issued on December 10, 2015, and 15–A–213, issued on January 26, 2016, and 15–A–203, 15–A–204, 15–A–205, 15–A–206, 15–A–207, 15–A–480, 15–A–481, 15–A–482, 15–A–483, 15–A–484, 15–A–485, 15–A–486, 05–A–926–S4, issued on February 15, 2016, and 15–A–200, 15–A–201 issued on March 25, 2016. For Muscatine Power and Water, the EPA is approving permits numbered 13–A–152–S1, 74–A–175–S4, 95–A–373–P3, 80–A–191–P3 issued on March 2, 2016. For Monsanto, the EPA is approving permits numbered 82–A–092–P11 and 88–A–001–S3, issued May 13, 2015. As noted previously, the EPA is approving these permits with the exception of Condition 6 (Condition 6 relies on the SSM-related provisions of IAC 567–24.1(1)) in each of these permits as requested by Iowa.[34]

The EPA has determined that the state's attainment plan meets the applicable requirements of sections 110, 172, and 191–192 of the CAA. The EPA's analysis is further discussed in prior proposed rulemakings as well as the RTC found in the docket for this final action.[35] The EPA's final action to approve the Iowa SIP terminates the EPA's statutory obligation to issue a FIP for the Muscatine NAA.

Based on the EPA's evaluation of the Iowa SIP contained in section II of this document, consistent with the EPA's national policy,[36] and after carefully considering the comments received, the EPA Region 7 Office is taking final action to withdraw the SSM SIP call for Iowa. The EPA received adverse comments related to the SSM provisions of the Iowa SIP on the aforementioned proposed rulemakings. All of the adverse comments along with the EPA's responses to those comments are included in the separate RTC document contained in the docket for this final action.

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 an Iowa regulation described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 7 Office (please contact the applicable person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the state implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[37]

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 final action merely approves state law as meeting Federal requirements and does not

[33] This action is limited to the SIP call issued to Iowa and the associated evaluation of the Iowa SIP and does not otherwise change or alter the SIP call issued to other states as part of the EPA's 2015 SSM SIP Action.

[34] As discussed in section II of this document, the EPA Region 7 Office is taking final action to apply the policy related to SSM provisions in the Iowa SIP as also detailed in the June 22, 2020, proposal and therefore is also withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. For these reasons, if Iowa requests that the EPA act on Condition 6 of the 58 construction permits submitted to the EPA as part of the control strategy for the attainment plan, the EPA could propose to approve those provisions based on the rationale set forth in this document as well as in the prior proposals and associated RTC document.

[35] *See* 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

[36] Memorandum from Administrator Wheeler to Regional Administrators, dated October 9, 2020, titled ''Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans.'' *https://www.epa.gov/air-quality-implementation-plans/guidance-inclusion-provisions-governing-periods-startup-shutdown.*

[37] *See* 62 FR 27968 (May 22, 1997).

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

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

List of Subjects in 40 CFR Part 52

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

Dated: October 23, 2020.

Edward Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, title 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 Q—Iowa

■ 2. In § 52.820:

■ a. The table in paragraph (d) is amended by adding the entries ''(112)'' through ''(169)'' in numerical order.

■ b. The table in paragraph (e) is amended by adding the entry ''(53)'' in numerical order.

The additions read as follows:

§ 52.820 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
(112) Grain Processing Corporation.	95–A–374–S4	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(113) Grain Processing Corporation.	15–A–078	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(114) Grain Processing Corporation.	79–A–194–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(115) Grain Processing Corporation.	71–A–067–S4	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(116) Grain Processing Corporation.	75–A–087–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(117) Grain Processing Corporation.	72–A–199–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(118) Grain Processing Corporation.	74–A–014–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(119) Grain Processing Corporation.	74–A–015–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(120) Grain Processing Corporation.	75–A–353–S2	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(121) Grain Processing Corporation.	79–A–195–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
(122) Grain Processing Corporation.	80–A–149–S5	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(123) Grain Processing Corporation.	80–A–150–S5	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(124) Grain Processing Corporation.	85–A–031–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(125) Grain Processing Corporation.	85–A–032–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(126) Grain Processing Corporation.	85–A–038–P1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(127) Grain Processing Corporation.	85–A–135–P1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(128) Grain Processing Corporation.	90–A–111–S1	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(129) Grain Processing Corporation.	91–A–068–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(130) Grain Processing Corporation.	93–A–110–P1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(131) Grain Processing Corporation.	92–A–383–S2	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(132) Grain Processing Corporation.	92–A–385–S1	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(133) Grain Processing Corporation.	94–A–055–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(134) Grain Processing Corporation.	94–A–061–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(135) Grain Processing Corporation.	02–A–781–S2	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(136) Grain Processing Corporation.	02–A–782–S2	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(137) Grain Processing Corporation.	09–A–482–S2	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(138) Grain Processing Corporation.	10–A–563–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(139) Grain Processing Corporation.	15–A–200	3/25/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(140) Grain Processing Corporation.	15–A–201	3/25/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(141) Grain Processing Corporation.	15–A–202	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(142) Grain Processing Corporation.	15–A–203	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(143) Grain Processing Corporation.	15–A–204	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(144) Grain Processing Corporation.	15–A–205	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
(145) Grain Processing Corporation.	15–A–206	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(146) Grain Processing Corporation.	15–A–207	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(147) Grain Processing Corporation.	15–A–208	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(148) Grain Processing Corporation.	15–A–209	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(149) Grain Processing Corporation.	15–A–480	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(150) Grain Processing Corporation.	15–A–481	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(151) Grain Processing Corporation.	15–A–482	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(152) Grain Processing Corporation.	15–A–483	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQ Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(153) Grain Processing Corporation.	15–A–213	1/26/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(154) Grain Processing Corporation.	15–A–484	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(155) Grain Processing Corporation.	15–A–485	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(156) Grain Processing Corporation.	15–A–486	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(157) Grain Processing Corporation.	15–A–326	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(158) Grain Processing Corporation.	03–A–471–S1	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(159) Grain Processing Corporation.	05–A–926–S4	2/15/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(160) Grain Processing Corporation.	06–A–1261–S1	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(161) Grain Processing Corporation.	11–A–338–S1	7/6/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(162) Grain Processing Corporation.	15–A–354	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(163) Grain Processing Corporation.	15–A–199	12/10/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(164) Muscatine Power and Water.	13–A–152–S1	3/2/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(165) Muscatine Power and Water.	74–A–175–S4	3/2/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(166) Muscatine Power and Water.	95–A–373–P3	3/2/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(167) Muscatine Power and Water.	80–A–191–P3	3/2/16	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
(168) Monsanto	82–A–092–P11	5/13/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.
(169) Monsanto	88–A–001–S3	5/13/15	11/17/20, [insert **Federal Register** citation].	2010 1-hour SO_2 NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	* *	*	*	*
(53) 2010 1-hour SO_2 National Ambient Air Quality Standard Attainment Plan.	A portion of Muscatine County.	5/26/16	11/17/20, [insert **Federal Register** citation].	EPA–R07–OAR–2017–0416; FRL–10016–10–Region 7.

[FR Doc. 2020–24031 Filed 11–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2020–0002; FRL–10016–52–Region 8]

Determination of Attainment by the Attainment Date for the Salt Lake City, Utah and Provo, Utah 2006 24-Hour $PM_{2.5}$ Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the Salt Lake City, Utah and Provo, Utah Serious nonattainment areas (NAAs) attained the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) by the December 31, 2019 ''Serious'' area attainment date. The determination is based on quality-assured, quality-controlled and certified ambient air quality monitoring data from 2017 through 2019, available in the EPA's Air Quality System (AQS) database.

DATES: This final action is effective on December 17, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2020–0002. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *ostigaard.crystal@epa.gov.*

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

I. Background

On October 17, 2006 (71 FR 61144), in accordance with section 109(d)(1) of the Clean Air Act (CAA), the EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS, lowering the primary and secondary standards from the 1997 level of 65 micrograms per cubic meter (μg/m^3) to 35 μg/m^3. On November 13, 2009 (74 FR 58688), the EPA designated several areas as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS, including the Salt Lake City and Provo NAAs. On May 10, 2017 (82 FR 21711), the EPA determined that the Salt Lake City and Provo 2006 24-hour $PM_{2.5}$ NAAs failed to attain by the Moderate area attainment date of December 31, 2015 and were reclassified to Serious 2006 24-hour $PM_{2.5}$ NAAs.

Under 40 CFR 50.13 and 40 CFR part 50, appendix N, a NAA meets the 2006 24-hour $PM_{2.5}$ NAAQS when the area's design value [1] is less than or equal to 35 μg/m^3. On June 8, 2020 (85 FR 35033), the EPA proposed to determine, based on the most recent three years (2017–2019) of valid data,[2] that the Salt Lake City and Provo NAAs have attained the 2006 primary and secondary 24-hour $PM_{2.5}$ NAAQS. Subsequently, on July 7, 2020 (85 FR 40618), the EPA published a correction document, which corrected an error in Table 1 of the June 8 proposed rule. The table in the June 8 document had erroneously listed the 2017–2019 98th percentiles and design value for the Spanish Fork monitor twice; correctly, in the row for the Spanish Fork monitor, and incorrectly, in the row for the Lindon monitor. Additional detail on the basis for this action can be found in the June 8 proposed action and the July 7 correction document.

II. Response to Comments

The EPA received a public comment on the June 8 proposed action that identified the inaccuracy discussed above. The EPA acknowledged this mistake and corrected the table in the July 7, 2020 (85 FR 40618) correction document, which also gave notice that the EPA was providing an additional

[1] The design value is the 98th percentile 24-hour concentration, as determined in accordance with appendix N.

[2] Meeting the requirements of 40 CFR part 50, appendix N, and 40 CFR part 58.

comment period. From June 8, 2020 to August 6, 2020, the EPA received additional public comments on the proposed action and the correction document from Western Resource Advocates (WRA), the Utah Petroleum Association (UPA), and from individuals. Below is the summary of comments submitted and the EPA's response to these comments.

WRA comment: WRA submitted comments [3] asserting that because the data do not include three years of monitoring from a near-road monitor, EPA cannot determine that the Salt Lake City area attained the 2006 24-hour $PM_{2.5}$ standard by the Serious attainment date of December 31, 2019. Citing the EPA's 2013 rule revising the PM NAAQS (78 FR 3086, 3241) the comment asserts that Utah was required to have an operational $PM_{2.5}$ near-road monitor in the Salt Lake City NAA by January 1, 2017, but that Utah did not install the monitor until January 2019. WRA further states that the August 24, 2016 $PM_{2.5}$ state implementation plan (SIP) Requirements rule (81 FR 58010, 58136) supports that requirement by providing evidence that $PM_{2.5}$ concentrations are higher near highways and that, as a result, low-income and minority populations are disproportionately exposed to high $PM_{2.5}$ concentrations and therefore bear a disproportionate risk of adverse health outcomes from $PM_{2.5}$. Citing the same rule, the comment asserts that ''EPA has explained that monitoring data from the required $PM_{2.5}$ near road monitor[s] is to be considered when determining if a nonattainment area is attaining a $PM_{2.5}$ NAAQS.'' The comment asserts that ''Utah did not meet its legal obligations and failed to install and operate a near-road monitor as required, by the beginning of 2017,'' and that ''[w]ithout data covering 2017 to 2019 from an operational near road monitor, Utah cannot show and EPA cannot find attainment.'' WRA requests that the EPA withhold any determination of attainment by the attainment date of the $PM_{2.5}$ standard ''until Utah can establish that the standard is being met at a near road monitor.''

As a further basis for its request, WRA cites the COVID–19 global pandemic, recent studies that show a preliminary link between $PM_{2.5}$ exposure and death from COVID–19, health disparities in the U.S. population, and disproportionate pollution impacts on parts of the population, including those living near highways.

EPA response: The EPA agrees that new near-road $PM_{2.5}$ monitor requirements were set out in the January 15, 2013 $PM_{2.5}$ rule (78 FR 3086), but we do not agree that the Agency is prohibited from making a determination that the Salt Lake City area attained by its attainment date because of the absence of three full years of data from a near-road $PM_{2.5}$ monitor. As explained below, quality-assured, quality-controlled, and certified ambient air quality monitoring data were collected for each year from 2017 through 2019 in accordance with an approved annual monitoring network plan (AMNP) for each year. The EPA has reviewed this data and concludes that it justifies a finding of attainment and shows the area attained by its attainment date.

Under the CAA, the Agency must determine whether the area attained by the attainment date, based on the area's design value as of the attainment date (*i.e.,* the design value derived from the three calendar years of data preceding the attainment date).[4] The design value calculation must be based on three years of valid annual mean values for data collected at a suitable monitor for $PM_{2.5}$, determined in accordance with the procedures in 40 CFR part 50, appendix N.[5] Review and approval of AMNPs requires notice and comment at the state level; the state must include and address any comments in the plan submitted to the EPA for review.[6]

With respect to the commenter's assertion concerning the EPA's 2013 rule revising the PM NAAQS, that rule did require at least one operational near-road $PM_{2.5}$ monitor in each Core Based Statistical Area (CBSA) with a population greater than or equal to 1 million but less than 2.5 million by January 1, 2017.[7] But it did not bar the EPA from making attainment determinations in the absence of near-road monitors. As recognized in the 2016 rule that WRA relies on,[8] ''States should consult with the appropriate EPA regional office to determine how and when near-road data should be used in the $PM_{2.5}$ NAAQS implementation process for specific nonattainment areas.'' [9]

The EPA's finding that an area has attained the 2006 24-hour $PM_{2.5}$ standard must be based on complete, quality-assured data that is gathered at established state and local air monitoring stations (SLAMS) in the NAA and entered in AQS. Monitoring agencies submit AMNPs to the EPA for review and approval, and annually certify that the data submitted to AQS are accurate to the best of their knowledge. As described in our proposed rule, the Utah Division of Air Quality (UDAQ) has complied with these requirements, and the EPA approved the AMNPs for the relevant years.[10]

The monitoring requirements in 40 CFR 58.10 lay out the roles of the air agency and the EPA in identifying whether a site is consistent with the network plan requirements for a NAAQS. Accordingly, after the January 15, 2013 (78 FR 3086) final rule became effective, the State of Utah and EPA Region 8 began collecting information and assessing multiple characteristics for each identified roadway. An important consideration for near-road assessments was the complexity of urban land use in the Salt Lake City NAA. Factors such as the type of road (highways and arterial roadways), traffic activity patterns (number of vehicles, fleet mix, and vehicle speeds), traffic volume, meteorology (wind speed/direction, temperature, humidity, and atmospheric stability), topography, roadway design features, and the presence of nearby structures and barriers were reviewed by UDAQ in conjunction with historical monitoring data to show potential near-road $PM_{2.5}$ sites.

After UDAQ's review of the parameters above and following the EPA's guidance,[11] the State identified the Interstate-15 (I–15) corridor as the best candidate for a near-road $PM_{2.5}$ monitoring site. Near the end of 2016, however, the Utah Department of Transportation (UDOT) began a major expansion project on I–15 to help address traffic problems. Due to the timing of this highway expansion on I–15, UDAQ was not able to place a properly sited near-road $PM_{2.5}$ monitor by the January 1, 2017 deadline. Alternate locations outside the I–15 corridor were considered by UDAQ and the EPA, but on closer review of the traffic counts by both agencies at these locations, they were determined to be outside the core areas where potential pollution impacts would be near a location of maximum NO_2

[3] *See https://beta.regulations.gov/comment/EPA-R08-OAR-2020-0002-0130.*

[4] CAA sections 179(c) and 188(b)(2); 40 CFR 50.13; 40 CFR part 50, appendix N, 4.2.

[5] Suitable monitors are generally all federal reference or equivalent monitors, except for certain continuous monitors where the state, with EPA's approval, has found the data not to be of sufficient quality. 40 CFR part 50, appendix N; see also 40 CFR 58.11.

[6] 40 CFR 58.10(a)(1).

[7] 78 FR 3086, 3241; 40 CFR 58.13(f)(2).

[8] 81 FR at 58051.

[9] *Id.*

[10] 85 FR 35033, 35034.

[11] Near-road NO_2 Monitoring Technical Assistance Document, EPA–454/B–12–002.

concentrations,[12] and therefore would not satisfy the monitoring network requirements or be as useful for achieving monitoring objectives.[13]

UDAQ and the EPA discussed how to address the monitor siting question in light of the highway construction, and in July 2018 a EPA Region 8 monitoring contact conducted an on-site assessment with UDAQ monitoring staff along the I–15 corridor to identify potential sites. During this assessment, they located several potential sites, but all but one was determined to be unusable. The only potential site had been set aside initially because the station could not be installed long-term due to the road expansion, which would require the site to be moved multiple times. Nonetheless, after discussions with UDOT and the additional site reviews, UDAQ and the EPA decided in August 2018 that the best location was the site that had initially been set aside. Therefore, the near-road $PM_{2.5}$ monitoring site was established and began recording data on January 1, 2019 (AQS ID 49–035–4002), after the road construction was completed.

The near-road $PM_{2.5}$ site, including updates on site locations, was discussed in UDAQ's AMNPs. As required, following publication, the AMNPs were available for at least 30 days of public inspection and comment. If any comments had been submitted, UDAQ would have been required to address any significant issues raised in the public comment before submitting the AMNP to the EPA for review. The EPA acts on AMNPs through informal adjudications in which the EPA determines whether the network plans satisfy the requirements in 40 CFR 58.10. Such adjudications are not rulemakings subject to the public participation requirements of the Administrative Procedure Act (APA) (*see* 5 U.S.C. 553), although they are final agency actions subject to judicial review (*see* 5 U.S.C. 706).[14]

In this case, UDAQ provided each of the AMNPs to the public for the required 30-day inspection, and no public comments were submitted on any AMNP. Based on the completeness of the network, and considering the constraints imposed on Utah's planning by the I–15 road construction project, the EPA approved the AMNPs for 2017, 2018 and 2019. No party challenged the approval of any of these AMNPs.

Although the near-road monitor was not included in the 2017–2019 AMNPs, and although the one year of available data from that monitor is not sufficient for calculating a design value, UDAQ and the EPA have decided to make the data from that monitor available in AQS for public review. The 98th percentile daily average concentration for 2019 at the $PM_{2.5}$ near-road monitor was 31.0 $\mu g/m^3$. Therefore, the available data do not support a conclusion that, if the monitor had been operating since 2017 with concentrations similar to 2019 and had a valid design value based on three years of data, data from the near-road monitor would have altered the conclusion that the area attained the standard.

The lack of three years of near-road data does not preclude the EPA from making a determination based on the available data for the Salt Lake City NAA as to whether the area attained by the statutory Serious 2006 24-hour $PM_{2.5}$ attainment date of December 31, 2019, because the EPA is making the determination based on a design value determined in accordance with the requirements of 40 CFR part 50, appendix N, and other relevant regulations. As stated in the comment from WRA, ''*[w]hen* complete data from near-road $PM_{2.5}$ ambient monitors become available, the data should be used by states and the EPA for all aspects of the NAAQS implementation process, from attainment planning to the determination of attainment.'' [15] UDAQ's near-road $PM_{2.5}$ monitor does not have a complete 3-year design value to be used in the determination, and accordingly it should not be considered in calculating the area's design value. UDAQ and the EPA are committed to collecting a complete 3-year data set for the near-road $PM_{2.5}$ monitor in the future.

With respect to WRA's comment about COVID–19, the CAA requires the EPA to determine whether an area attained an established NAAQS by its attainment date. The statute does not permit the agency to decline to make that determination on the basis raised by the commenter. As explained further below in the response to the citizen comments, this determination of attainment by the attainment date is based on attainment of the existing 2006 24-hour $PM_{2.5}$ NAAQS. Any consideration of new factors, including those regarding vulnerable populations raised by WRA, would come into play if EPA were to set a new NAAQS, not in making attainment determinations under existing NAAQS.[16]

Comment: UPA submitted comments in support of the proposed determination that the Salt Lake City and Provo 2006 24-hour $PM_{2.5}$ NAAs attained by their Serious area date of December 31, 2019. UPA provides details on the design values (2017–2019) at all eligible monitors in the Salt Lake City NAA and asserts that they meet the primary and secondary 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$. UPA states that these design values are a result of emission reductions in direct $PM_{2.5}$ and $PM_{2.5}$ precursors from a large number of sources (*e.g.,* major point sources, mobile sources, etc.). Additionally, UPA comments that the proposed determination meets the detailed requirements laid out in 40 CFR part 50, appendix N, which comprises the total of all requirements that the NAA must meet for a determination of attainment by the attainment date.

EPA response: We acknowledge the UPA's comments.

Comment: The remaining comments submitted for the proposed finding that the Salt Lake City and Provo 2006 24-hour $PM_{2.5}$ NAAs attained by the Serious attainment date of December 31, 2019, were from multiple citizens, some of whom were anonymous. Generally, these comments presented a number of arguments against the proposed determination of attainment by the attainment date: (1) The NAAs are some of the most polluted regions for $PM_{2.5}$ in the country, according to the American Lung Association; (2) the data leading to EPA's attainment determination are primarily due to a series of milder and stormier winters with fewer inversion days, not to major progress in reducing emissions; (3) by relaxing the requirements that haven't been attained for several years previously, the sense of urgency about seriously unhealthy air quality by the State of Utah will be reduced; (4) the CAA states that air quality standards ''shall accurately reflect the latest scientific knowledge,'' but the current $PM_{2.5}$ standards are not up to date; and (5) the air they breathe impacts the health of the individual, the family, and the communities.

Some of these comments from citizens were unique in content. One commenter requested that the refineries should be moved east of the Wasatch Front, with incentives if necessary, to move them

[12] 40 CFR part 58, appendix D, 4.7.1(b)(2). For CBSAs with a population of 1,000,000 or more persons, at least one $PM_{2.5}$ monitor is to be collocated at a near-road NO_2 station required in section 4.3.2(a) of this appendix. 40 CFR part 58, appendix D, 4.3.2(a) contains requirements for Near-road NO_2 Monitors, including a requirement that a monitor be sited to monitor expected maximum hourly concentrations near a major road.

[13] 40 CFR part 58, appendix D, 1.1

[14] 81 FR 17248, 17251 (March 28, 2016).

[15] WRA comment, docket ID: EPA–R08–OAR–2020–0002–0130, quoting 81 FR 58010, at 58138 (Aug. 24, 2016) (emphasis added).

[16] 71 FR 61152/1 (October 17, 2006) (24-hour $PM_{2.5}$ standards); 85 FR 24094 (April 30, 2020) (Proposed 24-hour $PM_{2.5}$ NAAQS).

outside the metropolitan counties. Another commenter mentioned that these areas are still out of attainment for the ozone NAAQS.

EPA response: In making a determination as to whether a $PM_{2.5}$ area attained by its attainment date, the EPA is permitted to consider only the air quality data of the area as of the attainment date. See CAA section 179(c)(1) (general nonattainment area provision) (''As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, *based on the area's air quality as of the attainment date,* whether the area attained the standard by that date.'') (emphasis added); CAA section 188(b)(2) (subpart 4 p.m. specific provisions) (''Within 6 months following the applicable attainment date for a PM–10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date.''). We therefore do not agree that the concerns raised by the commenter—that the areas at issue in this document are purportedly ''some of the most polluted regions for $PM_{2.5}$ in the country''; that air quality data were primarily influenced by meteorological factors; that making the determination could have a disincentivizing effect on efforts of state regulators; and that the current $PM_{2.5}$ NAAQS are not sufficiently up to date—are bases that the EPA may consider when making its determination of whether an area attained by the attainment date. The statute simply does not permit the agency to take into consideration the types of factors raised by these comments.

With respect to the comment that the air the public breathes affects the individual, families, and communities, the EPA agrees. This is precisely why the CAA requires the EPA to make determinations of whether an area attained the NAAQS by its attainment date. If a Serious $PM_{2.5}$ area fails to attain by its attainment date, the EPA's determination triggers statutory consequences, such as contingency measures (CAA section 172(c)(9)); the requirement to submit a new plan within 12 months of the finding of failure to attain demonstrating how the area will attain (CAA section 189(d)); and from the date of such submission until attainment, an annual reduction in $PM_{2.5}$ or $PM_{2.5}$ precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for the area (CAA section 189(d)).

The commenter's second, third, fourth, and fifth points above are beyond the scope of this action, as is the comment requesting that refineries be moved away from the Salt Lake City area. The comment stating that the State of Utah still has ozone NAAs has not presented any information germane to this action. The EPA is not permitted to consider the attainment or nonattainment status of areas in a state for other NAAQS when making determinations of whether an area attained the NAAQS at issue by its attainment date.

III. Final Action

The EPA is finalizing our determination, pursuant to CAA section 188(b)(2), that based on the most recent 3 years (2017–2019) of quality assured, certified air quality monitoring data, the Salt Lake City and Provo NAAs attained the 2006 24-hour $PM_{2.5}$ NAAQS by the December 31, 2019 attainment date.

This final action does not constitute a redesignation of the Salt Lake City and Provo NAAs to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS under CAA section 107(d)(3), because we have not yet approved a maintenance plan for the Salt Lake City and Provo NAAs as meeting the requirements of section 175A of the CAA and have not determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 will remain Serious nonattainment for these areas until the EPA determines that Utah has met the CAA requirements for redesignation to attainment for the Salt Lake City and Provo NAAs.

IV. Statutory and Executive Order Reviews

This action finalizes a determination of attainment by the attainment date based on air quality and thus would 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, Jan. 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, Feb. 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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, Aug. 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, Feb. 16, 1994).

In addition, this action 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. Accordingly, the action 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, Nov. 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 January 19, 2021. Filing a petition for reconsideration by the Administrator of this final action 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 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 29, 2020.

Gregory Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2020–24443 Filed 11–16–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 59 and 64

[Docket ID FEMA–2019–0016]

RIN 1660–AA92

Revisions to Publication Requirements for Community Eligibility Status Information Under the National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Final rule; correction.

SUMMARY: On October 30, 2020, FEMA published in the **Federal Register** a final rule revising publication requirements for community eligibility status information under the National Flood Insurance Program that contained erroneous amendatory instructions. This final rule provides corrections to those instructions, to be used in lieu of the information published October 30.

DATES: This correction is effective December 2, 2020.

FOR FURTHER INFORMATION CONTACT: Adrienne Sheldon, Supervisory Emergency Management Specialist, Floodplain Management Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, *adriennel.sheldon@fema.dhs.gov,* (202) 674–1087.

SUPPLEMENTARY INFORMATION: In FR Doc. 2020–23970, beginning on page 68782 in the **Federal Register** of Friday, October 30, 2020, the following corrections are made:

PART 64—[Corrected]

1. On page 68790, in the first column, in part 64, the authority citation ''The authority citation for part 61 continues to read as follows:'' is corrected to read ''The authority citation for part 64 continues to read as follows:''

2. On page 68790, in the first column, in part 64, the authority citation ''Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.'' is corrected to read ''Authority: 42 U.S.C. 4001 *et seq.,* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.''

3. On page 68790, in the first column, in part 64, instruction number 4 is corrected to read ''Revise § 64.6 to read as follows:''.

Dated: November 12, 2020.

Shabnaum Q. Amjad

Deputy Associate Chief Counsel, Regulatory Affairs Division, Office of Chief Counsel Federal Emergency Management Agency.

[FR Doc. 2020–25320 Filed 11–16–20; 8:45 am]

BILLING CODE 9111–52–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 12–375; FCC 20–111; FRS 17218]

Rates for Interstate Inmate Calling Services; Correction

AGENCY: Federal Communications Commission

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** on October 23, 2020, adopting rules concerning ancillary services charges associated with interstate inmate calling services. The document contained typos.

DATES: Effective November 23, 2020.

FOR FURTHER INFORMATION CONTACT: Irina Asoskov, 202–418–2196.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 23, 2020, starting on page 67450, in FR Doc. 2020–19951, make the following corrections:

1. On page 67450, in the second column, correct the second sentence of the **SUMMARY** section to read:

SUMMARY: * * * In response to a directive from the United States Court of Appeals for the District of Columbia Circuit, the Commission determined that, except in limited circumstances, it is impractical to separate out the intrastate and interstate components of ancillary service charges imposed in connection with inmate calling services. * * *

2. On page 67450, in the third column, correct the first sentence of the **SUPPLEMENTARY INFORMATION** section to read:

SUPPLEMENTARY INFORMATION: This is a final rule summary of the Commission's Report and Order, released August 7, 2020. * * *

Dated: October 30, 2020.

Marlene Dortch,

Secretary, Federal Communications Commission.

[FR Doc. 2020–24905 Filed 11–16–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2020–0022; FXMB12610700000–201–FF07M01000]

RIN 1018–BF12

Migratory Bird Subsistence Harvest in Alaska; Updates to the Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is revising the migratory bird subsistence harvest regulations in Alaska. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. This rule incorporates regulatory revisions requested by these partners.

DATES: This rule is effective December 17, 2020.

ADDRESSES: You may find the comments submitted on the proposed rule at the Federal eRulemaking Portal: *http://www.regulations.gov* in Docket No. FWS–R7–MB–2020–0022.

FOR FURTHER INFORMATION CONTACT: Cheryl Graves, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786–3887.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to conserve certain species of migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of these birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary ''so as to provide for the preservation and maintenance of stocks of migratory birds'' (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs during the spring and summer, during which timeframe the sport harvest of migratory birds is not allowed. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur. The migratory bird subsistence harvest regulations are developed cooperatively by the Alaska Migratory Bird Co-Management Council (Council), which consists of the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game (ADFG), and representatives of Alaska's Native population. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

This rule incorporates changes to the subsistence harvest regulations that were recommended by the Council in 2018 and 2019, as described below. This rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

Comments Received on the Proposed Rule

Per the collaborative process described above, we published a proposed rule to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer (85 FR 27698, May 11, 2020). By the end of the comment period on the proposed rule, we received nine comments. While some of the comments pertained to issues that are outside the scope of this rulemaking action, we hereby respond to the relevant issues that were raised in the public input. We made no changes to the proposed rule as a result of the input we received via the public comments (see Final Regulations, below, for more information).

Issue: A commenter expressed support for regulations that allow indigenous people to engage in their traditional subsistence and cultural practices. Another commenter indicated that the regulations seem to allow for ''a truly sustainable system,'' but the proposed rule did not include information about limits to individual harvests.

Response: The Service's intent of these regulations is to maintain sustainable populations of migratory birds concurrent with ensuring the continuation of customary, traditional, and cultural harvest of migratory birds by rural residents of Alaska who are eligible participants.

The distribution, types of species, and levels of migratory bird harvest during the spring–summer subsistence season in Alaska are based on tradition, culture, and nutritional needs. Harvest levels are based on a tradition of: Take only what is needed and leave the rest for future generations. The Service monitors the distribution, abundance, and trend of migratory bird species via aerial and ground-based surveys and banding programs; adaptive harvest management is based on these data.

Issue: Some commenters expressed objections regarding Federal regulations that allow killing of migratory birds for any purposes, including subsistence uses.

Response: The MBTA authorizes the indigenous inhabitants of the State of Alaska to take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary of the Interior. The proposed rule did not address other types of potential migratory bird mortality or criminal violations of the MBTA.

Issue: A commenter expressed support for Alaska Native customary and traditional migratory bird subsistence harvest throughout the State. However, the commenter has specific concerns about subsistence bird harvest along the city of Kodiak road system.

The commenter expressed concern about wasteful bird harvest along the Kodiak road system associated with the fall–winter sport harvest and thinks that a spring–summer hunt will have the same issues. The commenter believes that wasteful take could pose a serious threat to local bird populations and is concerned that there is no effort to narrow the harvest list beyond the four exceptions related to species of conservation concern. The commenter further expressed concerns about the ability of regulatory officials to administer and police a permit system effectively in a community the size of Kodiak. The commenter believes that allowing a large, nonnative community to take birds along the Kodiak road system could injure subsistence resources.

Response: The regulation will permit the harvest of migratory birds and their eggs during spring–summer in the Kodiak Island Roaded Area by residents of the Kodiak Archipelago Region of Alaska for a 3-year trial period (2020–2022) after which time the regulation would sunset. The Service recognizes the necessity to protect species of conservation concern along the Kodiak road system; thus, spring–summer subsistence hunting and egg gathering in the Roaded Area would remain closed for Arctic terns, Aleutian terns, mew gulls, and emperor geese. Arctic and Aleutian tern nesting colonies have declined by greater than 80 percent in Alaska over the last 20 years, and only a few colonies remain on Kodiak Island, the largest of which are within the Roaded Area. Thus, protecting these tern species from further decline is a high priority of the Service.

Furthermore, the Roaded Area would remain closed to take of mew gulls and eggs because colony-level disturbance from targeted mew gull harvest could be detrimental to nesting terns and mew gull nests, and eggs may be confused with those of terns resulting in incidental harvest of tern eggs. Also, the Roaded Area would remain closed to take of emperor geese out of concern that it would provide unrestricted hunter access to a relatively small wintering population of emperor geese that utilize several bays near the road system, potentially increasing harvest vulnerability of a carefully managed species.

The mandatory registration permit hunt and required reporting of hunter activity and harvest will allow estimation of hunter participation, bird and egg harvest, and harvest composition during the 3-year trial period; this information will be used to inform a potential proposal and a decision to reopen the Roaded Area to subsistence hunting in the future. The Roaded Area registration permit will be administered by the ADFG Division of Subsistence in cooperation with the Sun'aq Tribe of Kodiak. Administration of the registration permit will be similar to that of the registration permit for subsistence hunting administered successfully in Cordova, Alaska, with a reporting rate of 93 percent.

Enforcement of regulations for the Kodiak Island Roaded Area will be the responsibility of the Service's Office of Law Enforcement. Enforcement personnel are aware of cultural and traditional practices of migratory bird subsistence harvest by rural residents of Alaska who are eligible to participate for this permit hunt concurrent with the need to ensure conservation of migratory birds, particularly species of conservation concern; of the necessary adherence to specific regulations requiring a permit and mandatory harvest reporting; and that hunting and egg gathering of Arctic terns, Aleutian terns, mew gulls, and emperor geese would remain closed in the Roaded Area.

Proposed Regulatory Revisions

In the proposed rule, we set forth the same subsistence harvest regulations in subpart D, Annual Regulations Governing Subsistence Harvest, as those from the 2018 and 2019 subsistence harvest seasons (see 83 FR 13684, March 30, 2018, and 84 FR 12946, April 3, 2019) for the 2020 season with the following five exceptions:

(1) Yukon/Kuskokwim Delta Region 30-Day Closure Period

The current date range at the Yukon Delta National Wildlife Refuge to set the 30-day closure period to protect waterbird species during their primary nesting is June 1–August 15. However, this timeframe does not allow for a closure period that sufficiently protects them during early nesting in years that allow early nesting. This rule extends the date range for the 30-day closure by 2 weeks on the front end to provide refuge managers the flexibility to begin the closure period in May in years that allow early nesting.

(2) North Slope Region Unit Boundary Change

This rule adjusts the boundary between the Northern and Southern Units of the North Slope Region in Alaska to move the communities of Atqasuk and Wainwright from the Southern Unit to the Northern Unit. Currently, season dates in the Northern Unit better align with the timing of hunting activities in Atqasuk and Wainwright, relative to spring breakup patterns and the phenology of migratory birds, than those of the Southern Unit. Accordingly, the change will result in season dates that more effectively balance the opportunity for hunters to harvest birds and eggs with an appropriate 30-day closure period to protect birds during the primary nesting period. This change in unit boundaries is not expected to result in increased harvest of birds and eggs in the North Slope Region.

(3) North Slope Region 30-Day Closure Period

While all Alaska subsistence harvest regions, except the Yukon/Kuskokwim Delta (YKD) Region, use fixed dates for the mandatory 30-day primary nesting period closure when bird and egg take is prohibited, the North Slope Borough Fish and Game Management Committee in 2019 asked for flexible dates for the 30-day closure period in the North Slope Region of Alaska. Accordingly, we proposed to allow the dates for the 30-day closure period in the North Slope Region to be changed from fixed dates published in the **Federal Register** to variable, annually derived dates if environmental and biological conditions warrant such a change. If a change in dates is unwarranted, the dates published in the **Federal Register** would apply. This rule allows for a protocol similar to that used by the YKD Region that would allow for the 30-day closure dates to be based on reports from field biologists and local villagers of when most birds have initiated nesting. Outreach materials would announce the closure dates.

(4) North Slope Region Special Brant Hunting Season Boundary

This rule changes the southern boundary of the Special Brant Hunting Season on the North Slope Region of Alaska. The regulations currently allow harvest of migrating brant from June 20 through July 5 along the coastline and in open water around the village of Wainwright. The change extends the boundary associated with the Special Black Brant Hunting Season south and west to include the entirety of Kasegaluk Lagoon to provide hunters from the village of Point Lay the opportunity to harvest migrating brant. While this boundary change may increase brant harvest slightly in the North Slope Region, any additional harvest is expected to have negligible impact to brant population status.

(5) Kodiak Archipelago Region Kodiak Island Roaded Area Closure

This rule allows migratory bird hunting and egg gathering by registration permit in the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska for a 3-year trial period (2020–2022). This rule change will allow all residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat. Current regulations close the Roaded Area to all subsistence migratory bird hunting and egg gathering, but allow these activities in adjacent marine waters beyond 500 feet from shore, including offshore islands where access requires a watercraft.

The required registration permit and the mandatory reporting of hunter activity and harvest will allow estimation of hunter participation, bird and egg harvest, and harvest composition during the 3-year trial period. These data will inform a potential proposal and decision to reopen the Roaded Area to subsistence hunting in the future. To protect species of conservation concern, spring–summer subsistence hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese would remain closed in the Roaded Area.

Final Regulations

We are making no changes to the regulatory revisions proposed in our May 11, 2020, document (85 FR 27698) as a result of the input we received via the public comments. We are, however, making two changes to the proposed regulations at § 92.31(g) to correct errors, as described below.

In the proposed revisions to paragraph (g)(1), we included three references to the ''North Slope Borough boundary;'' in the final rule, we change these references to the ''North Slope regional boundary.'' The current regulations in § 92.31(g) refer to the ''North Slope regional boundary,'' and we should have been consistent and used that same terminology in the proposed rule. This correction of the boundary description will have no negative repercussions to subsistence hunters. On the contrary, this change will make the boundary description more accurate, and clarity of geographic boundaries is essential for hunters and for the production of consistent maps for public outreach and regulations booklets.

The proposed revisions to paragraph (g)(4) included this line, which we are now removing, ''The 30-day closure period will occur between June 7 and July 29 of each year.'' This specific closure period was not part of the Council's proposal. Moreover, this language was not included in the proposed rule in the section of the preamble that described the proposed regulatory changes pertaining to the North Slope Region. Addition of this language was an administrative error, and we remove it from the final rule. As described in the preamble, the closure period will allow for flexible dates based on environmental and biological conditions.

Compliance With the MBTA and the Endangered Species Act

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and endangered and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect endangered and threatened species; (2) measures to address documented threats are implemented; and (3) the subsistence community and other conservation partners commit to working together.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

We have monitored subsistence harvest for more than 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species under the ESA. Their migration and breeding distribution overlap with areas where the spring and summer migratory bird subsistence hunt is open in Alaska. Neither species is included in the list of subsistence migratory bird species at 50 CFR 92.22; therefore, both species are closed to subsistence harvest.

The Alaska Division of Migratory Bird Management conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on the proposed and a related interim rule (85 FR 18455, April 2, 2020). The consultation was completed with a biological opinion that concluded these rulemaking actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we have determined that this rule complies with the ESA.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this rule would establish annual harvest limits related to routine hunting or fishing.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 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 executive order 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.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Would not have an annual effect on the economy of $100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule would lead to a disproportionate distribution of benefits.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. The rule would 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 is not required.

Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule would not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we sent letters via electronic mail to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: Seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet at least one time each year to review and/or submit proposals to the statewide body.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (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 OMB control number. OMB has reviewed and approved our collection of information associated with voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018–0124, expires August 31, 2022).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

Implementation of the Service's 2013 supplemental environmental impact statement on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' addresses compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

The annual regulations and options are considered in a February 2020 environmental assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2020 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov.*

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 92.31 by:
■ a. Revising paragraph (b)(2);
■ b. Adding a heading for paragraph (e);
■ c. Revising the first sentence of paragraph (e) introductory text and adding a sentence following the first sentence;
■ d. Revising the introductory text of paragraph (g)(1), paragraph (g)(1)(iii), and introductory text of paragraph (g)(2); and
■ e. Redesignating paragraphs (g)(4) and (5) as paragraphs (g)(5) and (6) and adding a new paragraph (g)(4).

The revisions and additions read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(b) * * *

(2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between May 15 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

* * * * *

(e) *Kodiak Archipelago region.* The Kodiak Island Roaded Area is open to the harvesting of migratory birds and their eggs by registration permit only as administered by the Alaska Department of Fish and Game, Division of Subsistence, in cooperation with the Sun'aq Tribe of Kodiak. No hunting or egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese is allowed for the Kodiak Island Roaded Area Registration Permit Hunt. * * *

(g) * * *

(1) Southern Unit (Southwestern North Slope regional boundary northeast to Icy Cape, and everything west of longitude line 161°55′ W and south of latitude line 69°45′ N to the west bank of the Sagavanirktok River and south along the west bank to the North Slope regional boundary, then west to the beginning):

* * * * *

(iii) Special Black Brant Hunting Season: June 20–July 5. The open area consists of the coastline from the mean high-water line outward to the North Slope regional boundary to include open water and barrier islands from southern Kasegaluk Lagoon from latitude line 69°16′ N to the north and east to longitude line 158°30′ W.

(2) Northern Unit (From Icy Cape, everything east of longitude line 161°55′ W and north of latitude line 69°45′ N to the west bank of Sagavanirktok River and north to 71°):

* * * * *

(4) Annual 30-day closure periods in the Southern, Northern, and Eastern Units of the North Slope Region may differ from fixed dates (see unit-specific closure dates in paragraphs (g)(1) through (3) of this section) if environmental and biological conditions warrant such a change. After consultation with Service field biologists, the North Slope Borough (NSB) Department of Wildlife Management, and the NSB Fish and Game Management Committee, the Service's Alaska Regional Director or his/her designee may announce closure dates that differ from those fixed dates.

* * * * *

George Wallace,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–24195 Filed 11–16–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 201103–0289]

RIN 0648–BJ20

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gray Snapper Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Amendment 51 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Gulf)(FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council)(Amendment 51). This final rule revises the harvest levels for the gray snapper stock. In addition, Amendment 51 establishes and modifies status determination criteria for the stock. The purposes of Amendment 51 and this final rule are to end overfishing of gray snapper and achieve optimum yield (OY).

DATES: This final rule is effective December 17, 2020.

ADDRESSES: Electronic copies of Amendment 51, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-51-establish-gray-snapper-status-determination-criteria-and-modify-annual-catch.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *peter.hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, which includes gray snapper, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On February 28, 2020, NMFS published a notice of availability for Amendment 51 and requested public comment (85 FR 11937). NMFS approved Amendment 51 on May 18, 2020. On July 6, 2020, NMFS published a proposed rule for Amendment 51 and requested public comment (85 FR 40181). The proposed rule and Amendment 51 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 51 and implemented by this final rule is described below.

Unless otherwise noted, all weights in this proposed rule are in round weight.

Background

Gray snapper in the Gulf exclusive economic zone (EEZ) are managed as a single stock with a stock annual catch limit (ACL), and a stock annual catch target (ACT). There is no allocation of the stock ACL between the commercial and recreational sectors. Generally, the fishing season is open year-round, January 1 through December 31. However, accountability measures (AMs) for gray snapper specify that if commercial and recreational landings exceed the stock ACL in a fishing year, then during the following fishing year if the stock ACL is reached or is projected to be reached, the commercial and recreational sectors will be closed for the remainder of the fishing year. The gray snapper ACL and AMs were implemented in 2012 (76 FR 82044;

December 29, 2011) and the stock ACL of 2.42 million lb (1.1 million kg) was not exceeded between 2012 and 2019. However, landings in 2014 and 2016 did exceed the new ACLs being implemented through this final rule.

In 2018, the stock status of gray snapper was evaluated for the first time through a Southeast Data, Assessment, and Review benchmark stock assessment (SEDAR 51). The Council's Scientific and Statistical Committee (SSC) reviewed SEDAR 51 and accepted the assessment as the best scientific information available. The SSC determined that the stock is undergoing overfishing as of 2015, which was the last year of data included in the assessment, because the fishing mortality rate (F) exceeded the current maximum fishing mortality threshold (MFMT). The SSC was not able to determine whether the stock is overfished, because the maximum sustainable yield (MSY) and minimum stock size threshold (MSST) for gray snapper were not specified in the FMP at that time.

SEDAR 51 could not estimate the actual MSY with the best scientific information available. Therefore, the Council considered alternatives for an MSY proxy that uses the spawning potential ratio (SPR). The SPR is the ratio of the average number of eggs per fish over its lifetime when the stock is fished compared to the same value when the stock is not fished. The SPR assumes that a certain amount of fish must survive and spawn in order to replenish the stock. The Council selected the yield when fishing at $F_{26\%SPR}$ for an MSY proxy to balance protection of the gray snapper stock with an increase in social and economic benefits for fishers targeting the species that is expected to result from allowing more harvest. The SSC recognized that this proxy is scientifically acceptable and this proxy is consistent with the MSY proxy for Gulf red snapper.

As a result of the increasing uncertainty with long-range projections, the SSC only provided overfishing limit (OFL) and acceptable biological catch (ABC) recommendations for the gray snapper stock through 2021. From SEDAR 51, the OFLs associated with the MSY proxy selected by the Council are 2.58 million lb (1.17 million kg) for 2020, and 2.57 million lb (1.17 million kg) for 2021, and the ABCs recommended by the SSC are 2.51 million lb (1.14 million kg) for 2020 and subsequent years.

Management Measure Contained in This Final Rule

This final rule revises the ACL for the Gulf gray snapper stock, and removes the ACT.

Annual Catch Limits and Annual Catch Target

The current ACL for gray snapper is 2.42 million lb (1.1 million kg) and was established based on average landings from 1999 through 2008. The current ACT is set 14 percent below the ACL, at 2.08 million lb.

To determine the new ACLs, the Council used its ACL/ACT control rule to determine whether to apply a buffer to the ABC recommendations to account for management uncertainty. The results indicated that an 11 percent buffer is appropriate. When applied to the 2020–2021 ABC recommendations, the resulting gray snapper stock ACLs in this final rule are 2.24 million lb (1.02 million kg) for the 2020 fishing year, and 2.23 million lb (1.01 million kg) for 2021, and subsequent years. The Council decided to remove the ACT for gray snapper because it has not been used for management since its implementation in 2012.

Management Measures Contained in Amendment 51 But Not Codified in This Final Rule

Amendment 51 modifies the OFL and ABC for the gray snapper stock as previously explained. Amendment 51 also modifies the MFMT and specifies the MSY, MSST, and OY for the stock. NMFS uses the MSST and MFMT to determine whether a stock is overfished or undergoing overfishing, respectively. If the stock biomass falls below the MSST, then the stock is considered overfished and the Council would then need to develop a rebuilding plan capable of returning the stock to a level that allows the stock to achieve MSY on a continuing basis. In years when there is a stock assessment, if fishing mortality exceeds the MFMT, a stock is considered to be undergoing overfishing, because this level of fishing mortality, if continued, would reduce the stock biomass to an overfished condition. In years in which there is no assessment, overfishing occurs if landings exceed the OFL.

Amendment 51 set the MSY proxy as the yield when fishing at $F_{26\%SPR}$. MFMT was changed from $F_{30\%SPR}$ to $F_{26\%SPR}$, and the MSST is 50 percent of the biomass at MSY or the MSY proxy. The OY is the yield when fishing at 90 percent of F_{MSY} (or MSY proxy). As noted previously, under the current MFMT, overfishing was occurring as of 2015. Under the new MFMT of $F_{26\%SPR}$, projections from SEDAR 51 suggest that overfishing ended in 2017. Under the new MSST, the stock is not overfished.

Comments and Responses

NMFS received 11 comments on the notice of availability and 9 comments on the proposed rule for Amendment 51. The majority of the comments supported actions in the proposed rule and Amendment 51. Some comments supporting the action suggested that additional management measures are necessary to protect the stock, such as reducing the recreational bag limit and increasing the minimum size limit.

Comments specific to Amendment 51 and the proposed rule are grouped as appropriate and summarized below, each followed by the response.

Comment 1: Further restrictions are needed to protect the gray snapper stock beyond the actions in Amendment 51. These include reducing the recreational bag limit and increasing the stock minimum size limit.

Response: NMFS disagrees that additional management measures, such as reduced bag limits and increased minimum size limits, are needed at this time to further protect the gray snapper stock. The ACLs established through this final rule are reduced from the Council's SSC ABC recommendation by 11 percent and are consistent with achieving OY. As previously noted, landings between 2012 and 2019 have not exceeded the applicable ACL, but landings in 2014 and 2016 were greater than the ACLs being implemented through this final rule. If the ACL is exceeded, the AM for gray snapper requires that NMFS monitor landings the following year and close the recreational and commercial sectors if landings are projected to reach the ACL. Further, the National Standard 1 Guidelines provide that, if catch exceeds the ACL more than once in the last 4 years, the system of ACLs and AMs should be reevaluated, and modified if necessary to improve its performance and effectiveness. The Council could also consider whether additional management measures such as revising the recreational bag limit and the minimum size limits, are necessary.

Comment 2: Because Amendment 51 does not consider gray snapper bycatch from the Gulf shrimp trawl fishery, the basis for the proposed measures is flawed.

Response: Gray snapper bycatch, including that from the shrimp trawl fishery, was examined in the SEDAR 51 stock assessment, which the Council's SSC accepted as the best scientific information available. The members of the SEDAR 51 data workshop concluded that gray snapper bycatch estimates from the shrimp fishery were inconsequential. As a result, shrimp trawl bycatch data were excluded from the assessment model and were not considered in Amendment 51.

Comment 3: No further regulations related to the harvest of gray snapper are necessary because the current regulations are adequate to protect the gray snapper stock.

Response: NMFS disagrees. The Council's SSC reviewed the results of SEDAR 51, accepted the assessment as the best scientific information available, and recommended new OFLs and ABCs. Consistent with National Standards 1 and 2, the Council took action to update the gray snapper catch levels and determined that it is appropriate to have an 11 percent buffer between the ACL and ABC to account for management uncertainty and reduce the likelihood of overfishing. This final rule does not change any other regulations for gray snapper fishing, such as the recreational bag limit or the minimum size limit.

Comment 4: The reduction in the gray snapper ACL is not fair and reasonable because it favors the commercial sector.

Response: NMFS disagrees that the gray snapper management measures implemented through this final rule favor the commercial sector over the recreational sector. Gray snapper are managed using a stock ACL that is not allocated between the commercial and recreational sectors. Thus, each sector has an equal opportunity to harvest gray snapper, and the recreational harvest of gray snapper has been much greater than the commercial harvest. The most recent 5 years of landings data used in Amendment 51 (2013–2017) indicate that recreational landings were between 1.836 and 2.203 million lb (0.833 and 0.999 million kg) while commercial landings were between 0.136 and 0.200 million lb (0.062 and 0.091 million kg).

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 the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an E.O. 13771 regulatory action because this action is not significant under E.O. 12866.

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 or recordkeeping compliance requirements are introduced in this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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 rule 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 from the public were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Annual catch limit, Fisheries, Fishing, Gray snapper, Gulf, Reef fish.

Dated: November 3, 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.*

■ 2. In § 622.41, revise paragraph (l) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(l) *Gray snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for gray snapper, in round weight, is 2.24 million lb (1.02 million kg) for the 2020 fishing year, and 2.23 million lb (1.01 million kg) for the 2021 and subsequent fishing years.

* * * * *

[FR Doc. 2020–24933 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 85, No. 222

Tuesday, November 17, 2020

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

[Docket No. RHS–20–SFH–0025]

RIN 0575–AD21

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, Agriculture Department (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency) proposes to amend the current regulation for the Single-Family Housing Guaranteed Loan Program (SFHGLP) to mandate the use of the Guaranteed Underwriting System (GUS) and the Lender Loan Closing System (LLC) by approved lenders. The Agency's proposal to mandate the use of GUS in loan originations and the LLC for loan closings will allow the Agency to decrease time-consuming and expensive manual file reviews, improve performance monitoring and reduce program risk of the guaranteed loan portfolio.

DATES: Comments must be submitted on or before January 19, 2021.

ADDRESSES: Comments may be submitted by going to the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and in the ''Search Documents'' box, enter the Docket Number RHS–20–SFH–0025 or the RIN# 0575–AD21, and click the ''Search'' button. To submit a comment, choose the ''Comment Now!'' button. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available under the ''Help'' tab at the top of the Home page.

Other Information: Additional information about Rural Development and its programs is available on the internet at *http://www.rurdev.usda.gov/index.html.*

All comments will be available for public inspection online at the Federal eRulemaking Portal (*http://www.regulations.gov*).

FOR FURTHER INFORMATION CONTACT: Ana Placencia, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, STOP 0784, Room 2250, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–0784. Telephone: (254) 721–0770; or email: *ana.placencia@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Rural Housing Service (RHS) is issuing a proposed rule to amend the Single-Family Housing Guaranteed Loan Program (SFHGLP) regulations found in 7 CFR part 5555, subparts C and D, by updating the regulations to align the Agency's program with the mortgage industry expectations in the domain of information technology.

Currently, the Agency allows approved lenders to submit applications for loan guarantee requests by mail, electronic mail (email) or GUS. Loan requests received by email must be saved to a folder on a computer drive before being manually uploaded into the Electronic Case File (ECF) for processing. If the loan request is received in paper format, it must first be scanned, saved and then uploaded to ECF, which imposes a time constraint on both the lender and the agency. Additionally, Agency staff must place the application in ECF for processing in the sequential order in which it was received. In some cases, paper checks are still being submitted and manually processed by Agency staff before being forwarded to the appropriate finance center. Agency staff must also manually upload the documents for review, separately from the uniform residential appraisal report.

Approximately 98 percent of lenders are currently utilizing GUS to submit loan applications. The remaining two percent are submitting manually underwritten loan packages by email or mail. This translates to roughly 1093 manually submitted loans per year and 3826 staff hours. Lenders that participate in the SFHGLP generally participate in other federally insured mortgage programs that require utilization of loan origination systems (LOS). Access to GUS is web-based and is compatible with the industry's leading LOS technology.

The goal of updating this regulation is to better streamline the processing of the SFHGLP application using the automated initiatives of the GUS and the LLC for all applications and loan closings transactions. GUS is compatible with the Loan Origination Systems and Point of Sale vendors that are widely accepted throughout the industry. All SFHGLP loan products are supported by GUS, except for streamlined-assist refinance transactions. Lenders will continue to submit manually underwritten files for these types of transactions by electronic means approved by the Agency. These loans are different from loans downgraded in GUS for manual underwriting—the downgraded loans will continue to be submitted via GUS for a manual review. Mandatory use of the automated underwriting system will not only offer ease to lenders when uploading closing documents and payment of the guarantee and technology fees using the LLC, but will efficiently and effectively allow Agency staff the capability to review loan applications, increase lender's ability to transfer loans to program investors, and lessen the timeframe for underwriting and processing loan approvals.

GUS is a robust automated system that processes application requests and provides specific loan closing data to the lender and the Agency. It offers added benefits to the lender's decision-making process by producing underwriting findings reports and reliable credit data for managing borrower risks.[1] Expanded use of the system will maximize the impact of core agency programs and drive innovation that will remove obstacles that delay loan production.

Discussion of the Rule

In order to provide efficient and timely delivery of the SFHGLP, it is necessary to streamline the processing of SFHGLP applications using automation initiatives as much as possible. The Agency proposes to revise the regulation to mandate that lenders

[1] GUS is a tool that helps evaluate the credit risk but does not replace the informed judgment of the experienced underwriter's decision and does not serve the sole basis for making a final loan decision. *See* 7 CFR 3555.107(b).

utilize GUS and LLC systems for all applications and loan closing files. Mandatory use of GUS and LLC will allow uniformity in application submissions, consistency in the timely processing of loan requests and will save time and administrative costs for both lenders and the Agency by eliminating the requirement for paper file storage, shredding costs, and mail with overnight courier fees.

A summary of the changes includes amending 7 CFR 3555.107(b) introductory text and (b)(1), to reflect that the use of the Agency's automated underwriting system would be required for all requests for conditional commitments and loan guarantees. Submissions by alternate means, such as email or hard copy, will not be permitted and therefore the Agency proposes to eliminate references to such submission methods.

The Agency also proposes to amend § 3555.107(c) and add paragraphs (c)(1) and (2) to describe the two types of loans that would still be manually underwritten. First, loan products not supported by the automated origination system, such as streamlined-assist refinance transactions, must be manually underwritten and submitted via secure email or other electronic means approved by the Agency. Second, loans downgraded in the agency's automated origination system require manual underwriting, although lenders would still submit the loan documentation via the Agency's automated systems.

Concurrently, § 3555.107(i)(4) will be amended to require all loan documentation to be submitted via the Agency's automated systems with the exception of the loan products described in § 3555.107(c)(1).

Regulations § 3555.151(h)(2) would also be amended to clarify procedures for manually underwritten loans. The loan files for manually underwritten loans would still be submitted through the automated underwriting system but require full documentation review, and credit score validation or compensating factors.

Statutory Authority

Section 510(k) of Title V the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of the Department of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866, Classification

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all state and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

The rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented under USDA's regulations at 7 CFR part 3015.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This Executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or RD's Native American Coordinator at: *AIAN@wdc.usda.gov* to request such a consultation.

Programs Affected

The program affected by this proposed rule is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping burdens under OMB control number 0575–0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process. This rule has been reviewed in accordance with E.O. 13771 and it has been determined that because the subject program of this rule is considered an income transfer from taxpayers to program beneficiaries, it is not subject to the requirements of E.O. 13771.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis, to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After review and analysis of the rule and available data, it has been determined that implementation of the rule will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian tribes or persons based on their race, color, national origin, sex, age, disability, or marital or familiar status. No major civil rights impact is likely to result from this rule.

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in, or administering USDA programs, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested on the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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List of Subjects in 7 CFR Part 3555

Construction, Eligible loan purpose, Home improvement, Loan programs—housing and community development, Loan terms, Mortgage insurance, Mortgages, Rural areas.

For the reasons discussed in the preamble, the Agency is proposing to amend 7 CFR part 3555 as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart C—Loan Requirements

■ 2. Amend § 3555.107 by revising paragraph (b) introductory text, (b)(1), (3), and (6), (c), and (i)(4) to read as follows:

§ 3555.107 Applications for and issuance of the loan guarantee.

* * * * *

(b) *Automated underwriting.* Approved lenders are required to process SFHGLP loans using Rural Development's automated systems. The automated underwriting system is a tool to help evaluate credit risk but does not substitute or replace the careful judgment of experienced underwriters and shall not be the exclusive determination on extending credit. The lender must apply for and receive approval from Rural Development to utilize the automated underwriting system. Rural Development reserves the right to terminate the lender's use of the automated underwriting system.

(1) Lenders are responsible for ensuring all data is true and accurately represented in the automated underwriting system.

* * * * *

(3) The use of Rural Development's automated underwriting system subjects the lender to indemnification requirements in accordance with § 3555.108.

* * * * *

(6) Lenders will validate findings based on the output report of the automated underwriting system.

* * * * *

(c) *Manual underwriting.* Loans requiring manual underwriting (manually underwritten loans) are described in paragraphs (c)(1) and (2) of this section. For manually underwritten loans, full documentation and verification in accordance with subparts C, D, and E of this part will be submitted to Rural Development when requesting a guarantee and maintained in the lender's file. The documentation will confirm the applicant's eligibility, creditworthiness, repayment ability, eligible loan purpose, adequate collateral, and satisfaction of other regulatory requirements. The following types of loans require manual underwriting:

(1) Loans that are not supported by Rural Development's automated systems. These loans are submitted by secure email or other electronic means approved by the Agency.

(2) Loans downgraded by Rural Development's automated system. These loans are submitted utilizing Rural Development's automated system.

* * * * *

(i) * * *

(4) Evidence of documentation supporting the properly closed loan will be submitted using Rural Development's automated systems, with the exception of manually underwritten loans defined in paragraph (c)(1) of this section.

* * * * *

Subpart D—Underwriting the Applicant

■ 3. Amend § 3555.151 by revising paragraph (h)(2) introductory text to read as follows:

§ 3555.151 Eligibility requirements.

* * * * *

(h) * * *

(2) The repayment ratio may exceed the percentage in paragraph (h)(1) of this section when certain compensating factors exist. The handbook, HB–1–3555, Appendix I, located at *https://www.rd.usda.gov/sites/default/files/hb-1-3555.pdf,* will provide examples of when a debt ratio waiver may be granted. The automated underwriting system will consider any compensating factors in determining when the variance is appropriate. Loans downgraded in the automated underwriting system which must be manually underwritten will require the lender to document compensating factors. The presence of compensating factors does not strengthen a ratio exception when multiple layers of risk are present in the application. Acceptable compensating factors, supporting documentation, and maximum ratio thresholds, will be further defined and clarified in the handbook. Compensating factors include, but are not limited to:

* * * * *

Elizabeth Green,

Acting Administrator, Rural Housing Service.

[FR Doc. 2020–24578 Filed 11–16–20; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF STATE

22 CFR Part 54

[Public Notice: 11237]

RIN 1400–AE37

Passports; Procedures for Passport Couriers

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State (the Department) proposes regulations to continue a registration program and hand delivery procedures for courier companies used by applicants to transport their passport applications, and U.S. passports issued to them, to and from participating passport agencies. The purpose of these proposed rules is to continue the program that was established by policy, to maintain vigilance over the security of the passport application process, require companies to register with the Department prior to providing hand delivery services to certain applicants for U.S. passports, and to follow a uniform set of hand delivery procedures.

DATES: Written comments must be received on or before January 19, 2021.

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

Visit the *Regulations.gov* website at: *http://www.regulations.gov* and search for the Regulatory Information Number (RIN) 1400–AE37 or docket number DOS–2020–0045.

Mail (paper, disk, or CD–ROM): Office of Adjudication, Passport Services, U.S. Department of State, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227, ATTN: Courier Regulation.

Email: ca-courierreg@state.gov. You must include the RIN (1400–AE37) in the subject line of your message.

All comments should include the commenter's name, the organization the commenter represents, if applicable, and the commenter's address. If the Department is unable to read your comment for any reason, and cannot contact you for clarification, the Department may not be able to consider your comment. After the conclusion of the comment period, the Department anticipates publishing a final rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATION CONTACT: Karen A. Pizza, Office of Adjudication, *ca-courierreg@state.gov,* (202) 485–8800.

SUPPLEMENTARY INFORMATION:

Why is the Department proposing this rule?

The mission of the Passport Services directorate within the Bureau of Consular Affairs, Department of State, is to issue secure travel documents while providing the highest level of customer service, professionalism, and integrity. Passport Services recognizes that some applicants residing in the continental United States who are using expedited passport processing (22 CFR 51.56) might want to hire a private courier company to deliver their passport applications to a domestic passport agency for processing and to retrieve their issued passports. This hand delivery program for registered courier companies recognizes that for these domestic applicants with urgent travel needs, peace of mind comes from the additional support that a courier company may offer. Accordingly, this program is limited to applicants requesting expedited passport processing, and is available both to applicants who are required to submit an application by personal appearance pursuant to 22 CFR 51.21 (*i.e.,* a DS–11), (and in these cases executed before a designated passport acceptance agent pursuant to 22 CFR 51.22(b)), as well as to applicants who may submit a renewal passport application pursuant to 22 CFR 51.21(b) (*i.e.,* a DS–82). As this program applies only to domestic passport agencies, its scope is limited to the continental United States.

To facilitate the processing of passport applications and promote fair and efficient use of Department resources, this rule formalizes procedures for private domestic courier companies that applicants use to transport their passport applications and issued passports to and from domestic passport agencies. The procedures proposed in this rulemaking are a formalization and update of practices and procedures already in place, which are familiar to private courier companies. These procedures will be implemented by domestic passport agencies participating in the Department's passport hand delivery program for registered courier companies.

How will the program work?

A courier company must be registered at a passport agency before it may hand deliver passport applications or passports to or from that passport agency. The courier company must be registered with each passport agency at which it proposes to offer hand delivery services.

The Department will collect identifying information from the courier company for its registration and require the courier company to certify that the requirements set out in this proposed rule are met by all of its employees who will hand deliver passport applications or passports. The Department will notify a courier company and the passport agency or agencies where its registration is accepted, and the start date after which it can provide hand delivery services at each agency.

Passport agencies' resources are utilized to serve customers who apply in person at a passport agency, to process applications of customers who apply at a passport acceptance facility or renew through the mail, and to process applications submitted by registered courier companies. The priority is to serve customers with urgent travel who apply in person. Passport agencies assign resources to each of these work flows based upon historical data and demand projections to best meet the needs of U.S. citizens, particularly those with immediate travel.

The total number of companies that may be registered at each passport agency will be established by the Department and is based upon available resources and workload. The passport agency must be able to simultaneously provide continued and uninterrupted service to applicants who are not utilizing hand delivery services. Once the total number of slots allotted for registered companies has been filled, an unregistered courier company may request to be placed on the Department's waitlist. (A slot is the daily maximum number of passport applications that may be submitted to a passport agency.)

What does the passport applicant do?

In general, domestic passport applicants must apply for a passport through the mail or at a passport acceptance facility. Applicants with urgent travel plans, as defined by Passport Services on its website, *travel.state.gov,* may apply in person at a domestic passport agency or hire a private courier company to submit their applications to the passport agency.

Passport applicants using a form DS–11 to apply for a passport must have the application executed by a passport acceptance agent (''acceptance agent'') in accordance with 22 CFR 51.21(a). Designated passport acceptance facilities are listed on the Department's website at *travel.state.gov.* When an applicant appears before an acceptance agent (such as, for example, at a U.S. Post Office), the applicant must inform the acceptance agent whether he or she intends to hire a courier company to hand deliver the executed application to a passport agency. As part of the documentation provided to the acceptance agent, an applicant using a courier company must submit a letter of authorization authorizing one registered courier company to deliver the application, respond to any correspondence from the passport agency concerning the application, and retrieve the issued passport and supporting documentation on the applicant's behalf. The acceptance agent will seal the letter of authorization with the executed passport application and release the executed passport application to the applicant, who can then give the executed passport application to a private courier company registered to provide hand-carry services at a passport agency.

Passport applicants using a form DS–82 to apply for a renewal passport are not required to have the application executed by an acceptance agent. Applicants wishing to use a registered courier company to deliver the renewal application to a passport agency must submit a letter of authorization with their application.

Processing the Passport Application

A passport agency may only accept hand delivered applications from a courier company that is registered with that passport agency. Individual employees of the courier company must be certified by the company in order to hand deliver applications or issued passports to or from the passport agency. Each courier employee must show valid government-issued photo identification when delivering applications or picking up passports and/or supporting documentation from a passport agency.

Continuing as a Registered Courier Company

The proposed rule provides several requirements that must be met by companies and their employees to participate in the program, and outlines certain behaviors that could result in a courier company being terminated from the program. For example, a registered courier company must immediately notify the passport agency or agencies with which it is registered of any changes in courier company or employee information submitted as part of the registration process.

Failure to follow the requirements in this proposed rule, including the requirements in proposed § 54.30, could result in a courier company losing its registration temporarily or permanently with the passport agency or agencies where it is registered.

Although Passport Services would like to enable urgently departing citizens to have access to this optional private service, the Department's goal is to maintain vigilance over the security of the passport application process. These uniform national procedures will facilitate the Department's efforts to thwart attempts to distribute misinformation to passport applicants, or commit offenses such as fraud or identity theft.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with a 60-day provision for public comments.

Regulatory Flexibility Act/Executive Order 13272: Small Business Impacts

The Department has reviewed this rule and, by approving it, certifies that the de minimis cost will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). However, to better inform the public as to the costs and burdens of this rule, the Department notes that this regulation will affect the operations of approximately 370 companies participating in the Department's passport hand delivery program for couriers in the following ways. The Department welcomes feedback on these estimates.

Numbers of Small Businesses

Currently, approximately 370 courier companies and 1285 courier company employees are registered across the 14 U.S. passport agencies that are already participating in the program. Although this regulation proposes a new system of allocating slots on an annual first-come, first-serve basis, the number of courier companies registered in the program is expected to remain relatively constant. Companies in the program may include private passport and visa service expediting companies, courier and messenger services, travel companies, law firms, corporate travel departments, and commercial photography services, among others. We estimate that courier companies in this program or seeking to enroll in the program have less than 1,500 employees, well below the Small Business Administration size standard.

Company and Employee Eligibility for Registration

To register in this program, courier companies are required to provide contact information at participating passport agencies at which they wish to register on an annual basis. This proposed rule will also require courier company owners to certify that the company has no judgments for illegal business practices, that the owners and employees are lawfully permitted to work in the United States, do not have a record of a felony, or any misdemeanor related to mismanaging funds, identity theft, and/or document fraud, and that the owners and employees are not under indictment for such an offense. In addition, courier company owners will be required to submit a copy of proof of the company's registration with the city or state, such as a valid business tax certificate or license, issued by the competent state or city authority, as appropriate, where each passport agency at which the company wishes to register with is located. For example, if a company wishes to register at the San Francisco Passport Agency, the company must submit a valid San Francisco Business Registration Certificate. The Department will only allow the company name listed on the business tax certificate or license, including the ''doing business as'' (DBA) name when appropriate, to register. The owner listed on the supporting document(s) must match that provided in the company's registration at a passport agency. This requirement is designed to prevent companies from registering under multiple fictitious names to acquire more slots. This information will be requested on the DS–5538 Courier Company Registration Form. The costs associated with registering a company are estimated to require 20 minutes, multiplied by 370 courier companies, divided by 60 minutes, multiplied by $76.17 weighted wage, or an annual $9,394.30 hour burden cost, in addition to the costs of printing two $.22 pages of the DS–5538 Courier Company Registration Form, making a $.22 photocopy of a government-issued photo identification card, and making a $.22 photocopy of a valid business license, or a total additional cost of $325.60 annually. The business license photocopies will be a new cost.

Employees trusted with delivering applications and retrieving issued passports and supporting materials are currently required to provide their contact information at the passport agencies where they register to perform hand delivery services. Employees may not submit applications on behalf of another courier company. Thus, an employee may only be registered to submit applications for one company; however, a company may register more than one of its employees at a passport agency. This requirement is to ensure that the Department can readily identify eligible courier company employees who are authorized to hand deliver passport applications and retrieve completed passports at a passport agency, and to mitigate a common practice among some courier companies in which they register employees from other companies to provide these services on their behalf. Such employees and/or the company owners will be required to certify that they do not have a record of a felony, or any misdemeanor related to mismanaging funds, identity theft, document fraud, and are not under indictment for such an offense. Courier companies will also have to certify that they participate in the Department of Homeland Security's E-verify program, maintain a drug free work place and provide notice in writing to each customer as to whether or not the courier company maintains liability insurance. Employers must certify that the employee is legally authorized to work in the United States. In addition, employers are required to certify that the employee is not subject to a felony, or any misdemeanor related to mismanaging funds, identity theft, and/or document fraud. This information will be requested on the DS–5539 Courier Employee Registration Form. The costs associated with registering an employee are estimated to require 40 minutes, multiplied by approximately 1285 employees, divided by 60 minutes, multiplied by $20.19 weighted wage, or an annual $17,296.10 hour burden cost, plus additional costs of printing two $.22 pages of the DS–5539 Courier Employee Registration Form, and making a $.22 photocopy of a government-issued photo identification card, or a total additional cost of $848.10 annually.

The costs associated with participating in the Department of Homeland Security's E-verify program will vary based on the number of employees a courier company has. There is no fee to participate in the program; however, a courier company owner or manager will need to spend time registering for the program, learning to use the system, reviewing the Memorandum of Understanding signed as part of the program, and entering employee data into the E-verify system. Therefore, the estimated cost of participating in the program is $406.23 per company, plus an additional $30.46 per each employee whose information the company must enter into the e-verify system. These costs multiplied by 370 courier companies with approximately 1285 employees is $189,446.20 annually.

The costs associated with complying with the requirements contained in the Drug Free Work Place Act, 41 U.S.C. 8102, include developing a policy to maintain a drug free workplace, providing written notice to employees of the company's policy, providing employees with a drug free workplace awareness program, and reporting violations of the drug free workplace policy to the Department. The estimated cost of developing the drug free workplace awareness program and conducting training for employees is $182.73 per company and $13.91 per employee. That cost multiplied by 370 courier companies with approximately 1285 employees is $85,484.35 annually. The estimated cost of printing the one page notice of the drug free work place policy is $.22 per page. Since the notice must be provided to an estimated 1285 employees, the total cost is $282.70 annually.

Company Participation

Registered companies participating in this program are required to deliver a DS–4283 Courier Drop-Off List with each set of applications delivered to a passport agency. The information provided on these forms assists the Department in tracking the intake of applications and materials delivered by courier companies to a passport agency. The costs associated with providing these forms are estimated to require 10 minutes, multiplied by 238,554 lists received in 2018, divided by 60 minutes, multiplied by $20.19 weighted wage for employees, or an annual $802,734 hour burden cost, plus additional costs of printing one $.22 page of the DS–4283 Courier Drop-Off List, multiplied by 238,554 DS–4283 Courier Drop-Off List Forms received by the Department in 2018, or a total additional estimated cost of $52,482 annually. This is not a new cost. The DS–4283 is currently in use, approved under the Paperwork Reduction Act (Office of Management and Budget (OMB) Control No. 1405–0222).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804 for the purposes of Congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive orders and submitted the rule to the Office of Management and Budget's Office of Information and Regulatory Affairs.

The Department requires company owners and employees to submit documentation of their eligibility to participate in the program, including the submission of a copy of proof of the company's registration with the city or state, such as a valid business tax certificate or license, issued by the competent state or city authority, as appropriate, where each passport agency at which the company wishes to register with is located. The Department believes that companies already register their business with the city or state in which they provide products or services in the course of their normal business practices. As a result, the cost to companies of providing a photocopy is minimal. This requirement will help the Department ensure greater fairness in the distribution of slots by preventing companies from registering under multiple fictitious names and unfairly obtain additional slots. The cost of obtaining a photocopy of proof of city or state registration is estimated at $.22 per copy, multiplied by approximately 370 respondents, or a $81.40 new cost.

The costs associated with registering a company are estimated to require 20 minutes, multiplied by 370 courier companies, divided by 60 minutes, multiplied by $76.17 weighted wage, or an annual $9,394.30 hour burden cost, in addition to the costs of printing two $.22 pages of the DS–5538 Courier Company Registration Form, making a $.22 photocopy of a government-issued photo identification card, and making a $.22 photocopy of a valid business license, or a total additional cost of $325.60 annually.

The costs associated with registering an employee are estimated to require 40 minutes, multiplied by approximately 1285 employees, divided by 60 minutes, multiplied by $20.19 weighted wage, or an annual $17,296.10 hour burden cost, plus additional costs of printing two $.22 pages of the DS–5539 Courier Employee Registration Form, and making a $.22 photocopy of a government-issued photo identification card, or a total additional costs of $848.10 annually.

The costs associated with participating in the Department of Homeland Security's E-verify program will vary based on the number of employees a courier company has. There is no fee to participate in the program; however, a courier company owner or manager will need to spend time registering for the program, learning to use the system, reviewing the Memorandum of Understanding signed as part of the program, and entering employee data into the E-verify system. Therefore, the estimated cost of participating in the program is $406.23 per company, plus an additional $30.46 per each employee whose information the company must enter into the E-verify system. These costs multiplied by 370 courier companies with approximately 1285 employees is $189,446.20 annually.

The costs associated with complying with the requirements contained in the Drug Free Work Place Act, 41 U.S.C. 8102, include developing a policy to maintain a drug free workplace, providing written notice to employees of the company's policy, providing employees with a drug free workplace awareness program, and reporting violations of the drug free workplace policy to the Department. The estimated cost of developing the drug free workplace awareness program and conducting training for employees is $182.73 per company and $13.91 per employee. That cost multiplied by 370 courier companies with approximately 1285 employees is $85,484.35 annually. The estimated cost of printing the one page notice of the drug free work place policy is $.22 per page. Since the notice must be provided to an estimated 1285 employees, the total cost is $282.70 annually.

Under E.O. 12866 and OMB Circular A–4, agencies are encouraged to consider alternative solutions to the proposed regulatory action. The Department of State considered, but is not proposing at this time, allocating available slots through an alternative mechanism other than ''first come, first serve,'' as described above. First, the Department considered assigning a fee to each slot in alignment with full cost recovery to the Department of State, as described in OMB Circular A–25 (''A user charge . . . will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.''). A user fee would ensure that the special benefits provided by being a registered passport courier with access to slots for passport application submission would align with the costs the Department of State incurs by dedicating staff time and resources for this service.

Additionally, the Department considered, but does not propose, allowing for distribution of slots amongst couriers via annual auctioning, permit trading, or other market-based solutions. The Department of State broadly solicits comment on its approach, including the alternatives discussed in this section, for how it will allocate slots via this program. The Department specifically seeks comment regarding:

- Should the Department charge a fee on a per-registration or per-slot basis? If so, the Department would rely on its Cost of Service Model to estimate the costs of this service and set the fee, but the Department seeks further comment regarding any additional considerations that could bear on where such a fee would be set?
- How should slots be allocated to passport courier firms? Are you aware of other allocation systems?

Executive Orders 12372 and 13132—Federalism

This regulation will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

The information collection contained in this proposed rule is pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. Chapter 35, and, if approved, will be assigned an OMB Control Number. As part of this rulemaking, the Department is seeking comment on the administrative burden associated with this collection of information. This proposed rule requires certain collections of information and the Department has submitted an information collection request to OMB for review and approval under the PRA.

This information collection will provide a way for courier companies to register with the Department to provide hand delivery passport courier services to the public. Note that OMB Control No. 1405–0222, Courier Drop-Off List for U.S. Passport Applications also relates to this rulemaking.

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* Passport Hand Delivery Program for Couriers.

(3) *Agency form numbers:* DS–5538 Courier Company Registration Form, DS–5539 Courier Employee Registration Form, DS–4283 Courier Drop-off List.

(4) *Affected public:* This information collection will be used by courier company owners and their employees.

(5) *An estimate of the total number of respondents:* The Department estimates a total of 370 respondents per year.

(6) *An estimate of the total annual public burden (in hours) associated with the collection:* The average burden associated with the DS–5538 Courier Company Registration Form information collection is estimated to be 20 minutes per respondent. As there are 370 registered companies, the Department estimates the total annual burden for this information collection to be 123.3 hours. The average burden associated with the DS–5539 Courier Employee Registration Form information collection is estimated to be 40 minutes per respondent, and 1285 employees currently participate in the program. Therefore, the Department estimates the total annual burden for this information collection to be 856.67 hours.

(9) *Submit comments to both OMB and the Department of State by the following methods:*

Office of Management and Budget (OMB):

○ *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

○ *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

Department of State:

• *Web:* Persons with access to the internet may view this notice and provide comments by going to the *regulations.gov* website at: *http://www.regulations.gov/index.cfm.* Search for Docket No. DOS–2020–0045 or for RIN number 1400–AE37.

• *Mail:* Office of Adjudication, Passport Services, U.S. Department of State, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227, ATTN: Courier Regulation, *Email: ca-courierreg@state.gov:*—You must include the DS form number, information collection title, and the OMB control number in any correspondence.

(8) *The Department seeks public comment on:*

• Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

• the accuracy of the Department's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• the quality, utility, and clarity of the information to be collected;

• how 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 responses;

• should the Department charge a fee on a per-registration or per-slot basis? If so, the Department would rely on its Cost of Service Model to estimate the costs of this service and set the fee, but the Department seeks further comment regarding any additional considerations that could bear on where such a fee would be set.

• how should slots be allocated to passport courier firms? Are you aware of other allocation systems?

Abstract of proposed collection:

This information collection will enable companies to register to participate in the Department's passport hand delivery program for couriers, as well as certify that they and their employees meet the Department's requirements for the program.

Methodology:

The forms introduced by this information collection will be made available online on the Department's website and upon request at participating passport agencies, and must be submitted to the Department as noted in this rule.

List of Subjects in 22 CFR Part 54

Administrative practice and procedure, Passports.

Accordingly, for the reasons stated in the preamble, 22 CFR part 54 is proposed to be added to read as follows:

PART 54—PROCEDURES FOR REGISTERED COURIERS

Subpart A—General

Subpart B—Requirements for Courier Companies

Subpart C—Courier Company and Employee Conduct

Authority: 22 U.S.C. 2651a; 22 U.S.C. 211a, 213; 22 U.S.C. 2670; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

Subpart A—General

§ 54.10 Purpose.

To facilitate the processing of passport applications and promote fair and efficient use of Department of State (the Department) resources, this part establishes certain procedures for courier companies used by applicants residing in the continental United States at participating domestic passport agencies to hand deliver their passport applications and obtain issued passports.

§ 54.11 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Hand delivery services* refers to the written authorization given by an applicant to a courier company to deliver a passport application to the Department for processing, to correspond with the Department about the passport application, and to retrieve an issued passport and supporting documentation on behalf of the applicant.

(b) *Registration to provide hand delivery services* refers to the written permission given by the Department to a courier company to perform hand delivery services for passport applicants at a participating domestic passport agency or agencies.

(c) *Slot(s)* refers to the daily maximum number of passport applications by service type (*i.e.,* Same-Day, Two-Day, Three-Day, and Expedited Mail-Outs) that the Department permits a courier company to hand deliver at a passport agency. A slot is a privilege; it does not constitute property and the courier company to which it is temporarily allocated does not obtain a protected property interest. Slots may be granted, withdrawn, or reallocated by the Department at its discretion consistent with the provisions of § 54.22.

(d) *Categorical limits* refer to the restrictions on slot service type. The Department may alter categorical limits at each passport agency at its discretion, consistent with the provisions of § 54.22.

(e) *Wait list* refers to the list maintained by the Department that ranks the order of courier companies that applied to register with the Department pursuant to § 54.20 but did not receive slots.

(f) *National Courier Program* refers to those domestic passport agencies that permit courier companies to hand-deliver passport applications and retrieve completed passports at their agencies, courier companies, and employees who are registered at participating domestic passport agencies, and the requirements and procedures that must be followed in order for a registered courier company to hand deliver passport applications and retrieve completed passports at a passport agency.

(g) *Customer* refers to any passport applicant for whom a courier company provides hand delivery services.

(h) *Employee* refers to any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee, as well as any individual who performs services for remuneration for a courier company.

(i) *Owner* refers to a corporation, S corporation, partnership, and association, as well as a natural person who owns a courier company.

(j) *Courier company* refers to a private-sector entity that charges a passport applicant a service fee for hand delivering his or her passport application to a domestic U.S. passport agency and retrieving the completed passport and/or related documents on behalf of the applicant. The service fee charged by a courier company is in addition to the passport fees collected by the Department of State for processing a passport application.

Subpart B—Requirements for Courier Companies

§ 54.20 Courier company registration.

(a) A list of passport agencies participating in the Department's National Courier Program will be provided on the Department's website, *www.travel.state.gov.* This list is subject to change at the Department's discretion.

(b) The Department will determine which passport agencies will participate and the number of courier companies that may be registered at any given time on an annual basis, consistent with § 54.22. A courier company that does not receive registration in a calendar year may be placed on a wait list in rank order, based on the time and date the Department received the courier company's registration documents.

(c) Only courier companies that are registered at a passport agency may hand deliver passport applications and pick up completed passports and/or related documents on behalf of the applicants. Non-registered courier companies are prohibited from hand delivering passport applications to a passport agency.

(d) To register, a courier company must submit a registration package to the Department that includes:

(1) Courier company and employee identifying information;

(2) A certification that the courier company owner:

(i) Does not have a record of either a Federal or state felony conviction, or a misdemeanor conviction for embezzlement, identity theft, misappropriation, document fraud, or dishonesty in carrying out a responsibility involving public trust; and

(ii) Is not currently under indictment for a felony or a misdemeanor for embezzlement, identify theft, misappropriation, document fraud, or dishonesty in carrying out a responsibility involving public trust;

(3) Certifications that each employee performing hand-carry services:

(i) Is legally authorized to work in the United States;

(ii) Does not have a record of either a Federal or state felony conviction, or a misdemeanor conviction for embezzlement, identity theft, misappropriation, document fraud, or dishonesty in carrying out a responsibility involving public trust; and

(iii) Is not currently under indictment for a felony, or a misdemeanor for embezzlement, identify theft, misappropriation, document fraud, or dishonesty in carrying out a responsibility involving public trust; and

(4) Certifications that each courier company:

(i) Is enrolled in the Department of Homeland Security's E-Verify System; and

(ii) Provides notice in writing to each customer as to whether or not the courier company maintains liability insurance that would cover losses to customers resulting from action or inaction on the part of courier company owners or employees.

(5) Courier companies must also certify that the company maintains a Drug Free Workplace by:

(i) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the company's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

(iii) Establishing an ongoing drug-free awareness program to inform its employees about:

(A) The dangers of drug abuse in the work place;

(B) The company's policy of maintaining a drug-free workplace;

(C) Any available drug counseling, rehabilitation, and employee assistance programs; and

(D) The penalties that may be imposed upon employees for drug abuse violations in the workplace;

(iii) Providing all employees with a copy of the statement required by paragraph (d)(5)(i) of this section;

(iv) Notifying its employees in writing about—

(A) The company's policy of maintaining a drug-free workplace;

(B) Any available drug counseling, rehabilitation, and employee assistance programs; and

(C) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(v) Notifying all employees in writing, that as a condition of employment, the employee will—

(A) Abide by the terms of the statement required by paragraph (d)(5)(i) of this section; and

(B) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than five days after such conviction;

(vi) Notifying the Department in writing within ten days after receiving notice of an employee's conviction under a criminal drug statute for a violation occurring in the workplace. The notice shall include the position title of the employee; and

(vii) Within 30 days after receiving notice under paragraph (d)(5)(v) of this section of a conviction, taking one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(A) Taking appropriate personnel action against such employee, up to and including termination; or

(B) Requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(6) A copy of proof of the company's registration with the city or state, such as a valid business tax certificate or license, issued by the competent state or city authority, as appropriate, where each passport agency at which the company wishes to register with is located. For example, if a company wishes to register at the San Francisco Passport Agency, the company must submit a valid San Francisco Business Registration Certificate.

(i) The Department will only allow the company name listed on the business tax certificate or license, including the ''doing business as'' (DBA) name when appropriate, to register.

(ii) The owner(s) listed on these documents must match the owner(s) listed on the courier company's registration.

(e) The Department may not register a courier company with outstanding judgments that were based on illegal business practices, or a courier company that is owned or operated by an individual who has owned or operated a courier company that was permanently banned from hand delivering passport applications to a passport agency.

(f) A courier company must notify the Department in writing and within 14 calendar days of any changes to the responses provided on or in support of company or employee registrations, including changes in ownership, acquisition, merger, or ''doing business as'' (DBA) name, as well as company and employee eligibility certifications. The successor courier company must resubmit a new registration package, including employee certifications, under the new courier company's name. Slots are not a property interest and are not transferrable. Courier companies and employees must remain eligible to participate in the Department's National Courier Program at all times.

(g) The Department may cancel the registration of any registered courier company that fails to submit a completed passport application, using their allotted slots, within 30 consecutive calendar days. The cancellation is effective the day the Department sends written notification to the courier company.

§ 54.21 Submitting applications to a participating passport agency.

(a) A courier company must be registered at each participating passport agency where it performs hand delivery services. Courier companies that attempt to hand deliver passport applications at a passport agency where they are not registered are subject to permanent ban from participation in the Department's National Courier Program, at the Department's discretion.

(b) Each passport application hand delivered to a participating passport agency by a registered courier company must include:

(1) A letter of authorization permitting the registered courier company to deliver the passport application, correspond with the Department about the passport application, and retrieve the issued passport and associated documents.

(2) Documentation showing that the passport applicant is departing the United States within 14 calendar days or needs a passport within four weeks to obtain a foreign visa.

(c) When picking up passports and supporting documentation at the passport agency, courier company employees must show valid government-issued photo identification.

(d) Courier companies must return undeliverable passports and supporting documentation within 14 calendar days of pick-up to the passport agency that issued the passports.

(e) A courier company must notify applicants within 24 hours of becoming aware of any passports and/or passport applications that are damaged, lost, or stolen while in the courier company's possession.

(f) A courier company must not make, accept, maintain, or submit copies of passports, passport applications, or supporting documentation, except as provided in procedures established by the Department described in paragraph (g) of this section.

(g) In addition to the regulations in paragraphs (a) through (g) of this section, the Department may establish hand delivery procedures for registered couriers that are consistent with the requirements contained in this part. Courier companies and their employees that fail to follow these procedures may be subject to the penalties described in § 54.30. The Department will provide these procedures in writing to registered courier companies, and send written notification to registered courier companies of any updates to these procedures at least 30 calendar days in advance of implementing changes.

§ 54.22 Annual company registration and allocation of slots.

(a) The Department will determine the total number of slots available to courier companies and establish categorical limits.

(b) During the annual registration period, company owners must submit a DS–5538 form for themselves and a DS–5539 form for each designated employee with all requested information and supporting documentation. Registration will be on a first-come, first-served basis, until the maximum number of registered companies at a passport agency has been reached. A company's rank order will be determined according to the date and time that the Department received a company's complete registration submission. The Department will not process any incomplete submission nor will it retain partial documents.

(c) Slots will be distributed equally among registered courier companies.

(d) The Department will, at least once per year, reassess workload, resources, slot allocation, slot usage, the number of registered courier companies, and the number of wait-listed courier companies to determine whether slots or categorical limits should be increased, decreased, or redistributed. The Department will send written notice to affected courier companies of any changes to the courier company's slot allocation or categorical limits at least 30 calendar days in advance of implementing such changes.

(e) If additional slots become available, they will be allocated to courier companies in the order dictated by the wait list. Wait-listed courier companies must confirm they will accept the available slots and send written notice to the Department of any updates to their registration submissions within 30 calendar days. Wait-listed courier companies will not be permitted to perform hand delivery services until their registration is updated and acknowledged by the Department in writing. Wait-listed courier companies that fail to provide such documentation in the required timeframe will forfeit the available slots, and the Department will then make the slots available to the next courier company on the wait list.

(f) If no courier companies are on a wait list, any additional slots that become available at a passport agency will be distributed among courier companies registered at the passport agency according to their date of registration, with the oldest registered courier company receiving slots first.

(g) Courier companies that submit more applications than their allocated slots or categorical limits permit, or otherwise attempt to circumvent their submission maximums in any way, may face restrictions in their registration, as provided in § 54.30.

Subpart C—Courier Company and Employee Conduct

§ 54.30 Requirements for registered courier companies and employees.

(a) Courier companies are responsible for their employees' conduct and for ensuring that their employees do not violate the rules set forth in this part or the Department's hand delivery procedures for registered couriers described in § 54.21(g). Courier companies must immediately report any employee conduct that violates this part or the Department's hand delivery procedures for registered couriers described in § 54.21(g) to the Department. Failure to do so may result in penalties in accordance with this section.

(b) Failure to follow any of the requirements of this part or the

Department's hand delivery procedures for registered couriers described in § 54.21(g) may result in the courier company and/or employee receiving a warning, suspension, cancellation of registration, or permanent ban from the Department's National Courier Program. Where a particular action arises, which in the Department's view, compromises the integrity of the program, passport application, or issued passport in a manner not described in this part, the Department will take action at its discretion. The Department will notify the courier company and/or employee of relevant penalties in writing. The notification will set forth the specific reasons for the penalty and the procedures for review available under § 54.31.

(c) While the Department may exercise discretion in assessing penalties for each violation, examples of violations which may trigger penalties ranging from a written warning to a permanent ban include but are not limited to:

(1) *Failing to abide by submission, pick-up, or waiting room conduct requirements.* Failing to abide by any of the submission or pick-up requirements outlined in this part or the Department's hand delivery procedures for registered couriers described in § 54.21(g).

(2) *Copying passport applications.* Making copies of and/or faxing passport applications or supporting materials, except as provided in the Department's hand delivery procedures for registered couriers described in § 54.21(g).

(3) *Submitting courier company checks that cannot be cashed.* Submitting a courier company check that is returned for any reason.

(4) *Attempting to circumvent slot or categorical limits.* Attempting to circumvent or bypass slot or categorical limits by any means.

(5) *Selling or swapping slots.* Attempting to sell or swap slots between courier companies.

(6) *Providing misleading information regarding a courier company's relationship with the Department.* Implying, misrepresenting, or misleading in speech, print, electronic, or any other form of communication, a courier company's relationship or status with a particular passport agency or the Department. A courier company may state that it is ''registered'' at a particular passport agency, but may not state that it is ''authorized'' or ''approved by'' the U.S. Government, the Department, or a particular passport agency. Use of the Department official seal (or the Great Seal of the United States, the obverse of which is depicted on the covers of U.S. passports) is strictly prohibited.

(7) *Providing misleading information regarding a courier company's ability to expedite applications or issue passports.* Implying, misrepresenting, or misleading in speech, print, electronic, or any other form of communication, that the courier company is able to have an applicant's passport processed more quickly than if the applicant applied directly at a passport agency; or that the courier company executes, adjudicates, or prints passports. All applicants receive the same timeliness of service by the Department based on the urgency of travel needs.

(8) *Returning undeliverable passports and supporting documentation to a passport agency after 14 days.* Failing to return undeliverable passport(s) and supporting documentation within 14 calendar days of pickup to the passport agency that issued the passport when the applicant cannot be located.

(9) *Leaving passport application materials or passports unattended.* Losing control of passport applications, passports, correspondence, or supporting documentation while such documents are in the custody of a courier company.

(10) *Failing to protect an applicant's personal information.* Compromising the privacy and integrity of an applicant's personal information, including but not limited to selling an applicant's personal information to a third party, sharing it with a third party, or buying it from a third party; and/or failure to notify an applicant that his or her personal information has been lost, stolen, or possibly compromised.

(11) *Tampering with passport application materials.* Tampering with a passport application or misrepresenting facts pertaining to an application. This includes, but is not limited to:

(i) Signing a passport application, a supporting document, or a letter of authorization on behalf of another individual;

(ii) Providing any other false information affecting passport application processing or issuance, including a fake itinerary;

(iii) Opening a sealed envelope containing an executed passport application; or

(iv) Providing a photo of an individual other than the applicant.

(12) *Depositing applicant funds into account.* Depositing funds intended for the Department or any passport agency into a business or personal account.

(13) *Retaining an application five days after its execution or signature.* Failing to timely submit passport applications to a passport agency after an applicant's personal appearance before a passport acceptance agent in accordance with § 51.21(a), or after the applicant signs a renewal passport application in accordance with § 51.21(b).

(14) *Executing an application.* Executing a passport application for an applicant.

(15) *Coaching fraudulent information.* Coaching applicants to provide fraudulent or misleading information on or in support of a passport application. This includes, but is not limited to:

(i) Knowingly directing an individual to engage fraudulent notarial services or to produce a fake travel itinerary; and/or

(ii) Coaching an individual to make a fraudulent statement on any document submitted to a passport agency or sign a document submitted with a passport application on behalf of another individual.

(16) *Failure to report changes in ownership.* Failing to report changes in ownership of a courier company. This includes continuing to do business under the name and registration of the previous courier company or owner without notifying the Department.

(17) *Providing false information on a registration form/failure to report material changes.* Submitting false or misleading information or failing to report material changes to responses provided on or in support of a courier company or employee registration form.

§ 54.31 Administrative review of restrictive actions.

(a) A courier company and/or employee whose registration has been suspended, cancelled, or permanently banned may send a written request for an administrative review to the Department within 14 calendar days of receipt of the notice of such restrictive action. The request must include a written, sworn statement or declaration submitted under penalty of perjury, describing the events at issue and providing reasons that the courier company and/or employee believes it/he/she should not be found in violation of the requirements of this part and/or the Department's hand delivery procedures for registered couriers described in § 54.21(g).

(b) Upon examining the materials provided by the courier company and/or employee and the relevant documentation of the incident forwarded by the passport agency, a review board consisting of at least three members of the Department will submit a written recommendation to the Managing Director for Passport Issuance Operations. After reviewing the request for an administrative review and the recommendation of the review board, the Managing Director for Passport Issuance Operations will decide whether to uphold the suspension, cancellation, or permanent ban of the courier company's and/or employee's registration to provide hand delivery services.

(c) The Department will promptly notify the courier company and/or employee of the decision in writing. If the decision upholds the Department's action, the notification will contain the reasons for the decision. The decision is final and not subject to further administrative review.

Carl Risch,

Assistant Secretary, Consular Affairs, Department of State.

[FR Doc. 2020–24538 Filed 11–16–20; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Chapter I

IRS Review of Regulatory and Other Relief To Support Economic Recovery

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Request for comments.

SUMMARY: On May 19, 2020, the President signed Executive Order 13924, Executive Order On Regulatory Relief to Support Economic Recovery, to direct agencies to consider principles of fairness in administrative enforcement and adjudication and to consider rescinding, modifying, or waiving any regulations and other requirements that may inhibit the ongoing economic recovery from the Coronavirus Disease 2019 pandemic. In furtherance of E.O. 13924, this document invites members of the public to submit comments to the Internal Revenue Service concerning regulations and other requirements that can be rescinded, modified, or waived to assist business and individual taxpayers with the ongoing economic recovery from the Coronavirus Disease 2019 pandemic.

DATES: *Comment due date:* January 4, 2021.

ADDRESSES: Interested persons are invited to submit comments in response to this notice according to the instructions below. All submissions should refer to the title of this document, IRS Review of Regulatory and Other Relief to Support Economic Recovery.

Submission of Comments: Taxpayers are strongly encouraged to submit comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (type IRS Review of Regulatory and Other Relief to Support Economic Recovery in the search field on the regulations.gov homepage to find this notice and submit comments). Alternatively, taxpayers may mail comments to: Internal Revenue Service, Attn: CC:PA: LPD:PR (IRS Review of Regulatory Relief) Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

The IRS expects to have limited personnel available to process public comments that are submitted on paper through the mail. Any comments submitted on paper will be considered to the extent practicable.

Public Inspection of Comments: In general, all comments received will be available for public inspection on *www.regulations.gov.* Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

FOR FURTHER INFORMATION CONTACT: Kevin Gillin, IRS Office of Chief Counsel, Procedure and Administration, (202) 317–5403.

SUPPLEMENTARY INFORMATION: On May 19, 2020, the President signed Executive Order 13924, Executive Order on Regulatory Relief to Support Economic Recovery. Section 6 of the Order directs agencies to ''consider the principles of fairness in administrative enforcement and adjudication'' and consider rescinding, modifying, or waiving any regulations and other requirements that may inhibit the ongoing economic recovery from the Coronavirus Disease 2019 (COVID–19) pandemic ''consistent with applicable law and as they deem appropriate in the context of particular statutory and regulatory programs and the policy considerations identified in section 1 of this order.''

Since the onset of COVID–19, and consistent with E.O. 13924, the Internal Revenue Service has taken numerous steps to adjust its compliance and enforcement practices to provide relief to individual and business taxpayers affected by the pandemic. The IRS has issued guidance in the Internal Revenue Bulletin designed to provide relief from statutory and regulatory requirements. In a series of Notices issued pursuant to I.R.C. § 7508A, the IRS postponed deadlines for filing tax returns and making tax payments and extended the deadlines for other time sensitive acts. *See, e.g.,* Notice 2020–18, Notice 2020–20, and Notice 2020–23. The IRS also provided regulatory relief such as in Notice 2020–25, which sought to maintain liquidity and stability in markets by expanding the circumstances and time periods in which a tax-exempt bond that is purchased by its state or local governmental issuer is treated as continuing in effect without resulting in a reissuance or retirement of the purchased tax-exempt bond.

In May, the IRS also announced its People First Initiative to pause compliance and enforcement activity with respect to millions of American taxpayers by suspending the issuance of liens and levies, suspending payment dates under installment agreements, and postponing the initiation of new compliance actions.[1] Most recently, the IRS announced additional relief options available to assist taxpayers experiencing financial difficulties which include abating penalties where appropriate, extending payment plans, expanding access to installment agreements, and providing relief for taxpayers having difficulty meeting the terms of previously accepted offers to settle tax debts.[2] The IRS facilitated taxpayer communication with the IRS by allowing the use of images of signatures and digital signatures by taxpayers on statements and forms collected by the IRS outside of standard filing processes and the transmittal of communications by electronic facsimile and other secure electronic means.[3] The IRS set out procedures allowing taxpayers to electronically fax forms (new IRS Form 7200) seeking claims for advance payments of the family and sick leave credits provided for by sections 7001 through 7004 of the Families First Coronavirus Response Act, Public Law 116–127, 134 Stat. 178 (Families First Act) [4] and claims for refund due to carryback of net operating losses and alternative minimum tax under sections 2303 and 2305 of the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116–136, 134 Stat. 281 (CARES Act) so that the IRS could expedite processing of these refund claims.[5] To expedite taxpayer requests for pre-enforcement rulings, the IRS issued Revenue Procedure 2020–29 allowing taxpayers to submit requests for advice such as letter rulings by electronic means and encouraged

[1] *https://www.irs.gov/newsroom/irs-unveils-new-people-first-initiative-covid-19-effort-temporarily-adjusts-suspends-key-compliance-program.*

[2] *https://www.irs.gov/about-irs/irs-offers-new-relief-options-to-help-taxpayers-affected-by-covid-19.*

[3] *https://www.irs.gov/pub/foia/ig/spder/nhq-01-0620-0002.pdf.*

[4] *https://www.irs.gov/instructions/i7200.*

[5] *https://www.irs.gov/newsroom/temporary-procedures-to-fax-certain-forms-1139-and-1045-due-to-covid-19.*

taxpayers to seek expedited consideration of ruling requests if they faced a compelling need related to COVID–19.

Further supporting the relief from compliance and enforcement actions referenced above, the IRS continues to implement processes and procedures, consistent with the direction in section 6 of E.O. 13924, to promote fairness in administrative enforcement and adjudication. As part of its implementation of the Taxpayer First Act, Public Law 116–25, 133 Stat. 981 (TFA), the IRS adopted procedures designed to ensure the independence of the IRS Independent Office of Appeals (Appeals). Appeals is an independent function within the IRS that performs quasi-adjudicative functions by seeking to resolve a wide variety of disputes regarding enforcement of the Internal Revenue Code in a fair and impartial manner. *See* 26 U.S.C. 7803(e) (enacted by section 1001 of the TFA). These procedures, mandated by 26 U.S.C. 7803(e)(7)(A), provide most taxpayers with a copy of their administrative examination file prior to any hearing with Appeals. The IRS has also taken steps to ensure the independence of Appeals' determinations by, whenever possible, providing legal advice to Appeals from attorneys in the Office of Chief Counsel working independently from those who may have assisted in developing the case. *See* 26 U.S.C. 7803(e)(5)(A)(ii). To encourage transparency in the administrative process even before a case reaches Appeals, the IRS created a ''Respond Directly'' program that directs employees to provide access to open case files without requiring taxpayers to file a formal request under the Freedom of Information Act.

The IRS operates under an extensive regime of statutory provisions that ensure prompt and fair administrative enforcement. As required by section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685 (RRA '98), IRS employee performance metrics and compensation structures incentivize excellence, accuracy, integrity, efficiency, and fairness in the application of the law by prohibiting the use of records of tax enforcement results to evaluate employees. RRA '98 also created new collection due process rights that provide notice to taxpayers and an opportunity for independent review by the Office of Appeals, as well as judicial review, of IRS enforcement decisions to file a Notice of Federal Tax Lien or undertake a levy action.

The IRS has also adopted principles that promote fair administrative enforcement. In a ''Taxpayer Bill of Rights,'' [6] the IRS has outlined all of the rights provided in the Internal Revenue Code when dealing with the IRS, including the right to be informed, the right to challenge IRS determinations in an independent forum, and the right to a fair and just tax system. The Taxpayer Bill of Rights is prominently displayed as part of IRS Publication 1, Your Rights as a Taxpayer, which is regularly included with IRS correspondence with taxpayers.

The above is just a sample of the numerous actions taken by the IRS thus far to assist taxpayers affected by COVID–19. The IRS will continue to review all temporary actions taken in response to COVID–19, including those outlined above, to determine whether those actions should become permanent to promote economic recovery. The IRS also welcomes comments from taxpayers on additional measures that might assist those affected by the COVID–19 pandemic and further aid in the ongoing economic recovery from the pandemic.

Dated: November 5, 2020.

Sunita Lough,

Deputy Commissioner, Services and Enforcement.

[FR Doc. 2020–25240 Filed 11–13–20; 4:15 pm]

BILLING CODE 4830–01–P

[6] *https://www.irs.gov/taxpayer-bill-of-rights.*

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket No. 18–336; Report No. 3159; FRS 17236]

Petition for Reconsideration of Action in Proceedings

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petition for Reconsideration (Petition) has been filed in the Commission's proceeding by Patrick J. Whittle, on behalf of Communications Equality Advocates.

DATES: Oppositions to the Petition must be filed on or before December 2, 2020. Replies to an opposition must be filed on or before December 14, 2020.

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

FOR FURTHER INFORMATION CONTACT: Jamie McCoy, Wireline Competition Bureau, (202) 418–2320.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3159, released October 22, 2020. The full text of the Petition can be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801 (a)(1)(A), because no rules are being adopted by the Commission.

Subject: Implementation of the National Suicide Hotline Improvement Act of 2018, FCC 20–100, published 85 FR 57767, September 16, 2020 in WC Docket No. 18–336. This document is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–25247 Filed 11–16–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 201110–0300; RTID 0648–XX006]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass 2021 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised 2021 specifications for the summer flounder, scup, and black sea fisheries. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan require us to publish specifications for the upcoming fishing year for each of these species and to provide an opportunity for public comment. The proposed specifications are intended to establish allowable harvest levels for these species that will prevent overfishing, consistent with the most recent scientific information.

DATES: Comments must be received on or before December 2, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0149, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0149,*

2. Click the ''Comment Now!'' icon, complete the required fields, and

3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

A Supplemental Information Report (SIR) was prepared for the 2021 summer flounder, scup, and black sea bass specifciations. Copies of the SIR are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The SIR is also accessible via the internet at *http://www.mafmc.org/s/SF_2020-2021_specs_EA.pdf.*

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281–9116.

SUPPLEMENTARY INFORMATION:

General Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) outlines the Council's process for establishing specifications. The FMP requires NMFS to set an acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quotas, recreational harvest limits (RHL), and other management measures, for 1 to 3 years at a time. Projected 2021 specifications for summer flounder (84 FR 54041; October 9, 2019) and scup and black sea bass (85 FR 29345; May 15, 2020) were previously announced. This action proposes revisions to the 2021 ABC limits, as well as the recreational and commercial ACLs, ACTs, commercial quotas, and RHLs for all three species, consistent with the recommendations made by the Commission's Summer Flounder, Scup, and Black Sea Bass Board and Council at their joint August 2020 meeting. These revisions are primarily based on recent changes to the Council's risk policy, which defines the acceptable risk of overfishing associated with an ABC. The revised risk policy allows for increased risk of overfishing under high stock biomass conditions compared to the previous risk policy. The change is greatest for stocks with biomass above the target level (B_{MSY}).

The Scientific and Statistical Committee (SSC) met on July 23, 2020, to review its previous recommendations for 2021 ABCs and to consider possible modifications in light of the new risk policy and other new information. No updated assessment models or biomass projections were available for these species. Therefore, no new stock status information was available. However, the SSC did consider data updates for each species including final 2019 fishery landings information and 2019 Federal trawl survey indices. The SSC also considered staff recommendations and recent fishery performance.

The SSC can deviate from the currently implemented risk policy with sufficient justification, and in this case, the SSC was supportive of revising the ABCs consistent with the revised risk policy prior to these revisions being implemented in Federal regulations. The approval of the risk policy is being considered through a concurrent action (85 FR 71873; November 12, 2020). That action is expected to be finalized prior to our approval of these 2021 specifications.

Proposed 2021 Specifications

Summer Flounder Specifications

For summer flounder, applying the revised risk policy, keeping all other relevant factors the same as previously adopted, results in an increase in the recommended 2021 ABC from 25.03 million lb (11,354 mt) to 27.11 million lb (12,297 mt). This represents an 8-percent increase in the ABC and an increase in the probability of overfishing from 34 to 39 percent. Given the high biomass (healthy stock status) of summer flounder, the revised risk policy allows for a slightly increased risk of overfishing, which balances fishery access with the prevention of overfishing. Section 5.1 of the Council's SIR provides information on how the revised ABC was calculated using the new risk policy. The resulting recommended catch and landings limits are shown in Table 1.

TABLE 1—SUMMARY OF 2021 SUMMER FLOUNDER FISHERY SPECIFICATIONS

2021 specifications	Million lb	mt
OFL	31.67	14,367
ABC	27.11	12,297
Commercial ACL	14.63	6,635
Commercial ACT	14.63	6,635
Commercial Quota	12.49	5,663
Recreational ACL	12.48	5,662
Recreational ACT	12.48	5,662
Recreational Harvest Limit	8.32	3,776

We are also developing a final rule to implement a new state-by-state allocation formula for the commercial summer flounder fishery, as described in Amendment 21 to the FMP (85 FR 48660; August 12, 2020). We approved Amendment 21 on October 19, 2020. We anticipate publishing a final rule for Amendment 21 before we finalize these specifications, which would enable us to use the new allocation formula to set 2021 commercial state summer flounder quotas prior to the start of the 2021 fishing year. However, because the timing is uncertain, this proposed rule includes initial state quotas based on both the current and revised allocation formulas. We intend to implement the new commercial state summer flounder quotas, through the final rule if Amendment 21 is approved and effective prior to January 1, 2021.

The initial 2021 state-by-state summer flounder quotas are provided in Table 2. The initial quotas are presented using the current allocation formula and the allocation formula that will be used if Amendment 21 is approved prior to the start of the 2021 fishing year. Through the final rule, prior to the start of the fishing year, we will announce any adjustments necessary to address any long-standing overages or potential 2020 overages to provide the states with their final quotas.

TABLE 2—INITIAL 2021 SUMMER FLOUNDER STATE-BY-STATE QUOTAS

State	Initial 2021 quotas * current allocations (lb)	Initial 2021 quotas * amendment 21 allocations (lb)	Initial 2021 quotas * current allocations (mt)	Initial 2021 quotas * amendment 21 allocations (mt)
ME	5,940	14,342	2.69	6.51
NH	57	9,844	0.03	4.47
MA	851,875	1,015,179	386.40	460.48
RI	1,958,804	1,861,550	888.50	844.38
CT	281,909	579,376	127.87	262.80
NY	955,109	1,094,113	433.23	496.28
NJ	2,088,951	1,961,062	947.53	889.52
DE	2,222	11,499	1.01	5.22
MD	254,684	558,559	115.52	253.36
VA	2,662,463	2,399,576	1,207.67	1,088.43
NC	3,427,985	2,984,903	1,554.91	1,353.93
Total	12,490,000	12,490,000	5,665.37	5,665.37

* Initial quotas do not account for any previous overages. These allocations are based on the current allocation formula, and the allocation formula from Amendment 21.

This action makes no changes to the current commercial management measures, including the minimum fish size (14 inch (36 cm) total length), gear requirements, and possession limits. Changes to 2021 recreational management measures (bag limits, size limits, and seasons) are not considered in this action, but will be considered by the Board and Council later this year when additional data are available for 2020.

Scup Specifications

Application of the revised risk policy to the 2021 scup OFL, keeping all other relevant factors the same, would result in the 2021 ABC increasing from 30.67 million lb (13,912 mt) to 34.81 million lb (15,790 mt). This represents a 13-percent increase in the ABC. Section 5.2 of the Council's SIR provides information on how the revised ABC was calculated using the new risk policy. The resulting recommended catch and landings limits are shown in Table 3.

TABLE 3—SUMMARY OF 2021 SCUP FISHERY SPECIFICATIONS

2021 specifications	Million lb	mt
OFL	35.30	16,012
ABC	34.81	15,791
Commercial ACL	27.15	12,317
Commercial ACT	27.15	12,317
Commercial Quota	20.50	9,299
Recreational ACL	7.66	3,474
Recreational ACT	7.66	3,474
Recreational Harvest Limit	6.07	2,752

This action proposes no changes to the 2021 commercial management measures for scup, including the minimum fish size (9 inch (22.9 cm) total length), gear requirements, and quota period possession limits. Like summer flounder, potential changes to the recreational measures (bag limits, size limits, and seasons) for 2021 will be considered later this year when additional data are available for 2020.

Black Sea Bass Specifications

Application of the revised risk policy to 2021 black sea bass OFL, keeping all other relevant factors the same, would result in the 2021 ABC increasing from 15.07 million lb (6,836 mt) to 17.45 million lb (7,915 mt), representing a 16-percent increase. As specified in the FMP, 49 percent of the ABC that is expected to be landed is allocated to the commercial fishery and 51 percent is allocated to the recreational fishery. Expected discards in each sector are added to these amounts to derive commercial and recreational ACLs. The Council and Board recommended revisions to the method for calculating expected discards for black sea bass. The revised method is based on the assumption that sector-specific discards, as a percentage of sector-specific catch, will be the same as the 2016–2018 average (*i.e.,* commercial dead discards would account for 36 percent of commercial catch and recreational dead discards would account for 20 percent of recreational catch). This allows commercial discards to scale up with the increase in the quota, consistent with past trends in the fishery. The previously used method for calculating expected discards under-predicted actual discards in both sectors, contributing to commercial and recreational ACL overages in every year since 2015. The revised methodology reduces the likelihood of ACL overages. The resulting recommended catch and landings limits are shown in Table 4. This action proposes no changes to the 2021 commercial management measures for black sea bass, including the commercial minimum fish size (11 inch (27.94 cm) total length) and gear requirements.

TABLE 4—SUMMARY OF 2021 BLACK SEA BASS SPECIFICATIONS

2021 specifications	Million lb	mt
OFL	17.68	8,021
ABC	17.45	7,916
Commercial ACL	9.52	4,320
Commercial ACT	9.52	4,320
Commercial Quota	6.09	2,764
Recreational ACL	7.93	3,596
Recreational ACT	7.93	3,596
Recreational Harvest Limit	6.34	2,877

This action proposes revisions to the projected state-by-state February black sea bass recreational fishery harvest. No changes to the management measures for the February fishery are being proposed. The harvest projections are being updated to incorporate the revised Marine Recreational Information Program data, but the overall estimation method would remain unchanged (Table 5). States that choose to participate in this optional opening must use these revised values when developing state waters management measures for the rest of the year. The purpose is to ensure their participation in this optional opening does not increase their annual recreational black sea bass harvest in such a way as to result in an overage of the coastwide RHL. Changes to management measures for the overall recreational black sea bass fishery will be considered later this year when additional 2020 data is available.

TABLE 5—RECREACTIONAL BLACK SEA BASS FEBRUARY HARVEST ESTIMATES USED FOR 2018–2020 AND THE PROPOSED 2021 ESTIMATES

State	2018–2020 harvest estimates (lb)	2018–2020 harvest estimates (mt)	Proposed harvest estimates (lb)	Proposed harvest estimates (mt)
RI	288	0.13	1,146	0.52
CT	57	0.03	158	0.07
NY	9,410	4.27	41,871	18.99
NJ	82,850	37.58	405,913	184.12
DE	1,297	0.59	6,418	2.91
MD	541	0.24	2,227	1.01
VA	5,496	2.49	24,891	11.29
NC	62	0.03	1,369	0.62
Total	100,000	45.36	483,993	219.54

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Mid-Atlantic Fishery Management Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a SIR. The proposed action would revise the catch and landings limits for summer flounder, scup, and black sea bass in 2021 based on the recommendations of the SSC, the Council, and Board. The proposed 2021 specifications are an increase, for all three species, compared to the previously approved 2021 quotas, and are an increase for summer flounder and black sea bass compared to 2020 quotas. No changes to the Federal commercial fishery management measures are being proposed. Recreational fishery management measures are developed in a separate action.

Vessel ownership data were used to identify all individuals who own fishing vessels. Vessels were then grouped according to common owners. The resulting groupings were then treated as entities, or affiliates, for purposes of identifying small and large businesses which may be affected by this action. Affiliates were identified as primarily commercial fishing affiliates if the majority of their revenues in 2018 came from commercial fishing. Some of these affiliates may have also held party/charter permits. Affiliates were identified as primarily for-hire fishing affiliates if the majority of their revenues in 2018 came from for-hire fishing. Some of these affiliates may have also held commercial permits.

Based on this grouping, a total of 732 commercial affiliates reported revenue from summer flounder, scup, and/or black sea bass landings in at least one year during 2016–2018. Based on combined receipts in 2018, 725 (99 percent) of these commercial affiliates were classified as small businesses and 7 (1 percent) were classified as large businesses. A total of 286 affiliates were identified as small businesses which may be impacted by this action (*i.e.,* they held summer flounder, scup and/or black sea bass moratorium and/or for-hire permits in 2016–2018) but reported no revenues from commercial or recreational fishing in 2018. These 286 affiliates are not discussed further.

Regarding the for-hire fishery, a total of 389 affiliates generated revenues from recreational fishing in at least one year during 2016–2018. All of these affiliates were categorized as small businesses based on their 2018 revenues. It is not possible to determine the proportion of their revenues that came from fishing for an individual species. However, given the popularity of summer flounder, scup, and black sea bass as recreational species in the Mid-Atlantic and southern New England, revenues generated from these species are likely important for many of these firms at certain times of the year.

The 725 potentially impacted small businesses had average total annual revenues of $432,470, and on average $50,899 (12 percent) of those annual revenues came from commercial landings of summer flounder, scup and/or black sea bass during 2016–2018. The 7 potentially impacted large businesses had average total annual revenues of $17.4 million, and on average $426,859 (2 percent) of those annual revenues came from commercial landings of summer flounder, scup, and/or black sea bass during 2016–2018.

The proposed 2021 specifications are an increase, for all three species, compared to the previously approved 2021 quotas, and are an increase for summer flounder and black sea bass compared to 2020 quotas. The proposed action for scup is expected to result in similar levels of commercial scup landings and revenues as over the past several years because commercial scup landings appear to be influenced more by market factors than the annual commercial quota. The proposed action for summer flounder and black sea bass is expected to have a moderate positive socioeconomic impact for all participants because it would allow for increased commercial landings and revenues. This action does not consider changes to recreational management measures.

As result, this action is not expected to adversely impact revenues for commercial and recreational vessels that fish for summer flounder, scup, and, black sea bass. Because this rule will not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: November 12, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2020–25336 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 85, No. 222

Tuesday, November 17, 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

November 12, 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 December 17, 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: Bee and Honey Survey.

OMB Control Number: 0535–0153.

Summary of Collection: The National Agricultural Statistics Service (NASS) primary function is to prepare and issue State and national estimates of crop and livestock production, products, prices and disposition. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. Domestic honeybees are critical to the pollination of U.S. crops, especially fruits, some nuts, vegetables and some specialty crops. Africanized bees, colony collapse disorder, parasites, diseases, and pesticides threaten the survival of bees. Programs are provided by federal, State and local governments to assist in the survival of bees and to encourage beekeepers to maintain bee colonies. NASS is also revising the title of this collection to Bee and Honey Survey.

Need and Use of the Information: Bee and honey data are collected only once a year. Collecting data less frequently would diminish the ability to track changing trends in the honey industry. The frequency of the report has evolved to meet the needs of customers and yet minimize the burden on the reporting public. The survey will provide data needed by the Department and other government agencies to administer programs and to set trade quotas and tariffs. Without the information agricultural industry would not be aware of changes at the State and national level.

NASS commodity statisticians stay in close contact with beekeepers and data users by attending numerous meetings and tradeshows around the country. NASS has obtained a great deal of input from data users as to what sort of published data they need and what sort of production data individual growers can provide relating to colony loss and colony health. It was determined that health data on bee colonies should be collected quarterly in order to be able to monitor trends in colony loss closely and to reduce possible errors in respondent memory recall.

Data for operations with fewer than five colonies was last published in 2018. Data for these smaller operations will be collected once every five years through the Census of Agriculture (OMB no. 0535–0226). Operations with five or more colonies will be contacted by NASS to collect colony loss data for the previous quarter and honey production data in January for the previous year.

Furthermore, data relating to the number and location of commercial apiaries is vital to fruit, vegetable, and many specialty crop farmers. An ample supply of honeybees is crucial to the pollination of these crops. Many of the larger apiaries are contracted to transport their hives to regions producing fruits, vegetables, and specialty crops at the appropriate season(s) to ensure proper pollination of these crops.

Description of Respondents: Farms.

Number of Respondents: 12,225.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 7,442.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–25296 Filed 11–16–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 12, 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 December 17, 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.

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National Agricultural Statistics Service

Title: Livestock Slaughter.

OMB Control Number: 0535–0005.

Summary of Collection: The primary functions of the National Agricultural Statistics Service (NASS) are to prepare and issue current official State and national estimates of crop and livestock production, disposition and prices and to collect information on related environmental and economic factors. General authority for data collection activities is granted under U.S. Code Title 7, Section 2204(a). This statue specifies the ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . . and shall distribute them among agriculturists''. Information from federally and non-federally inspected slaughter plants are used to estimate total red meat production. NASS will use a Federally and non-Federally-inspected livestock slaughter survey to collect data.

Need and Use of the Information: NASS will combine information collected from both types of plants to estimate total red meat production, consisting of the number of head slaughtered plus live weights of cattle, calves, hogs, sheep, goats, and bison. Accurate and timely livestock estimates provide USDA and the livestock industry with basic data to project future meat supplies and producer prices. Agricultural economists in both the public and private sectors use this information in economic analysis and research.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 1,150.

Frequency of Responses: Reporting: Weekly, Monthly, Quarterly and Annually.

Total Burden Hours: 2,168.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–25294 Filed 11–16–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 12, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 17, 2020, will be considered. 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.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program—Store Applications.

OMB Control Number: 0584–0008.

Summary of Collection: Section 9(a) of the Food and Nutrition Act of 2008 as amended, (7 U.S.C. 2018 *et seq.*) requires that the Food and Nutrition Service (FNS) provide for the submission of applications for approval by retailers, wholesalers, meal service providers, certain types of group homes, shelters, and state-contracted restaurants that wish to participate in the Supplemental Nutrition Program (SNAP). FNS is responsible for reviewing the application in order to determine whether or not applicants meet eligibility requirements, and make determinations whether to grant or deny authorization to accept and redeem SNAP benefits. FNS will collect information using forms FNS–252, Supplemental Nutrition Assistance Program Application for Store, FNS–252–E, On line Supplemental Nutrition Assistance Program Application for Store, FNS 252–2, Supplemental Nutrition Assistance Program for Meal Service Application, FNS–252–C, Corporate Supplemental Application, and FNS 252–R which includes an Online Recertification Application (ORA) version known as FNS 252–R–ORA, Supplemental Nutrition Assistance Program for Stores Reauthorization and FNS–252FE, Supplemental Nutrition Assistance Program Farmer's Market Application.

Need and Use of the Information: FNS will collect information to determine the eligibility of retail food stores, wholesale food concern, and food service organizations applying for authorization to accept and redeem SNAP benefits and to monitor these firms for continued eligibility, and to sanction stores for noncompliance with the Act, and for Program management. Disclosure of information other than Employer Identification Numbers and Social Security Numbers may be made to Federal and State law enforcement or investigative agencies or instrumentalities administering or enforcing specified Federal or State laws, or regulations issued under those laws. Without the information on the application or reauthorization application, the consequence to the Federal program is the Agency's reduced ability to effectively monitor accountability for program compliance and to detect fraud and abuse would be severely jeopardized.

Description of Respondents: Business for-and-not-for-profit, Farms; Federal Military Commissaries.

Number of Respondents: 123,864.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 19,888.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–25314 Filed 11–16–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Annual Survey of Manufactures

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 10, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Annual Survey of Manufactures.

OMB Control Number: 0607–0449.

Form Number(s): MA–10000.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 49,000.

Average Hours per Response: 3.7.

Burden Hours: 181,300.

Needs and Uses: The Census Bureau has conducted the ASM since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in ''2'' and ''7,'' we do not mail the ASM separately, but collect the ASM data as part of the Economic Census covering the Manufacturing Sector.

The ASM statistics are based on a survey that includes both mail and nonmail components. The mail portion of the 2020 ASM consists of a probability sample that was designed from the 2017 Economic Census and contains the same industry strata and establishments from the 2019 ASM, updated with births. The 2019 ASM sample was based the 2017 North American Industry Classification System (NAICS).

The 2020 ASM mailout is expected to be approximately 49,000 establishments. This is the second year of the latest sample and is based within the same structure as 2019. The 2019 ASM establishments were selected from the eligible mail frame of approximately 104,900 establishments. The frame contained all manufacturing establishments of multiple-establishment firms (firms with operations at more than one location) and the largest single-establishment manufacturing firms within each industry. The 2019 ASM nonmail component contains approximately 186,700, small and medium-sized single-establishment firms. Births are added annually to the mail sample and the nonmail component, and no data are collected from firms in the nonmail component. Data are imputed based on models that incorporate the administrative records of the Internal Revenue Service (IRS), the Social Security Administration (SSA), and the Bureau of Labor Statistics (BLS) or are based on industry averages. Though the nonmail firms account for nearly two-thirds of the universe, they account for about 6 percent of the manufacturing output.

The Census Bureau plans to make the following changes to the ASM data collection:

A. Content Related to the Coronavirus Pandemic:

To truly measure the economic activity of the manufacturing sector, the Census Bureau is requesting approval to add questions related to the impact of the coronavirus pandemic. During internal Census Bureau discussions of proposed content key federal stakeholders were consulted; The proposed question descriptions are provided below:

1. *Item 28—Special Inquiry:*

Add a question asking respondents to provide the number of days their location was closed due to the coronavirus pandemic. This question will assist with measuring the impact on plant operations due to the coronavirus pandemic.

2. *Item 5 and Item 28—Special Inquiry:*

Add a statement to Item 5 to specify/clarify that donated products should be included in the value of shipments.

Add a question asking respondents if they donated products and the associated value of the donated products (breakout of Item 5, line A). Attempt to gather information on the value of shipments related to donated products by industry.

3. *Item 7:*

Add questions asking respondents to provide the payroll for production workers at the establishment by quarter. Collecting payroll information by range of months, rather than a point in time will reflect variability in operations.

4. *Item 22:*

Add the following six NAPCS to the electronic instrument for all respondents:

a. 2017900000—Manufacturing of nonelectric breathing devices (including N95 and other respirators), incubators, inhalators, and resuscitators, and other surgical and medical apparatus and instruments, excluding anesthetic apparatus and parts

b. 2018000000—Manufacturing of electromedical equipment (including diagnostic, therapeutic, patient monitoring equipment, and ventilators), excluding ionizing radiation equipment

c. 2050375000—Manufacturing of personal safety equipment and clothing, industrial and nonindustrial, including respiratory protection, face shields, masks, and protective clothing, excluding footwear, gloves, and surgical and medical respirators

d. 2045875000—Manufacturing of surgical appliances and supplies, including surgical gloves, bandages, gauze, cotton (sterile and non-sterile), and other surgical dressings, excluding orthopedic and prosthetic appliances

e. 2010475000—Manufacturing of bath, facial, and hand soaps, including hand sanitizers

f. 2007875000—Manufacturing of other household specialty cleaning and sanitation products, including disinfectants

Industries have shifted to produce goods they normally did not produce. Adding the proposed NAPCS questions to all forms will assist with capturing a shift in production lines.

B. *Revisions to Item 7: Employment, Payroll, and Fringe Benefits:*

a. Add content collecting four quarters of payroll for production workers to be consistent with employment (Item 7A).

b. Add collection for total first quarter employment to be consistent with payroll and other economic sectors.

c. Remove the summation of the 4 quarters of production workers.

d. Remove the average production workers question.

e. Revisions and adjustments will be made to the presentation/layout/content of employment and payroll questions to streamline and improve the flow.

C. *Revisions to Item 5:* Sales, Shipments, Receipts, or Revenue: Remove Item 5B, market value of products shipped to other domestic plants of the company for further assembly, fabrication, or manufacture. This question is poorly reported and not utilized by data users.

D. *Revisions Related to Integrating Annual Surveys:*

The Census Bureau is undertaking an initiative to integrate and re-engineer select annual programs. Programs include the Annual Survey of Manufactures (ASM), Annual Retail Trade Survey (ARTS), Annual Wholesale Trade Survey (AWTS), Service Annual Survey (SAS), Annual Capital Expenditures Survey (ACES), Manufacturing Shipments Inventories and Unfilled Orders (M3UFO), and Company Organization Survey (COS). Efforts include coordinating collection strategies/instruments/communication; integrating, changing or revising content; ensuring content is relevant; coordinating samples; and improving frame and coordinating status updates across annual surveys.

The initiative to integrate and re-engineer select annual programs is scheduled to begin implementation in survey year 2023. The goal is to shift select annual programs from individual independent surveys to a streamlined integrated annual program. The new annual program will move from industry focused, individual surveys to requesting a more holistic view of the companies. Prior to survey year 2023, we plan to begin to align our annual programs and improve efficiencies across programs in targeted areas related to consistent content, processes, and systems. The initiative is in response to data user needs (timely, granular, harmonized data), and declining response rates.

To this extent, the ASM is currently doing research to add the M3UFO (unfilled orders) questions to the ASM for Survey Year 2021. A combination of phone and in-person cognitive interviews with up to 40 respondents, over two rounds will begin in October 2020 and will likely conclude by March 2021. If it is determined that respondents are able to provide unfilled orders data at the establishment level, the Census Bureau plans to move the unfilled orders content to the ASM. By collecting this content on the ASM, we would eliminate the M3UFO survey.

This survey is an integral part of the government's statistical program. Its results provide a factual background for decision making by the executive and legislative branches of the Federal Government. Federal agencies use the annual survey's input and output data as benchmarks for their statistical programs, including the Federal Reserve Board's Index of Industrial Production and the Bureau of Economic Analysis' (BEA) estimates of the gross domestic product. The data also provide the Department of Energy with primary information on the use of energy by the manufacturing sector to produce manufactured products. These data also are used as benchmark data for the Manufacturing Energy Consumption Survey, which is conducted for the Department of Energy by the Census Bureau. Within the Census Bureau, the ASM data are used to benchmark and reconcile monthly and quarterly data on manufacturing production and inventories. The ASM is the only source of complete establishment statistics for the programs mentioned above.

The ASM furnishes up-to-date estimates of employment, payroll, hours, wages of production workers, value added by manufacture, cost of materials, value of shipments by NAPCS product code, inventories, cost of employer's fringe benefits, operating expenses, and expenditures for new and used plant and equipment. The survey provides data for most of these items at the two- through six-digit NAICS levels. The ASM also provides geographic data by state at a more aggregated industry level.

The survey also provides valuable information to private companies, research organizations, and trade associations. Industry makes extensive use of the annual figures on NAPCS product shipments at the U.S. level in its market analysis, product planning, and investment planning. State development/planning agencies rely on the survey as a major source of comprehensive economic data for policymaking, planning, and administration.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 131 and 182; Sections 224 and 225 make reporting for this survey mandatory.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0607–0449.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25341 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) will meet in open session on Tuesday, December 8, 2020. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award), and information received from NIST and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. Details on the agenda are noted in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on Tuesday, December 8, 2020, from 11:00 a.m. Eastern time until 4:00 p.m. Eastern time. The meeting will be open to the public.

ADDRESSES: The meeting will be held virtually using WebEx. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301)

975–2361, or by email at *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board will meet in open session on Tuesday, December 8, 2020, from 11:00 a.m. Eastern time until 4:00 p.m. Eastern time. The Board is currently composed of eleven members selected for their preeminence in the field of organizational performance excellence and appointed by the Secretary of Commerce. The Board consists of a balanced representation from U.S. service, manufacturing, small business, nonprofit, education, and health care industries. The Board includes members familiar with the quality, performance 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 and discuss the work of the private sector contractor, which assists the NIST Director in administering the Award, and information received from NIST and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process. The agenda will include: Report from the Judges Panel of the Malcolm Baldrige National Quality Award, Baldrige Program Business Plan Status Report, Baldrige Foundation Fundraising Update, Products and Services Update, and Recommendations for the NIST Director. The agenda may change to accommodate Board business. The final agenda will be posted on the NIST Baldrige Performance Excellence website at *http://www.nist.gov/baldrige/community/overseers.cfm.* The meeting will be open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On December 8, 2020, approximately one-half hour will be reserved in the afternoon for public comments and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige website at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend are invited to submit written statements to the Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, via fax at 301–975–4967 or electronically by email to *robyn.verner@nist.gov.*

All participants will be attending via webinar. Please contact Ms. Verner by email at *robyn.verner@nist.gov* for detailed instructions on how to join the webinar. All requests must be received by 12/07/2020.

Authority: 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2020–25291 Filed 11–16–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Participation on Technical Language Processing Community of Interest

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The Systems Integration Division of the National Institute of Standards and Technology (NIST) is forming a community of interest (COI) to develop best practices guidelines on how to tailor Natural Language Processing (NLP) tools to engineering text-based data: Technical language processing (TLP). Developed guidelines will be technology and vendor agnostic and will address the current needs of industry to have independent guidelines based on user requirements and measurement science research. The TLP COI wants to advance research and development initiatives to advance TLP smart manufacturing and other industrial applications. The TLP COI is seeking members from government, industry, and academia to create a better synergy between end users, the research community, and solution providers to reduce complexity, cost, and delay of adoption of TLP solutions.

DATES: Intention to participate must be received by May 17, 2021.

ADDRESSES: Intention to participate may be submitted by sending an email to Michael Brundage, Project Leader, Engineering Laboratory, NIST. The email address to participate is *tlp-coi@nist.gov.* Please provide your full name, email address, phone number, company, and position in the company in your intent to participate email.

The COI will meet quarterly via web conference and in-person meetings. Further instructions will be provided on *https://nist.gov/el/tlp-coi.*

FOR FURTHER INFORMATION CONTACT: For further information contact Michael Brundage, Project Leader, Engineering Laboratory, NIST by email at *tlp-coi@nist.gov* or contact Jo-Anne Fung-A-Fat by phone at (301) 975–3508.

Please direct media inquiries to NIST's Public Affairs Office at 301–975–2762.

SUPPLEMENTARY INFORMATION: The TLP COI will bring together interested participants to discuss ongoing and future directions for text analysis of technical data. This group will meet quarterly with a mixture of in-person and virtual meetings. Meetings will be a mixture of working meetings and information sessions. Information on meeting times and formats will be posted on *https://www.nist.gov/el/tlp-coi.* The output from this group will influence guidelines and roadmap documents to improve adoption of TLP solutions.

The Systems Integration Division of the National Institute of Standards and Technology (NIST) is forming a community of interest (COI) to develop best practices guidelines on how to tailor Natural Language Processing (NLP) tools to engineering text-based data: Technical language processing (TLP). Developed guidelines will be technology and vendor agnostic and will address the current needs of industry to have independent guidelines based on user requirements and measurement science research.

The TLP COI wants to advance research and development initiatives to advance TLP smart manufacturing and other industrial applications. The following list defines the scope of the TLP COI's focus:

- *Education:* Highlighting results to the community from research and scientific discoveries of natural language processing and technical language processing and added value to industrial applications.

- *Use case management:* Identifying use cases where NLP can enhance the productivity and reliability of services.
- *Validation:* Developing guidelines and metrics for organizations to evaluate use cases and software solutions.
- *Dissemination:* Developing a public knowledge repository to share results (*e.g.,* source code, tutorial videos, peer-reviewed articles).
- *Communication:* Providing a platform for different stakeholders to find each other, exchange ideas/needs/feedback, ensure goals are met, and foster innovation.

The TLP COI is seeking members from government, industry, and academia to create a better synergy between end users, research community, and solution providers to reduce complexity, cost, and delay of adoption of TLP solutions. Interested parties should submit their intention to participate in accordance with the **DATES** and **ADDRESSES** of this notice.

More information on technical language processing research may be found on the NIST home page for Knowledge Extraction and Application for Manufacturing Operations at *https://www.nist.gov/programs-projects/knowledge-extraction-and-application-manufacturing-operations.*

(Authority: 15 U.S.C. 272(b) and (c))

Kevin Kimball,

Chief of Staff.

[FR Doc. 2020–25292 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA624]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that permits have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore (Permit No. 22851) and Amy Hapeman (Permit No. 23644); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the research, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
22851	0648–XR024	Sea Life Park Hawaii, 41–202 Kalanianaole Highway #7, Waimanalo, HI 96795 (Responsible Party: Valerie King).	84 FR 44285; August 23, 2019	October 13, 2020.
23644	0648–XA424	Iain Kerr, Ocean Alliance, 32 Horton Street, Gloucester, MA 01930.	85 FR 52956; August 27, 2020	October 26, 2020.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

Authority: The requested permits have been issued under the MMPA 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 ESA 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), as applicable.

Dated: November 10, 2020.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–25262 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA634]

Atlantic Highly Migratory Species; Meeting of the Atlantic Highly Migratory Species Advisory Panel

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

ACTION: Notice of public webinar/conference call.

SUMMARY: NMFS will hold a 1-day Atlantic Highly Migratory Species (HMS) Advisory Panel (AP) meeting via webinar in December 2020. The intent of the meeting is to consider options for the conservation and management of Atlantic HMS. The meeting is open to the public.

DATES: The AP meeting and webinar will be held from 9:30 a.m. to 3:45 p.m. on Monday, December 7, 2020.

ADDRESSES: The meeting on Monday, December 7 will be accessible via conference call and webinar. Conference call and webinar access information are available at: *https://www.fisheries.noaa.gov/event/december-2020-hms-advisory-panel-meeting.*

Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda.

FOR FURTHER INFORMATION CONTACT: Peter Cooper at (301) 427–8503 or *Peter.Cooper@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act requires the establishment of an AP for each Fishery Management Plan (FMP) for Atlantic HMS, *i.e.,* tunas, swordfish, billfish, and sharks. 16 U.S.C. 1854(g)(1)(A)–(B). Since the inception of the AP in 1998, NMFS has consulted with and considered the comments and views of AP members when preparing and implementing Atlantic HMS FMPs or FMP amendments.

The intent of this meeting is to consider alternatives for the conservation and management of all Atlantic tunas, swordfish, billfish, and shark fisheries. We anticipate discussing:

- Draft Amendment 14, which would revise the framework used for the establishment of acceptable biological catch (ABCs) and annual catch limits (ACLs) for Atlantic shark fisheries consistent with the National Standard 1 guidelines;
- Management of the recreational billfish fishery in 2021 resulting from overharvest of the Atlantic blue marlin, white marlin, and roundscale spearfish 250-fish landings limit in 2020; and
- The Draft HMS Electronic Technology Plan.

Additional information on the meeting and a copy of the draft agenda will be posted prior to the meeting at: *https://www.fisheries.noaa.gov/event/december-2020-hms-advisory-panel-meeting.*

Dated: November 12, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–25338 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Economic Surveys of Specific U.S. Commercial Fisheries

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 13, 2020, (85 FR 20473) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Economic Surveys of Specific U.S. Commercial Fisheries.

OMB Control Number: 0648–0773.

Form Number(s): None.

Type of Request: Regular submission (revision of a currently approved collection).

Number of Respondents: 1,375.

Average Hours per Response:

West Coast Open Access Groundfish, Non-tribal Salmon, Crab, and Shrimp Economic Data Collection: 3 hours.

West Coast Limited Entry Groundfish Fixed Gear Economic Data Collection: 3 hours.

American Samoa Longline Survey: 1 hour.

Hawaii Longline Survey: 1 hour.

Hawaii Small Boat Economic Survey: 0.75 hours or 45 minutes.

American Samoa Small Boat Survey: 0.75 hours or 45 minutes.

Trip Level Economic Surveys of American Samoa (ESAS), Guam, and The Commonwealth of The Northern Mariana Islands (CNMI) Small Boat-Based Fisheries (an add-on to a creel survey): 0.167 hours or 10 minutes.

Cost Earnings Survey of Mariana Archipelago Small Boat Fleet: 0.75 hours or 45 minutes.

USVI Fisheries Economic Survey (Socio-Economic Profile of Small-Scale Commercial Fisheries (SSCF) in the U.S. Caribbean): 0.25 hours or 15 minutes.

Puerto Rico Fisheries Economic Survey (Socio-Economic Profile of Small-Scale Commercial Fisheries (SSCF) in the U.S. Caribbean): 1 hour.

Gulf of Mexico Inshore Shrimp Fishery Economic Survey: 0.78 hours or 47 minutes.

Economic Expenditure Survey of Golden Crab Fishermen in the U.S. South Atlantic Region: 0.5 hours or 30 minutes.

West Coast Coastal Pelagic Fishery Economic Survey: 3 hours.

West Coast Swordfish Fishery Cost and Earnings Survey: 0.51 hours or 31 minutes.

West Coast North Pacific Albacore Fishery Economic Survey: 1 hour.

Total Annual Burden Hours: 1,476.

Needs and Uses: This revision will add 14 economic surveys to this collection and revise the title of the collection from West Coast Limited Entry Groundfish Fixed Gear Economic Data Collection to Economic Surveys of Specific U.S. Commercial Fisheries. A variety of laws (including the Magnuson-Stevens Fishery Conservation and Management Act), Executive Orders, and NOAA Fisheries strategies and policies include requirements for economic data and the analyses they support. The proposed information collection will provide economic data needed to support more than cursory efforts to comply with those requirements. It will do that by improving the ability of NOAA Fisheries and the Regional Fishery Management Councils to monitor, explain and predict changes in the economic performance and impacts of federally managed commercial fisheries. Therefore, it will allow better-informed fishery conservation and management decisions for federally managed fisheries.

Affected Public: Individuals or households and Business or other for-profit organizations.

Frequency: Every 3 to 8 years.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0648–0773.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25345 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–C–2020–0044]

Development of a National Consumer Awareness Campaign on Combating the Trafficking in Counterfeit and Pirated Products

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: On January 24, 2020, the Department of Homeland Security (DHS) released its Report to the President of the United States titled ''Combating Trafficking in Counterfeit and Pirated Goods'' (DHS Report). The report was prepared in response to the April 3, 2019, Presidential Memorandum titled ''Memorandum on Combating Trafficking in Counterfeit and Pirated Goods'' (Presidential Memorandum). Among the action items identified in the DHS Report was action 11, titled ''Establish a National Consumer Awareness Campaign.'' To start implementation of this action item, the United States Patent and Trademark Office (USPTO) is seeking information from stakeholders, including, but not limited to, intellectual property rights holders, online third-party marketplaces, third-party intermediaries, and other private sector stakeholders, on the development of a National Consumer Awareness Campaign on Combating the Trafficking in Counterfeit and Pirated Products as a public-private partnership.

DATES: Comments must be received by 5 p.m. ET on January 4, 2021.

ADDRESSES: You may submit comments and responses to the questions below by one of the following methods:

(a) *Electronic Submissions:* Submit all electronic comments via the Federal e-Rulemaking Portal at *http://www.regulations.gov* (at the homepage, enter ''PTO–T–2020–0044'' in the ''Search'' box, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments). The materials in the docket will not be edited to remove identifying or contact information, and the USPTO cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF formats only. Comments containing references to studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Please do not submit additional materials. If you want to submit a comment with business confidential information that you do not wish to be made public, submit the comment as a written/paper submission in the manner detailed below.

(b) *Written/Paper Submissions:* Send all written/paper submissions to: United States Patent and Trademark Office, Mail Stop OPIA, P.O. Box 1450, Alexandria, Virginia 22314. Submission packaging should clearly indicate that materials are responsive to Docket No. PTO–T–2020–0044, Office of Policy and International Affairs, Comment Request; Development of a National Consumer Awareness Campaign on Combating the Trafficking in Counterfeit and Pirated Products.

Submissions of Business Confidential Information: Any submissions containing business confidential information must be delivered in a sealed envelope marked ''confidential treatment requested'' to the address listed above. Submitters should provide an index listing the document(s) or information they would like the Department of Commerce to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document. Submitters should provide a statement explaining their grounds for objecting to the disclosure of the information to the public as well. The USPTO also requests that submitters of business confidential information include a non-confidential version (either redacted or summarized) of those confidential submissions that will be available for public viewing and posted on *https://www.regulations.gov.* In the event that the submitter cannot provide a non-confidential version of its submission, the USPTO requests that the submitter post a notice in the docket stating that it has provided the USPTO with business confidential information. Should a submitter fail to either docket a non-confidential version of its submission or post a notice that business confidential information has been provided, the USPTO will note the receipt of the submission on the docket with the submitter's organization or name (to the degree permitted by law) and the date of submission.

FOR FURTHER INFORMATION CONTACT: Charisma Hampton, USPTO, Office of Policy and International Affairs, at *charisma.hampton@uspto.gov.* Please direct media inquiries to the Office of the Chief Communications Officer, USPTO, at 571–272–8400.

SUPPLEMENTARY INFORMATION: The DHS Report describes how the rapid growth of e-commerce platforms, ''further catalyzed by online third-party marketplaces connected to the platforms, has revolutionized the way products are bought and sold.'' [1] However, this overall growth ''has facilitated online trafficking in counterfeit and pirated goods.'' [2] American consumers shopping on e-commerce platforms now face a greater risk of purchasing counterfeits, including goods that endanger the health and safety of unsuspecting consumers.

Given the critical role that consumers can play in the battle against online counterfeiting, the DHS Report recommends the development of a national public-private awareness campaign to educate consumers regarding the risks of counterfeit and pirated goods, as well as the various ways consumers can spot counterfeit products.[3]

The development of the DHS Report benefitted from extensive interagency discussions that included DHS, the Department of Justice, the Office of the United States Trade Representative, the Department of Commerce the Food and Drug Administration, the Office of the Intellectual Property Enforcement Coordinator, the Department of State, and also outreach to, and comments from, numerous private sector stakeholders. The USPTO, the International Trade Administration of the Department of Commerce, and many other government agencies work to combat counterfeit goods.

Request for Information:

The USPTO requests information from interested stakeholders, including, but not limited to, intellectual property rights holders affected by the sale of counterfeit goods offered through e-commerce platforms, online third-party marketplaces, third-party intermediaries, other entities with experience in public-private awareness campaigns, and applicable government agencies.

Respondents may address any, all, or none of the following topics and may address additional related issues that have implications for establishing a national consumer awareness campaign designed to educate consumers on the direct and indirect costs and risks of counterfeit and pirated goods. Please identify, where possible, the subject(s) your comments are intended to address.

Respondents may organize their submissions in any manner. Reminder: Respondents have the burden to request that any information contained in a submission be treated as business confidential information and must certify that such information is business confidential and would not customarily

[1] DHS Report at 7, available at *https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf.*

[2] DHS Report at 7. Other sections of the DHS Report address both trademark counterfeiting and copyright piracy, but action 9, the subject of this **Federal Register** notice, is limited to trademark counterfeits.

[3] See DHS Report at 33.

be released to the public by the submitter. Business confidential information must be clearly designated as such and provided only by mail carrier as described above.

The USPTO welcomes all input relevant to the development of the guidelines, action plans, strategies, and best practices for establishing a public-private national consumer awareness campaign designed to educate consumers on the direct and indirect costs and risks of counterfeit and pirated goods. The USPTO specifically seeks the following types of information utilized, or under development, by any public or private entity:

(1) Educational curricula identifying direct and indirect harms associated with sales of counterfeit and pirated products.

(2) Strategies to ensure consumers make informed purchasing decisions.

(3) Public service advertisements (PSAs) targeted to social media users.

(4) Methods to identify false and misleading information on e-commerce pages.

(5) Alerts for high-risk products and automated warnings describing health impacts.

(6) ''Red flag'' indicators for suspicious listings on e-commerce platforms.

(7) Incentives to empower consumers to participate in monitoring, detecting, and informing platforms and users of counterfeits.

Dated: November 7, 2020.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–25326 Filed 11–16–20; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0068]

Submission for OMB Review; Comment Request

AGENCY: National Defense University, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by December 17, 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: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: College of International Security Affairs Out-Processing Information Form; OMB Control Number 0704–XXXX.

Type of Request: New.

Number of Respondents: 40.

Responses per Respondent: 1.

Annual Responses: 40.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 6.7.

Needs and Uses: The information is needed for end-of-year event efforts (student-led symposium and graduation) as well as for the organization's alumni database. The collection is necessary to ensure accurate student data is in our records upon departure from the organization. The collection instrument verifies information such as correct title/rank, name spelling, country of origin, organization/branch of service, research paper title, if the student wishes to be involved in the organization's alumni network (yes/no response), personal contact information (phone number and email address), and career information (prior to joining organization and future career path after graduating). It is also utilized for alumni outreach and engagement. The data is shared with the appropriate persons—Thesis Director for symposium, Registrar for graduation, and Director of Outreach for alumni data.

Affected Public: Individuals and Households, Foreign Nationals.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: November 12, 2020.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–25308 Filed 11–16–20; 8:45 am]

BILLING CODE 5001–06–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: RP19–57–001.

Applicants: Algonquin Gas Transmission, LLC.

Description: Report Filing: AGT Base Rate Refund Report.

Filed Date: 11/6/20.

Accession Number: 20201106–5117.

Comments Due: 5 p.m. ET 11/18/20.

Docket Numbers: RP21–201–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Filing—Amendment to a Negotiated Rate Agreement—Macquarie to be effective 11/7/2020.

Filed Date: 11/6/20.

Accession Number: 20201106–5000.

Comments Due: 5 p.m. ET 11/18/20.

Docket Numbers: RP21–202–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: SJRG Neg Rate Amendment to be effective 11/6/2020.

Filed Date: 11/6/20.

Accession Number: 20201106–5032.

Comments Due: 5 p.m. ET 11/18/20.

Docket Numbers: RP21–203–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—Gulfport 911377 Release to be effective 11/7/2020.

Filed Date: 11/6/20.

Accession Number: 20201106–5045.

Comments Due: 5 p.m. ET 11/18/20.

Docket Numbers: RP21–204–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20201106 Negotiated Rate to be effective 11/7/2020.

Filed Date: 11/6/20.

Accession Number: 20201106–5106.

Comments Due: 5 p.m. ET 11/18/20.

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: November 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25304 Filed 11–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *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. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. RP20–1220–000	10–27–2020	Brian Host.
RP20–1237–000		
RP20–1236–000		
RP20–1233–000		
2. RP20–1220–000	10–27–2020	Brian Host.
RP20–1237–000		
RP20–1236–000		
RP20–1233–000		
Exempt:		
CP20–481–000	11–5–2020	FERC Staff.[1]

[1] Memo to the Record dated November 5, 2020, regarding U.S. Army Corps of Engineers' permit.

Dated: November 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25302 Filed 11–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–9037–000]

Moore, Matthew T.; Notice of Filing

Take notice that on November 6, 2020, Matthew T. Moore submitted for filing, application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d (b) (2020) and Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.8 (2020).

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than 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 November 27, 2020.

Dated: November 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25299 Filed 11–16–20; 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: November 19, 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.

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.

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.

1072ND—MEETING, OPEN MEETING

[November 19, 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	AD07–13–014	FY2020 Report on Enforcement.
		Electric
E–1	RM20–16–000	Managing Transmission Line Ratings.
E–2	RM19–15–001	Qualifying Facility Rates and Requirements.
	AD16–16–001	Implementation Issues Under the Public Utility Regulatory Policies Act of 1978.
E–3	EL14–12–015	Association of Businesses Advocating Tariff Equity, Coalition of MISO Transmission Customers, Illinois Industrial Energy Consumers, Indiana Industrial Energy Consumers, Inc., Minnesota Large Industrial Group, and Wisconsin Industrial Energy Group v. Midcontinent Independent System Operator, Inc., ALLETE, Inc., Ameren Illinois Company, Ameren Missouri, Ameren Transmission Company of Illinois, American Transmission Company LLC, Cleco Power LLC, Duke Energy Business Services, LLC, Entergy Arkansas, Inc., Entergy Gulf States Louisiana, LLC, Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Indianapolis Power & Light Company, International Transmission Company, ITC Midwest LLC, Michigan Electric Transmission Company, LLC, MidAmerican Energy Company, Montana-Dakota Utilities Co., Northen Indiana Public Service Company, Northern States Power Company-Minnesota, Northern States Power Company-Wisconsin, Otter Tail Power Company, and Southern Indiana Gas & Electric Company.

[1] Join FERC online to listen live at *http://ferc.capitolconnection.org/.*

1072ND—MEETING, OPEN MEETING—Continued

[November 19, 2020, 10:00 a.m.]

Item No.	Docket No.	Company
	EL15–45–014	Arkansas Electric Cooperative Corporation, Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, Public Service Commission of Yazoo City, and Hoosier Energy Rural Electric Cooperative, Inc. v. ALLETE, Inc., Ameren Illinois Company, Ameren Missouri, Ameren Transmssion Company of Illinois, American Transmission Company LLC, Cleco Power LLC, Duke Energy Business Services, LLC, Entergy Arkansas, Inc., Entergy Gulf States Louisiana, LLC, Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Indianapolis Power & Light Company, International Transmission Company, ITC Midwest LLC, Michigan Electric Transmission Company, LLC, MidAmerican Energy Company, Montana–Dakota Utilities Co., Northern Indiana Public Service Company, Northern States Power Company–Minnesota, Northern States Power Company–Wisconsin, Otter Tail Power Company, and Southern Indiana Gas & Electric Company.
E–4	ER20–850–000	Bulb US LLC.
	ER20–851–000	Bulb Energy US Inc.
E–5	ER20–2890–000	California Independent System Operator Corporation.
E–6	EL20–39–000	Avista Corporation.
	ER20–2347–000	
E–7	ER20–841–001	Appalachian Power Company.
		PJM Interconnection, L.L.C.
E–8	ER18–2497–002	Lawrenceburg Power, LLC.
E–9	ER19–229–001	Allegheny Ridge Wind Farm, LLC.
E–10	ER20–1901–000	Midcontinent Independent System Operator, Inc.
E–11	ER19–2846–002	Trans Bay Cable LLC.
E–12	ER20–2435–000	Smoky Mountain Transmission LLC.
	TS20–6–000	
	ER19–2233–003	
E–13	ER21–30–000	Pattern Energy Wind Development LLC
E–14	ER18–2358–004	Southwest Power Pool, Inc.
	ER19–1357–003	GridLiance High Plains LLC.
E–15	EL10–65–007	Louisiana Public Service Commission v. Entergy Corporation, Entergy Services, Inc., Entergy Louisiana, LLC, Entergy Arkansas, Inc., Entergy New Orleans, Inc., Entergy Gulf States Louisiana, L.L.C., and Entergy Texas, Inc.
	ER14–2085–003 ER11–3658–003 ER12–1920–003 ER13–1595–003 (Consolidated).	Entergy Services, Inc.
E–16	OMITTED.	
E–17	EL19–80–001	Kansas Corporation Commission v. ITC Great Plains, LLC.
E–18	EL20–49–000	Shell Energy North America (US), L.P.
E–19	ER20–1068–001	The Dayton Power and Light Company.
	ER20–2100–001	PJM Interconnection, L.L.C. and The Dayton Power and Light Company.
E–20	ER18–619–001	ISO New England Inc.
	Gas	
G–1	OR18–9–000	White Cliffs Pipeline, L.L.C.
	HYDRO	
H–1	P–2629–014	Village of Morrisville, Vermont.
H–2	P–2486–087	Wisconsin Electric Power Company.
	Certificates	
C–1	RM20–15–001	Limiting Authorizations to Proceed with Construction Activities Pending Rehearing.
C–2	CP20–486–001	Tuscarora Gas Transmission Company.
C–3	CP15–17–005	Sabal Trail Transmission, LLC.

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: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25440 Filed 11–13–20; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–21–000.
Applicants: North Fork Ridge Wind, LLC, The Empire District Electric Company.
Description: Application for Authorization Under Section 203 of the Federal Power Act of North Fork Ridge Wind, LLC, et al.
Filed Date: 11/6/20.
Accession Number: 20201106–5317.
Comments Due: 5 p.m. ET 11/27/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–017; ER10–1594–017; ER16–733–008; ER10–1617–017; ER20–2602–001; ER16–1148–008; ER10–1623–006; ER12–60–019; ER10–1632–019; ER10–1628–017.
Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Nobles 2 Power Partners, LLC, Tenaska Energía de Mexico, S. de R.L. de, C.V., Tenaska Frontier Partners, Ltd., Tenaska Power Services Company, Texas Electric Marketing, LLC, Tenaska Power Management, LLC.
Description: Notification of Change in Status of the Tenaska MISO MBR Sellers, et al.
Filed Date: 11/9/20.
Accession Number: 20201109–5195.
Comments Due: 5 p.m. ET 11/30/20.

Docket Numbers: ER10–2645–005.
Applicants: Baconton Power LLC.
Description: Notice of Non-Material Change in Status of Baconton Power LLC.
Filed Date: 11/6/20.
Accession Number: 20201106–5316.
Comments Due: 5 p.m. ET 11/27/20.

Docket Numbers: ER11–4647–001.
Applicants: UP Power Marketing, LLC.
Description: Notice of Non-Material Change in Status of UP Power Marketing LLC.
Filed Date: 11/6/20.
Accession Number: 20201106–5319.
Comments Due: 5 p.m. ET 11/27/20.

Docket Numbers: ER10–1801–005; ER10–2370–004; ER10–1805–006.
Applicants: The Connecticut Light and Power Company, NSTAR Electric Company, Public Service Company of New Hampshire.
Description: Notice of Non-Material Change in Status of the Eversource Companies, et al.
Filed Date: 11/10/20.
Accession Number: 20201110–5138.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER12–161–023; ER12–645–024; ER14–25–018.
Applicants: Bishop Hill Energy LLC, California Ridge Wind Energy LLC, Prairie Breeze Wind Energy LLC.
Description: Notice of Non-Material Change in Status of Bishop Hill Energy LLC, et al.
Filed Date: 11/9/20.
Accession Number: 20201109–5182.
Comments Due: 5 p.m. ET 11/30/20.

Docket Numbers: ER18–1906–005; ER16–221–006; ER18–1907–005; ER17–1757–006; ER10–1767–008; ER10–1532–008; ER10–1541–009; ER10–1642–010; ER13–2349–007; ER13–2350–007.
Applicants: Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc., Entergy Nuclear Palisades, LLC, Entergy Power, LLC, EWO Marketing, LLC, EAM Nelson Holding, LLC, RS Cogen, LLC
Description: Notification of non-material change in status of Entergy Arkansas, LLC, et al.
Filed Date: 11/6/20.
Accession Number: 20201106–5333.
Comments Due: 5 p.m. ET 11/27/20.

Docket Numbers: ER21–110–000.
Applicants: Harts Mill TE Holdings LLC.
Description: Supplement to Harts Mill TE Holdings LLC tariff filing.
Filed Date: 11/6/20.
Accession Number: 20201106–5314.
Comments Due: 5 p.m. ET 11/27/20.

Docket Numbers: ER21–360–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 5838; Queue No. AC2–078 to be effective 10/20/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5003.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–361–000.
Applicants: New York Independent System Operator, Inc., New York State Electric & Gas Corporation.
Description: § 205(d) Rate Filing: LGIA SA1894 among NYISO, NYSEG, and Stony Creek Energy to be effective 10/28/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5006.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–362–000.
Applicants: Central Hudson Gas & Electric Corporation.
Description: § 205(d) Rate Filing: Revision to FERC Rate Schedule 206 to be effective 10/1/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5014.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–363–000.
Applicants: AEP Texas Inc..
Description: § 205(d) Rate Filing: AEPTX-Woodward Mountain Wind (2) Interconnection Agreement to be effective 10/26/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5015.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–364–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2020–11–10_SA 3299 Att A_Ameren IL-Norris Electric-Effingham Proj. No. 4 to be effective 1/10/2021.
Filed Date: 11/10/20.
Accession Number: 20201110–5018.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–365–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 871 to be effective 10/29/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5037.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–366–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Concurrence to CAISO RS No. 6270 to be effective 11/11/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5048.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–367–000.
Applicants: Basin Electric Power Cooperative.
Description: § 205(d) Rate Filing: Basin Electric Amendment to Service Agreement No. 101 to be effective 10/30/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5049.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–368–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Filing of Rate Schedule FERC No. 318, Board Policy 124 to be effective 11/11/2020.
Filed Date: 11/10/20.
Accession Number: 20201110–5076.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–369–000.
Applicants: Wapello Solar LLC.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 12/18/2020.

Filed Date: 11/10/20.
Accession Number: 20201110–5091.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–370–000.
Applicants: Cleco Power LLC.
Description: § 205(d) Rate Filing: Rate Schedule for Blackstart Service to be effective 1/9/2021.
Filed Date: 11/10/20.
Accession Number: 20201110–5104.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–371–000.
Applicants: ISO New England Inc., New England Power Pool.
Description: ISO New England Inc. submits Installed Capacity Requirement, Hydro Quebec Interconnection Capability Credits and Related Values for the 2024/2025 Capacity Commitment Period.
Filed Date: 11/10/20.
Accession Number: 20201110–5133.
Comments Due: 5 p.m. ET 12/1/20.

Docket Numbers: ER21–372–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits Informational filing for Qualification in the Forward Capacity Market.
Filed Date: 11/10/20.
Accession Number: 20201110–5136.
Comments Due: 5 p.m. ET 11/25/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES21–10–000.
Applicants: California Independent System Operator Corporation.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities for California Independent System Operator Corporation.
Filed Date: 11/5/20.
Accession Number: 20201105–5205.
Comments Due: 5 p.m. ET 11/27/20.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH21–2–000.
Applicants: Énergir Inc.
Description: Energir Inc. submits FERC 65–B Waiver Notification.
Filed Date: 11/6/20.
Accession Number: 20201106–5332.
Comments Due: 5 p.m. ET 11/27/20.

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: November 10, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25303 Filed 11–16–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2019–0471; FRL–10015–27–Region 9]

Delegation of the Title V Permitting Program to the Navajo Nation Environmental Protection Agency for the Former Bennett Freeze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Environmental Protection Agency (EPA), Region IX granted the Navajo Nation Environmental Protection Agency's (NNEPA) request to supplement its delegation of authority to administer the Clean Air Act (the Act) Federal title V operating permits program. Under this supplemental delegation, the NNEPA's authority to issue and implement title V operating permits pursuant to EPA regulations is geographically extended to include an area located in the western portion of the Navajo Nation reservation known as the Former Bennett Freeze. The terms and conditions of the supplemental delegation are specified in a Second Supplemental Delegation of Authority Agreement (Agreement) between the EPA Region IX and the NNEPA, effective on July 28, 2020.

DATES: The effective date for the Agreement between the EPA and the NNEPA is July 28, 2020. Pursuant to section 307(b)(1) of the Clean Air Act, judicial review of this final decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of November 17, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0471. Publicly available docket materials, including the Agreement, are available through *https://www.regulations.gov,* or by contacting the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Effective July 28, 2020 all notifications, requests, applications, reports and other correspondence required under 40 CFR part 71 for the Former Bennett Freeze must be submitted to the NNEPA's Air Quality Control Program Office at the following address: NNEPA—Operating Permit Program, P.O. Box 529, Fort Defiance, AZ 86504, Attn: Glenna Lee.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, Air Permits Office (Air–3–1), Air & Radiation Divison, EPA Region IX, (415) 972–3811, *beckham.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that effective on July 28, 2020, the EPA Region IX granted the NNEPA's request to supplement its existing full delegation of authority to administer the part 71 Federal operating permits program to include the Former Bennett Freeze.

Previously, on October 15, 2004, the EPA and the Navajo Nation (or ''Tribe'') entered into an initial delegation of authority agreement, which authorized the Tribe to administer the part 71 program on behalf of the EPA for all sources located within a Delegated Program Area specified in that agreement. At that time, the Tribe did not request that the EPA make any determination regarding the Tribe's eligibility to administer the part 71 program over two coal-fired generating stations located on the Reservation (the Four Corners Power Plant and the Navajo Generating Station), and an area within the western portion of the Navajo Nation Reservation known as the ''Former Bennett Freeze.'' On March 21, 2006, the EPA and the NNEPA entered into a supplemental delegation of authority agreement for the purpose of delegation of administration of the part 71 program over the Four Corners Power Plant and the Navajo Generating Station.

The Act and its implementing regulations under 40 CFR part 71 authorize the EPA to delegate authority to administer the part 71 program to any eligible tribe that submits a demonstration of adequate regulatory procedures and authority for administration of the part 71 operating permits program.

In order to be considered an ''eligible tribe,'' the NNEPA submitted, on October 31, 2018, an application for a determination, under the provisions of the Tribal Authority Rule (TAR), 40 CFR part 49, that it is eligible to be treated in the same manner as a state for the purpose of receiving delegation of authority to administer the Federal part 71 operating permit program for the Former Bennett Freeze. The EPA Region IX reviewed NNEPA's application and determined that it met the four criteria for eligibility, identified in 40 CFR 49.6, for the Former Bennett Freeze, and was thus eligible for entering into a supplemental delegation agreement with the EPA Region IX to administer the part 71 program for the Former Bennett Freeze.[1] The EPA Region IX's eligibility determination was signed on April 28, 2020.

Pursuant to 40 CFR 71.10(b), the EPA Region IX herby notifies the public that effective July 28, 2020, it granted the NNEPA's request and is fully delegating the authority to administer the Federal operating permits program for the Former Bennett Freeze as set forth under 40 CFR part 71 and in the Agreement. The terms and conditions for the supplemental delegation are specified in the Agreement between the EPA Region IX and the NNEPA.

If, at any time, the EPA Region IX determines that the NNEPA is not adequately administering or cannot adequately administer the requirements of part 71 or fulfill the terms of the Agreement, this supplemental delegation may be revoked, in whole or in part, pursuant to 40 CFR 71.10(c), after appropriate consultation with the NNEPA. The EPA will notify the public through a **Federal Register** notice of a partial or full termination of this Agreement.

Under the supplemental delegation, the EPA retains the authority to (1) object to the issuance of any part 71 permit for sources located in the Former Bennett Freeze, (2) act upon petitions submitted by the public regarding sources in the Former Bennett Freeze, and (3) collect fees from the owners or operators of any sources in the Former Bennett Freeze if it is demonstrated that the NNEPA is not adequately administering the part 71 program with respect to the Former Bennett Freeze, in accordance with the Agreement, 40 CFR part 71, and/or the Act. Because the EPA is retaining its authority to act upon petitions submitted pursuant to 40 CFR 71.10(h) and 71.11(n), any such petitions must be submitted to the EPA Region IX following the procedures set forth in those regulations.

[1] The Tribe's initial delegation agreement excluded the Former Bennett Freeze because of ongoing litigation between the Hopi Tribe and the Navajo Nation. On December 4, 2006, the U.S. District Court for the District of Arizona found that lands in the Former Bennett Freeze were no longer ''under litigation'', and that the restrictions on development were no longer in force. *Honyoama* v. *Shirley.* No CIV74–842–PHX EHC (D. Ariz.) (Order and final judgement, Dec 4, 2006).

Dated: October 21, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–23921 Filed 11–16–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; FRS 17238]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing the meeting of the North American Numbering Council (NANC), which will be held via conference call and available to the public via live internet feed.

DATES: Thursday, December 3, 2020. The meeting will come to order at 9:30 a.m.

ADDRESSES: The meeting will be conducted via conference call and available to the public via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Marilyn Jones, Designated Federal Officer (DFO) of the NANC, at *marilyn.jones@fcc.gov* or 202–418–2357 and Jordan Reth, Deputy DFO, at *jordan.reth@fcc.gov* or 202–418–1418. More information about the NANC is available at *https://www.fcc.gov/about-fcc/advisory-committees/general/north-american-numbering-council.*

SUPPLEMENTARY INFORMATION: The NANC meeting is open to the public on the internet via live feed from the FCC's web page at *http://www.fcc.gov/live.* Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted but may not be possible to accommodate. Members of the public may submit comments to the NANC in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the NANC should be filed in CC Docket No. 92–237. This is a summary of the Commission's document in CC Docket No. 92–237, DA 20–1327 released November 6, 2020.

Proposed Agenda: At the December 3 meeting, the NANC will hear regular status reports from the Secure Telephone Identification Governance Authority, the North American Portability Management, LLC, and the Numbering Administration Oversight Working Group. This agenda may be modified at the discretion of the NANC Chair and the Designated Federal Officer (DFO).

Authority: (5 U.S.C. App 2 § 10(a)(2)).

Federal Communications Commission.

Daniel Kahn,

Associate Bureau Chief, Wireline Competition Bureau.

[FR Doc. 2020–25289 Filed 11–16–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

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 paragraph 7 of the Act.

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 December 2, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *CCG Trust, Curtis Gause, as trustee, both of Pleasant Hill, Iowa, and Stephen J. Barnhouse, Vero Beach, Florida;* to join the previously approved Gause Family Control Group, a group acting in concert, to retain voting shares of First State Bank Holding Company, and thereby indirectly retain voting shares of First State Bank, both of Lynnville, Iowa.

Board of Governors of the Federal Reserve System, November 10, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–25272 Filed 11–16–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

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 paragraph 7 of the Act.

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 December 2, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Rebecca McClure and Miles McClure, both individually and as co-trustees for the Aspen Living Trust II, all of Colorado Springs, Colorado; Timothy and Cynthia Jacobson, as co-trustees for the Jacobson Family Living Trust, all of Greenville, South Carolina; Jon McClure, Stafford, Kansas, individually, and with Cynthia Jacobson, as co-trustees for the Evergreen Revocable Trust, both of Greenville, South Carolina; Barbara Fox, Visalia, California; Marcus McClure, Exeter, California; and Mallori Miller, Alexandria, Virginia;* to be become members of the McClure Control Group, a group acting in concert, to retain voting shares of First Flo Corporation, and thereby indirectly retain voting shares of Rocky Mountain Bank and Trust, both of Florence, Colorado.

Board of Governors of the Federal Reserve System, November 12, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–25327 Filed 11–16–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB# 0985–0024]

Agency Information Collection Activities; Proposed Collection; Comment Request; National Survey of Older Americans Act Participants

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to consumer assessment surveys that are used by ACL to measure program performance for programs funded under Title III of the Older Americans Act. This notice solicits comments on a proposed revision of a currently approved collection with the addition of a new rotating module to the National Survey of Older Americans Act Participants.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by January 19, 2021.

ADDRESSES: Submit electronic comments on the collection of information to: *Susan.Jenkins@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Susan Jenkins.

FOR FURTHER INFORMATION CONTACT: Susan Jenkins, Administration for Community Living, Washington, DC 20201, by email at *Susan.Jenkins@acl.hhs.gov* or by telephone at 202–795–7369.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined under the PRA and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. PRA section (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The National Survey of Older Americans Act (OAA) Participants information collection will include consumer assessment surveys for the Congregate and Home-delivered meal nutrition programs; Case Management, Homemaker, and Transportation Services; and the National Family Caregiver Support Program. This survey builds on earlier national pilot studies and surveys, as well as performance measurement tools developed by ACL grantees in the Performance Outcomes Measures Project (POMP). Changes identified as a result of these initiatives were incorporated into the last data collection package that was approved by OMB and are included in this proposed extension of a currently approved collection. This information will be used by ACL to track performance outcome measures; support budget requests; comply with the GPRA Modernization Act of 2010 (GPRMA) reporting requirements; provide national benchmark information; and inform program development and management initiatives.

In addition to the proposed extension of the existing collection of information, ACL is requesting approval for a module on emergency preparedness to be added to the currently approved NSOAAP data collection effort. Older adults often have unique needs during an emergency or crisis. For example, they may have mobility challenges and/or chronic health conditions, or they may not have any family or friends nearby to support them. Support services that an older adult relies on to live at home, such as help from family caregivers, in-home health care, and home delivered meals, may be unavailable due to the disaster. These conditions increase a person's vulnerability and may lead to nursing home care that may have been otherwise avoidable. In addition, older adults may be hearing or vision impaired or have a cognitive impairment such as dementia, which may make it difficult to access and respond to emergency directions.

It is the responsibility of long-term care providers, community leaders, and first-responders to train, engage, and support the health and safety needs of older adults during emergencies and disasters. However, ultimately each person has a responsibility to prepare for potential crisis and make a plan for how to respond. The purpose of adding questions on emergency preparedness to the NSOAAP is to measure the extent to which older adults have received training on, and are prepared for, an emergency event.

The results of this information collection will be used by ACL/AoA to:

- Provide refined national benchmarks for use by states and AAAs.
- Provide secondary data for analysis of various Title III program evaluations.
- Provide performance information for key demographic subgroups, geographical sub regions, and different types of AAAs which will enable ACL/AoA to identify variations in performance and examine the need for additional targeted technical assistance.
- Provide secondary data for analysis of emergency preparedness among older adults that will be shared with states and AAAs to help structure their emergency planning programs.

The data will be used by the Administrator of the Administration for Community Living/Assistant Secretary for Aging in testimony and presentations; it will be incorporated into the agency's Annual Report; and it will be used by program staff to identify areas that may need attention at the national level. Descriptions of previous National Surveys of OAA Participants can be found under the section on OAA Performance Information on ACL's website at: *https://acl.gov/programs/performance-older-americans-act-programs.* Copies of the survey instruments and data from previous National Surveys of OAA Participants can be found and queried using the Aging, Independence, and Disability (AGID) Program Data Portal at *http://www.agid.acl.gov/.*

The proposed data collection tools may be found on the ACL website for review at *https://acl.gov/about-acl/public-input.*

Estimated Program Burden

ACL estimates the burden associated with this collection of information as follows:

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours	Cost per hour	Annual burden (cost)
Area Agency on Aging: Respondent selection process.	350	1	4.0	1,400	$44	$61,600
Service Recipients (*i.e.,* Congregate and Home-delivered meal nutrition programs; Case Management, Homemaker, and Transportation Services) + Rotating Module.	4,400	1	.75	3,300	$25	82,500
National Family Caregiver Support Program Clients + Rotating Module.	2,200	1	.75	1,650	$25	41,250
Total	6,950	1	.914 (weighted mean)	6,350	Varies	185,350

Dated: November 10, 2020.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2020–25276 Filed 11–16–20; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB# 0985–0050]

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; Information Collection Request for the Independent Living, and Rehabilitation Research (NIDILRR) Grantee Annual Performance Reporting (APR) and Final Report Forms

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to the proposed extension for the information collection requirements related to the NIDILRR Grantee Annual Performance Reporting (APR) and Final Report Forms.

DATES: Submit written comments on the collection of information by December 17, 2020.

ADDRESSES: Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Mary Darnell, Administration for Community Living, *mary.darnell@acl.hhs.gov* Phone: 202–795–7337

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

The Administration for Community Living (ACL) is requesting approval for a revised data collection associated with the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) Grantee Annual Performance Reporting (APR) and Final Report Forms.

This information collection collects data from all NIDILRR Grantees via a web-based reporting system and addresses specific HHS regulations that shall be met by applicants and grantees.

HHS regulations that apply to NIDILRR Grant programs include Part 75 of the Uniform Administrative Requirements, Cost Principles and Audit requirements for HHS Awards. Specifically, § 75.342 which requires grantees to submit an annual performance report or, for the last year of a project, a final report that evaluates: (a) The grantee's progress in achieving the objectives in its approved application, (b) the effectiveness of the project in meeting the purposes of the program, and (c) the results of research and related activities.

Additionally, GPRA requires all federal agencies to implement performance measurement systems that include: (1) A five-year strategic plan, (2) an annual performance plan, and (3) an annual performance report. Currently, NIDILRR has met these requirements and has established performance indicators to meet the reporting requirements. The NIDILRR APR System currently includes reporting forms for all 10 of NIDILRR's grant programs.

Reporting forms for all 10 programs are Web-based. Data collected through these forms (a) Facilitate program planning and management; (b) respond to ACL/HHS Grants Policy Administration Manual (GPAM) requirements and (c) respond to the reporting requirements of the Government Performance and Results Act (GPRA) of 1993.

NIDILRR uses the information gathered annually from these data collection efforts to provide Congress with the information mandated in GPRA, provide OMB information required for assessment of performance on GPRA indicators, and support its evaluation activities. Data collected from the 10 grant programs will provide a national description of the research activities of approximately 255 NIDILRR grantees.

NIDILRR's GPRA plan must collect information to meet the following mandates: (a) Implementation of a comprehensive plan that includes goals and objectives; (b) measurement of the program's progress in meeting its objectives; and (c) submission of an annual report on program performance, including plans for program improvement, as appropriate. The data collection system addresses nearly all of the agency's GPRA indicators, either directly or by providing information for the agency's other review processes.

Comments in Response to the 60-Day Federal Register Notice

A notice published in the **Federal Register** on July 31, 2020 in FR 85 46125–46126. There were no public comments received during the 60-day FRN comment period.

Estimated Program Burden

ACL estimates the burden associated with this collection of information as follows:

	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Grantees	61	1	52	3,172
Continuations of Major Programs	122	1	22	2,684
Other Continuations	87	1	10	870
Total	270			6,726

Dated: November 10, 2020.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2020–25277 Filed 11–16–20; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3787]

Electromagnetic Compatibility of Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Electromagnetic Compatibility (EMC) of Medical Devices.'' FDA has developed this guidance document to describe relevant information that should be provided in a premarket submission (*i.e.,* premarket approval application (PMA), humanitarian device exemption (HDE), premarket notification (510(k)) submission, investigational device exemption (IDE), and De Novo request) to support a claim of electromagnetic compatibility for electrically powered medical devices and medical devices with electrical or electronic functions. This draft guidance is not intended to change current policy, but to provide specific technical information to address the recommendations originally described in the guidance entitled ''Information to Support a Claim of Electromagnetic Compatibility (EMC) of Electrically-Powered Medical Devices'' published July 11, 2016 (2016 EMC guidance). This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by January 19, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3787 for ''Electromagnetic Compatibility (EMC) of Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Electromagnetic Compatibility (EMC) of Medical Devices'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Seth J. Seidman, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1108, Silver Spring, MD 20993–0002, 301–796–2477; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this guidance document to describe relevant information that should be provided in a premarket submission (*i.e.,* PMA, HDE application, 510(k) submission, IDE application, and De Novo requests) to demonstrate EMC for electrically powered medical devices and medical devices with electrical or electronic functions. Typically, the review of EMC information in a submission is based on the risk associated with malfunction or degradation of the medical device under consideration, where malfunction or degradation could be caused by inadequate EMC. The review is also based on the use of appropriate consensus standards. This draft guidance is intended to replace ''Information to Support a Claim of Electromagnetic Compatibility (EMC) of Electrically-Powered Medical Devices'' published July 11, 2016. This draft guidance is not intended to change current policy, but to provide specific technical information to address the recommendations in the 2016 EMC guidance.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the electromagnetic compatibility of medical devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products* or from the Center for Biologics Evaluation and Research at *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances.* This guidance document is also available at *https://www.regulations.gov* and at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Persons unable to download an electronic copy of ''Electromagnetic Compatibility (EMC) of Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please include the complete title and the document number 16040 to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''.	De Novo classification process	0910–0844
800, 801, and 809	Medical Device Labeling Regulations	0910–0485
803	Medical Devices; Medical Device Reporting; Manufacturer reporting, importer reporting, user facility reporting, distributor reporting.	0910–0437
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073

Dated: November 12, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25306 Filed 11–16–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on October 1, 2020, through October 31, 2020. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (*Petitioner's Name* v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Thomas J. Engels,

Administrator.

List of Petitions Filed

1. Angela White, Memphis, Tennessee, Court of Federal Claims No: 20–1302V
2. Donna Battaglia, Westminster, Maryland, Court of Federal Claims No: 20–1303V
3. David Stibor on behalf of Estate of Yolanda Stibor, Deceased, Las Vegas, Nevada, Court of Federal Claims No: 20–1304V
4. Jennifer Sepate, Cold Spring, Kentucky, Court of Federal Claims No: 20–1305V
5. Miranda Anglim, Philadelphia, Pennsylvania, Court of Federal Claims No: 20–1309V
6. Megan Fetterman, Kansas City, Missouri, Court of Federal Claims No: 20–1310V
7. Dawson Langdon, Boston, Massachusetts, Court of Federal Claims No: 20–1311V
8. Anna Tracy, Boston, Massachusetts, Court of Federal Claims No: 20–1312V
9. Charles J. Keyser, Henderson, Nevada, Court of Federal Claims No: 20–1313V
10. Michelle Wylie, Enfield, Connecticut, Court of Federal Claims No: 20–1314V
11. Jim McTighe and Linda McTighe on behalf of J.M., Phoenix, Arizona, Court of Federal Claims No: 20–1316V
12. Lisa Hrica, Washington, District of Columbia, Court of Federal Claims No: 20–1317V
13. Ronald E. White, Charlotte, North Carolina, Court of Federal Claims No: 20–1319V
14. Latoya McCoy, Port Neches, Texas, Court of Federal Claims No: 20–1321V
15. Carolina Sanchez, Miami, Florida, Court of Federal Claims No: 20–1322V
16. Daniel Mauro, Castle Rock, Colorado, Court of Federal Claims No: 20–1326V
17. Brian Angelone, New York, New York, Court of Federal Claims No: 20–1327V
18. Thomas Roche, New York, New York, Court of Federal Claims No: 20–1328V
19. Karen Garrard, Travelers Rest, South Carolina, Court of Federal Claims No: 20–1331V
20. Drake Dixon, Tacoma, Washington Court of Federal Claims No: 20–1332V
21. Vanessa Richardson, Birmingham, Alabama, Court of Federal Claims No: 20–1333V
22. Young Park, Washington, District of Columbia, Court of Federal Claims No: 20–1334V
23. Donna Maria Peterson, Atlanta, Georgia, Court of Federal Claims No: 20–1335V
24. Francis Zilinski, Boston, Massachusetts, Court of Federal Claims No: 20–1336V
25. Benita Turner on behalf of I.T., Phoenix, Arizona, Court of Federal Claims No: 20–1337V
26. Dianne Rice-Hansen, Bangor, Maine, Court of Federal Claims No: 20–1338V
27. Patricia Hertzog, Brownstown, Pennsylvania, Court of Federal Claims No: 20–1339V
28. Teresa Mazza, Rochester, New York, Court of Federal Claims No: 20–1340V
29. Megan Morey, Lebanon, New Hampshire, Court of Federal Claims No: 20–1341V
30. Christopher Jay Hankins, North Bend, Washington, Court of Federal Claims No: 20–1342V
31. Leroy Cantrell, San Antonio, Texas, Court of Federal Claims No: 20–1343V
32. Sarah Wells, Santa Cruz, California, Court of Federal Claims No: 20–1344V
33. Candace Harvey and Shawn Harvey on behalf of B.H., Boston, Massachusetts, Court of Federal Claims No: 20–1345V
34. Renee Majerus, Cleveland, Ohio, Court of Federal Claims No: 20–1346V
35. Elizabeth A. Adams, Salt Lake City, Utah, Court of Federal Claims No: 20–1347V
36. Javier O. Salazar, Waupun, Wisconsin, Court of Federal Claims No: 20–1348V
37. Leila Marie Beeby, Stillwater, Oklahoma, Court of Federal Claims No: 20–1349V

38. Gregory Monson, Anderson, California, Court of Federal Claims No: 20–1350V
39. Darlene Querio, Fenton, Michigan, Court of Federal Claims No: 20–1351V
40. Veronica Vogel, Pasadena, Texas, Court of Federal Claims No: 20–1352V
41. Suzanne Sullivan, Morristown, New Jersey, Court of Federal Claims No: 20–1353V
42. Tracy Wiggins, Raleigh, North Carolina, Court of Federal Claims No: 20–1354V
43. Raejean Zazzara, Sun City, Arizona, Court of Federal Claims No: 20–1355V
44. Diana Bunten, Blairsville, Georgia, Court of Federal Claims No: 20–1356V
45. Pamela DeZurik, Durham, North Carolina, Court of Federal Claims No: 20–1357V
46. Katherine Cummings and Jared Cummings on behalf of O.C., Newark, Ohio, Court of Federal Claims No: 20–1358V
47. Ashley Voag, Everett, Washington, Court of Federal Claims No: 20–1359V
48. Michael J. Diaz, Riverdale, Georgia, Court of Federal Claims No: 20–1360V
49. Raviteja Bodepudi, Irving, Texas, Court of Federal Claims No: 20–1361V
50. Daniel Proctor, Santa Rosa, California, Court of Federal Claims No: 20–1362V
51. Cindy Smith, Emmett, Idaho, Court of Federal Claims No: 20–1363V
52. Christina Gillespie, Jacksonville, North Carolina, Court of Federal Claims No: 20–1364V
53. Rachel Kellogg, Bellport, New York, Court of Federal Claims No: 20–1365V
54. Donna Knasel, Norristown, Pennsylvania, Court of Federal Claims No: 20–1366V
55. Paul Shuping on behalf of T.S., Salisbury, North Carolina, Court of Federal Claims No: 20–1367V
56. Montra Turner, Louisville, Kentucky, Court of Federal Claims No: 20–1368V
57. Trenell Parfait, Murfreesboro, Tennessee, Court of Federal Claims No: 20–1369V
58. Dallas Chapman, Clive, Iowa, Court of Federal Claims No: 20–1370V
59. Laura Shevlin, Stuart, Florida, Court of Federal Claims No: 20–1372V
60. Charity Frimpong, Frederick, Maryland, Court of Federal Claims No: 20–1373V
61. Jesse D. Krebs, Cleveland, Ohio, Court of Federal Claims No: 20–1374V
62. Robert Anthony Simeone, III on behalf of R.S., Savannah, Texas, Court of Federal Claims No: 20–1375V
63. Maurice Lewis and Susan Lewis on behalf of N.L., South Portland, Maine, Court of Federal Claims No: 20–1376V
64. Rivian Robinson, Boston, Massachusetts, Court of Federal Claims No: 20–1378V
65. Deborah Sands, Tacoma, Washington, Court of Federal Claims No: 20–1379V
66. Sandra Ruiz, Los Angeles, California, Court of Federal Claims No: 20–1380V
67. Edward Vallee, Lakeland, Florida, Court of Federal Claims No: 20–1381V
68. Jean Bub, Antigo, Wisconsin, Court of Federal Claims No: 20–1382V
69. Michelle Tverberg, St. Croix Falls, Wisconsin, Court of Federal Claims No: 20–1383V
70. Laura Hailey, New York, New York, Court of Federal Claims No: 20–1386V
71. Allen Vela on behalf of J.V., Glendale, Arizona, Court of Federal Claims No: 20–1387V
72. Carla Faraldo, Seattle, Washington, Court of Federal Claims No: 20–1389V
73. Taylor Osborne, Brockton, Massachusetts, Court of Federal Claims No: 20–1390V
74. Ben D. Shiriak, Tappahannock, Virginia, Court of Federal Claims No: 20–1391V
75. Patricia Hoover on behalf of L.H., Huntingtown, Maryland, Court of Federal Claims No: 20–1394V
76. Dinna Paulin, Victorville, California, Court of Federal Claims No: 20–1395V
77. Diane Blake, Phoenix, Arizona, Court of Federal Claims No: 20–1398V
78. Monika Clarke on behalf of F.C., Collegeville, Pennsylvania, Court of Federal Claims No: 20–1400V
79. Wendy Riva, New York, New York, Court of Federal Claims No: 20–1401V
80. Leticia Starr, Laguna Niguel, California, Court of Federal Claims No: 20–1402V
81. Michael Antkowiak, Buffalo, New York, Court of Federal Claims No: 20–1404V
82. William Efron, Saint Paul, Minnesota, Court of Federal Claims No: 20–1405V
83. Brandon Sauter, Slidell, Louisiana, Court of Federal Claims No: 20–1406V
84. Ken Wingerter and Shaun Wingerter on behalf of H.W., Marietta, Georgia, Court of Federal Claims No: 20–1408V
85. Shamir Ally, New York, New York, Court of Federal Claims No: 20–1409V
86. Martha Honeycutt on behalf of Estate of Raymond Cecil Honeycutt, Deceased, Burkesville, Kentucky, Court of Federal Claims No: 20–1410V
87. Jami Shanes, Cleveland, Ohio, Court of Federal Claims No: 20–1411V
88. Frank Reuther, Slidell, Louisiana, Court of Federal Claims No: 20–1412V
89. Thomas Tallett, Levittown, Pennsylvania, Court of Federal Claims No: 20–1413V
90. Wade Allen Martin, Reno, Nevada, Court of Federal Claims No: 20–1414V
91. Angela McFadden, Philadelphia, Pennsylvania, Court of Federal Claims No: 20–1415V
92. Mary A. Haley, Suffolk, Virginia, Court of Federal Claims No: 20–1418V
93. Joseph Loverde and Susan Loverde on behalf of K.L., Boston, Massachusetts, Court of Federal Claims No: 20–1419V
94. Anna Ricci, Phoenix, Arizona, Court of Federal Claims No: 20–1420V
95. Robert Jaegle, Peru, Illinois, Court of Federal Claims No: 20–1421V
96. Julia Gillman, Boston, Massachusetts, Court of Federal Claims No: 20–1422V
97. Buddy Kindle, Dallas, Texas, Court of Federal Claims No: 20–1423V
98. Kelli Hill, Groveport, Ohio, Court of Federal Claims No: 20–1424V
99. Frederick Hanstine, Boston, Massachusetts, Court of Federal Claims No: 20–1425V
100. John Jacobs, Flint, Michigan, Court of Federal Claims No: 20–1426V
101. Linda M. Ricker, Slidell, Louisiana, Court of Federal Claims No: 20–1428V
102. Leigh Ann Marshall, Mt. Juliet, Tennessee, Court of Federal Claims No: 20–1429V
103. Sandra Anzalone, Buffalo, New York, Court of Federal Claims No: 20–1430V
104. Russell DeVoe, West Allis, Wisconsin, Court of Federal Claims No: 20–1432V
105. Janice E. Mayer, Issaquah, Washington, Court of Federal Claims No: 20–1434V
106. Shari Gress, Madison, Wisconsin, Court of Federal Claims No: 20–1437V
107. Houston Osburn, Lancaster, California, Court of Federal Claims No: 20–1438V
108. Gwen Snodgrass and Andrew Snodgrass on behalf of A.M.S., San

Diego, California, Court of Federal Claims No: 20–1439V
109. Richard Dennis Miszewski, West Allis, Wisconsin, Court of Federal Claims No: 20–1440V
110. Raiza Halpert and Moshe Halpert on behalf of J.H., Monroe, New York, Court of Federal Claims No: 20–1441V
111. Dominique Roberts, Albuquerque, New Mexico, Court of Federal Claims No: 20–1442V
112. Timothy Schwalbe, Milwaukee, Wisconsin, Court of Federal Claims No: 20–1445V
113. Jennifer Mire, Republic, Missouri, Court of Federal Claims No: 20–1449V
114. Douglas J. Hoos, Grand Island, Nebraska, Court of Federal Claims No: 20–1450V
115. Kathleen Runser, College Park, Maryland, Court of Federal Claims No: 20–1451V
116. Karen Valentine, Boston, Massachusetts, Court of Federal Claims No: 20–1453V
117. Peggy Lund, Minnetonka, Minnesota, Court of Federal Claims No: 20–1454V
118. Julia Hunt, Brooklyn, New York, Court of Federal Claims No: 20–1455V
119. Heather Hayes and Mark Hayes on behalf of A.H., Cincinnati, Ohio, Court of Federal Claims No: 20–1457V
120. Kathryn Becker, Boston, Massachusetts, Court of Federal Claims No: 20–1461V
121. Humberto Rodriguez, Stamford, Connecticut, Court of Federal Claims No: 20–1464V
122. Erma Lamb, Boston, Massachusetts, Court of Federal Claims No: 20–1465V
123. Jennifer Inscoe, Forest, Virginia, Court of Federal Claims No: 20–1466V
124. Paula DeBusk, Fayetteville, Arkansas, Court of Federal Claims No: 20–1470V
125. Nicole Fortney, Boston, Massachusetts, Court of Federal Claims No: 20–1471V
126. Michael Kochenderfer, Boston, Massachusetts, Court of Federal Claims No: 20–1472V
127. Julie Roubik on behalf of Estate of Thomas Roubik, Deceased, Holmen, Wisconsin, Court of Federal Claims No: 20–1473V
128. Debra Gadd, Sandusky, Ohio, Court of Federal Claims No: 20–1474V
129. Michael Mendoza on behalf of Christian Mendoza, Chino, California, Court of Federal Claims No: 20–1475V
130. Dianne Byrd, Albuquerque, New Mexico, Court of Federal Claims No: 20–1476V
131. Krista Wall, Encinitas, California, Court of Federal Claims No: 20–1477V
132. Grace Shain on behalf of H.S., Phoenix, Arizona, Court of Federal Claims No: 20–1478V
133. Angela Butts, Washington, District of Columbia, Court of Federal Claims No: 20–1479V
134. Melissa Manie, Moberly, Missouri, Court of Federal Claims No: 20–1482V
135. Carmen C. Salas, San Juan, Puerto Rico, Court of Federal Claims No: 20–1483V
136. Mitzi Lee, Richmond, Virginia, Court of Federal Claims No: 20–1484V
137. Kathryn DeLeon on behalf of N.C., Boston, Massachusetts, Court of Federal Claims No: 20–1485V
138. John Michael Dulaney, Boerne, Texas, Court of Federal Claims No: 20–1488V
139. Peggy McCarter, Greensboro, North Carolina, Court of Federal Claims No: 20–1490V
140. Francine Russo, Athens, Georgia, Court of Federal Claims No: 20–1491V
141. Kelli Wilson, Caldwell, Idaho, Court of Federal Claims No: 20–1492V
142. Melissa Greenberg and Richard Greenberg on behalf of M.G., Boston, Massachusetts, Court of Federal Claims No: 20–1493V
143. Nina Cupples, Rutherford, Tennessee, Court of Federal Claims No: 20–1494V
144. Rodney Burrill, Seattle, Washington, Court of Federal Claims No: 20–1495V
145. Veronica Williams, Dallas, Texas, Court of Federal Claims No: 20–1499V
146. Maria Ramos, The Woodlands, Texas, Court of Federal Claims No: 20–1500V
147. Audrey Chinnock, Overland Park, Kansas, Court of Federal Claims No: 20–1501V
148. Regina Mileouski, Dresher, Pennsylvania, Court of Federal Claims No: 20–1502V
149. Luis Rodriguez, Richmond, Virginia, Court of Federal Claims No: 20–1503V
150. Debra S. Colgan, White Plains, New York, Court of Federal Claims No: 20–1505V
151. Kathleen Finn, Boston, Massachusetts, Court of Federal Claims No: 20–1506V

[FR Doc. 2020–25287 Filed 11–16–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Information—Landscape Analysis To Leverage Novel Technologies for Chronic Disease Management for Aging Underserved Populations

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Request for information.

SUMMARY: The Office of the Assistant Secretary for Health (OASH) in the Department of Health and Human Services, in partnership with other federal agencies, seeks to gain a more comprehensive understanding from health systems, community based organizations, academic institutions, non-federal government agencies, innovators, entrepreneurs, non-profit organizations, and other relevant stakeholders regarding innovative solutions to chronic disease management leveraging novel technologies (*e.g.,* artificial intelligence (AI), biosensors, apps, remote monitoring, 5G) to optimize compliance with evidence-based standards of care in disease states that cause significant morbidity and mortality in aging populations in underserved areas (*e.g.,* low income, Medicaid-eligible, rural). OASH will review information collected in this request for information (RFI) to better inform federal government priorities and programs. We also seek to identify opportunities to strengthen the U.S. healthcare system, as a whole, through public-private partnerships in data sharing, comprehensive analytics including AI, and other potential mechanisms. OASH welcomes public feedback related to how these questions should be addressed and/or potential solutions. The set of questions is available in the **SUPPLEMENTARY INFORMATION** section below.

DATES: To be assured consideration, comments must be received at the email address provided below, no later than midnight Eastern Time (ET) on December 22, 2020.

ADDRESSES: Individuals are encouraged to submit responses electronically to *OASHcomments@hhs.gov.* Please indicate ''RFI RESPONSE'' in the subject line of your email. Submissions received after the deadline will not be reviewed. Responses to this notice are not offers and cannot be accepted by the federal government to form a binding contract or issue a grant. Respond concisely and in plain language. You may use any structure or layout that presents your information well. You may respond to some or all of our questions, and you can suggest other factors or relevant questions. You may also include links to online material or interactive presentations. Clearly mark any proprietary information, and place it in its own section or file. Your response will become government property, and we may publish some of its non-proprietary content.

FOR FURTHER INFORMATION CONTACT: Dr. Leith States, Chief Medical Officer, Office of the Assistant Secretary for Health, (202) 260–2873.

SUPPLEMENTARY INFORMATION:

Background

The Office of the Assistant Secretary for Health—in partnership with Division of Cardiovascular Sciences, National Heart, Lung, and Blood Institute, National Institutes of Health; Administration for Community Living; Agency for Healthcare Quality and Research; United States Department of Agriculture; Federal Communications Commission; and the White House Office of Science and Technology Policy—is interested in resources that enhance quality of life for aging populations by enabling access to emerging technologies and access to healthcare services. The COVID–19 response has disrupted access to routine and emergency healthcare services in many, if not most, communities. It is estimated that 41 percent of U.S. adults delayed or avoided medical care due to concerns over COVID–19 transmission.[1] At the same time, the pandemic resulted in a strain on the country's public health and healthcare infrastructure. The populations affected most by this pandemic are those that experienced inequities in healthcare at baseline. These inequities are widely understood to be driven in part by upstream predictors identified as the social determinants of health (SDOH)—conditions in the environment in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.[2]

Related to these social risk factors, the biological risk factors most closely associated with increased risk for COVID–19 include age (65 years and older) and chronic diseases (*e.g.,* cancer, chronic kidney disease, Alzheimer's disease and related dementias, chronic obstructive pulmonary disease, heart disease and stroke, diabetes, and obesity). Underscoring the vulnerability of older adults, the highest rates of hospitalization and death from COVID–19 are in the older adult population. In fact, eight in ten COVID–19-related deaths reported in the United States have been among adults 65 and older.[3] This situation is exacerbated in rural communities, for example which, compared to urban areas, are characterized by a higher percentage of older adults, higher rates of all-cause mortality, and lower density of healthcare infrastructure.[4,5] The pandemic's further exacerbation of inequities in healthcare delivery introduces the opportunity to identify, develop, deploy and evaluate innovative technological approaches to chronic disease management, as well as the opportunity to mitigate any introduction of biases that could increase disparities in healthcare when applying such innovative approaches. Technological advances (*e.g.,* artificial intelligence (AI) driven solutions) have great potential to improve health outcomes in the aging population, particularly for those in underserved areas (*e.g.,* low income, Medicaid-eligible, rural) by empowering patients and facilitating integrated healthcare delivery.

Leveraging data and applying technologies to improve health for aging populations in underserved areas is of interest. These include, for example, advancing data availability from health systems (*e.g.,* claims data, electronic health records, surveillance data, etc.), applying AI to inform behavior change through remote patient monitoring, and assessing risk to then apply appropriate preventive/acute care—all to mitigate excess morbidity and mortality from chronic diseases. The federal government has taken some action to demonstrate this interest. For example, the Collaborative Aging (in Place) Research Using Technology (CART) project, a joint effort between the Veterans Health Administration and the National Institutes of Health, was launched to support future applications of AI and machine learning to improve health and healthcare delivery through systematic evaluation of technologies that enable older adults to remain independent. These efforts align with the National Artificial Intelligence Research and Development Strategic Plan, an interagency product released in 2019, which lays out eight strategic priority areas for federal investment in AI research and development. The utility of these technologies requires access to patient monitoring technologies and the data infrastructure to support analytics and transmission to integrated care teams (*e.g.,* primary care, subspecialty care, nursing, pharmacy, social work, assisted living providers) that can effectively leverage signals that emerge within this system. To better inform the direction of federal efforts, OASH and its partners seek information about complementary technological activities by identifying common themes (*e.g.,* barriers, opportunities, gaps), highlighting innovative solutions to chronic disease management, and enhancing the potential for joint public-private activities to serve aging populations in underserved areas focusing on the imperative to understand and capitalize on opportunities to develop, operationalize, and scale innovations in healthcare and delivery at the individual and population levels for aging Americans.

Scope and Assumptions

- The purpose of this RFI is to gain a more comprehensive understanding of how health systems, community based organizations, academic institutions, non-federal government agencies, innovators, entrepreneurs, non-profit organizations, industry and other relevant stakeholders are approaching innovative efforts around chronic disease management (*e.g.,* heart failure, hypertension, chronic lower respiratory disorders, cognitive impairment) for aging populations in underserved areas (*e.g.,* rural) by leveraging technology-driven solutions (*e.g.,* AI), including those designed to optimally utilize future 5G infrastructure.
- Responses may span the continuum of care including but not limited to detection, prevention (*e.g.,* falls risk reduction), education, lifestyle modification and behavior change (*e.g.,* diet, exercise), treatment and rehabilitation of disease.
- We are interested in novel approaches and associated frameworks for collecting data confirming efficacy and/or effectiveness of technology solutions with demonstrated improvements in one or more of the following measures: Patient outcomes, access, safety, quality, cost, and value.
- If responses refer to proposed or ongoing projects, the following information should be included:

[1] Available at: *https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a4.htm#T1_down.*

[2] Available at: *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health.*

[3] Available at: *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html.*

[4] Available at: *https://www.shepscenter.unc.edu/wp-content/uploads/dlm_uploads/2017/05/Snapshot2017.pdf.*

[5] Available at: *https://www.shepscenter.unc.edu/wp-content/uploads/dlm_uploads/2017/08/Regional-Differences-in-Urban-and-Rural-Mortality-Trends.pdf.*

Description, rationale, study design, data sources (to include harmonization/cleaning of data), funding organization(s), outcomes of interest, and how such an approach would avoid increasing disparities in care.

- Responses may include implications for scaling an intervention to broader population levels and other settings.
- The definition of ''AI-driven solution'', for the purposes of this RFI, should be interpreted broadly. We seek an understanding of innovative activities across the spectrum of care in underserved settings for older adults.
- This RFI also seeks to identify opportunities to strengthen the U.S. healthcare system through public-private partnerships. The RFI seeks to identify organizations that would be interested in discussing the form and function of such collaborations.

Topics

A. Barriers and Opportunities for Technology-Driven Solutions

1. What barriers (*e.g.,* privacy concerns, other clinician and patient barriers) and opportunities are most relevant for bringing technology-driven solutions to aging populations in underserved areas?
2. What federal policies currently limit the capacity to deploy and scale technology-driven solutions for aging populations?
3. What new federal policies could facilitate the success of technology-driven solutions for aging populations?
4. What are the ways in which technology-driven solutions are manifested (*e.g.,* software platforms, wearables, robotics, etc.) and how is the integrity of data collected ensured (*e.g.,* fidelity, and accuracy of data)?
5. How will training data sets be established and implemented to drive effective technology solutions that improve chronic disease outcomes for aging populations in rural areas?
6. How will AI solutions be validated? What metrics will be used to evaluate the effectiveness of AI/machine learning algorithms?
7. How will healthcare team and patient trust in technology solutions be addressed? How will legal and ethical issues be addressed for technology solutions designed for improving chronic disease outcomes?
8. How will bias and variance be addressed in machine learning algorithms for this application? How will supervised versus unsupervised learning be used to develop inferences and patterns from data sources? What will be the challenges and proposed solutions for data cleansing and transformation?
9. Will AI deep learning and neural networks approaches and solutions be appropriate and used for chronic disease improvement for aging populations?
10. What are the per-person-costs of technology-driven solutions in the context of this RFI?

B. Key Indicators & Data Sources of Technology-Driven Chronic Disease Management

1. What key indicators or data sets will be used to perform measure outcomes (*e.g.,* racial, ethnic, gender, and socioeconomic disparities)?
2. What existing methods, data sources, and analytic approaches are being used to assess and monitor technology-driven solutions (*e.g.,* AI) in healthcare systems?
3. What selected health conditions should be addressed as priority conditions to assess technology-driven capacity to influence access, timeliness, and quality of healthcare treatment and preventive services to aging populations living in rural areas?

C. Examples of Health Promotion Using Technology-Driven Solutions

1. Describe novel technology-driven approaches (*e.g.,* AI) that may prevent the onset, progression, or escalation of chronic disease states in patients who have decreased frequency of health system interaction during the COVID–19 pandemic, such as aging Americans living in rural areas.
2. Outline programs leveraging novel technology-driven approaches that may prevent increases in morbidity and mortality due to deferred care for acute medical conditions (*e.g.,* exacerbation of heart failure, decompensated lower respiratory tract disease).
3. What is the established evidence or evaluation supporting proposed benefits, and the evaluation of potential harms of AI-driven solutions such as increased racial bias?

D. Public-Private Partnerships

1. Provide ideas of the form and function of a public-private partnership model to leverage the adoption of technology-driven solutions to improve outcomes for at-risk populations such as aging Americans living in rural areas.
2. What organizations, groups, and/or, associations should HHS engage as part of such a collaborative effort?

HHS encourages all potentially interested parties—individuals, associations, governmental, non-governmental organizations, academic institutions, and private sector entities—to respond. To facilitate review of the responses, please reference the question category and number in your response.

Dated: November 10, 2020.

Brett P. Giroir,

ADM, U.S. Public Health Service.

[FR Doc. 2020–25328 Filed 11–16–20; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a virtual meeting. The meeting will be open to the public. During this meeting, the TBDWG will finalize and vote on the 2020 report to the HHS Secretary and Congress. The agenda will be available on the website prior to the meeting. The 2020 report will address ongoing tick-borne disease research, including research related to causes, prevention, treatment, surveillance, diagnosis, diagnostics, and interventions for individuals with tick-borne diseases; advances made pursuant to such research; Federal activities related to tick-borne diseases; and gaps in tick-borne disease research

DATES: The meeting will be held online via webcast on December 2, 2020, from approximately 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-12-2/index.html* when this information becomes available.

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW, Suite L600, Washington, DC 20024. Email: *tickbornedisease@hhs.gov;* Phone: 202–795–7608.

SUPPLEMENTARY INFORMATION: Please register for the meeting at *https://events-*

na4.adobeconnect.com/content/connect/c1/841425677/en/events/event/shared/1840895551/event_landing.html?sco-id=1840508041&_charset_=utf-8. After registering, you will receive an email confirmation with a personalized link to access the webcast on December 2, 2020.

The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-12-2/index.html* and respond by midnight November 24, 2020, ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review Federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the Federal response to tick-borne disease every two years.

Dated: November 10, 2020.

B. Kaye Hayes,

Acting Director, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2020–25312 Filed 11–16–20; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Information Technology Advisory Committee 2021 Schedule of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), HHS.

ACTION: Notice of meetings.

SUMMARY: The Health Information Technology Advisory Committee (HITAC) was established in accordance with the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the National Coordinator for Health Information Technology (National Coordinator). The HITAC will hold public meetings throughout 2021. See list of public meetings below.

FOR FURTHER INFORMATION CONTACT: Lauren Richie, Designated Federal Officer, at *Lauren.Richie@hhs.gov,* (202) 205–7674.

SUPPLEMENTARY INFORMATION: Section 4003(e) of the 21st Century Cures Act (Pub. L. 114–255) establishes the Health Information Technology Advisory Committee (referred to as the ''HITAC''). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Composition

The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;
- 3 members are appointed by the HHS Secretary
  - 1 of whom shall be appointed to represent the Department of Health and Human Services and
  - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives; and
- Other members are appointed by the Comptroller General of the United States.

Members will serve for one-, two-, or three-year terms. All members may be reappointed for a subsequent three-year term. Each member is limited to two three-year terms, not to exceed six years of service. Members serve without pay, but will be provided per-diem and travel costs for committee services, if warranted.

Recommendations

The HITAC recommendations to the National Coordinator are publicly available at *https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it.*

Public Meetings

The schedule of meetings to be held in 2021 is as follows:

- January 13, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- February 10, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- April 15, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- May 13, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- June 9, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- July 14, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- September 9, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- November 10, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)

All meetings are open to the public. Additional meetings may be scheduled as needed. For web conference instructions and the most up-to-date information, please visit the HITAC calendar on the ONC website, *https://www.healthit.gov/topic/federal-advisory-committees/hitac-calendar.*

Contact Person for Meetings: Lauren Richie, *Lauren.Richie@hhs.gov.* A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Please email Lauren Richie for the most current information about meetings.

Agenda: As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the National Coordinator on the topics of interoperability, privacy and security, and patient access. In addition, the committee will also address any administrative matters and hear periodic reports from ONC. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its website prior to the meeting, the material will be made publicly available on ONC's website after the meeting, at *http://www.healthit.gov/hitac.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each commenter will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting.

Persons attending in-person HITAC meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its HITAC meetings. Seating is limited at in-person meetings, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Lauren Richie at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: November 9, 2020.

Lauren Richie,

Designated Federal Officer, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2020–25261 Filed 11–16–20; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Population Science and Epidemiology B.

Date: December 8, 2020.

Time: 10:00 a.m. to 3:30 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: Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 594–6594, *steeleln@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Prevention and Mechanisms of Cancer Therapeutics.

Date: December 8, 2020.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, (301) 435–1719, *ngkl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity and Mucosal Immunology Mechanisms.

Date: December 9, 2020.

Time: 2:00 p.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: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207, MSC 7812, Bethesda, MD 20892, (301) 435–1238, *hodged@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biostatistical Methods and Research Design.

Date: December 10, 2020.

Time: 1:30 p.m. to 3:30 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: Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 594–6594, *steeleln@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: November 10, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25285 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Advisory Board and NCI Board of Scientific Advisors.

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 to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of the National Cancer Advisory Board meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended. The intramural programs and projects and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the intramural programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: November 30, 2020.

Closed: 12:00 p.m. to 1:00 p.m.

Agenda: Review of intramural program site visit outcomes and the discussion of confidential personnel issues.

Open: 1:15 p.m. to 4:45 p.m.

Agenda: NCAB Subcommittee Meetings—Subcommittee on Planning and Budget; *Ad Hoc* Subcommittee on Experimental Therapeutics; and *Ad Hoc* Subcommittee on Population Science, Epidemiology and Disparities.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: December 1, 2020.

Open: 1:00 p.m. to 5:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Director's report and presentations, NCI Board of Scientific Advisors Concepts Review.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: December 2, 2020.

Open: 1:00 p.m. to 5:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Board of Scientific Advisors Concepts Review and presentations.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Paulette S. Gray, Ph.D., Executive Secretary, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@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.

Information is also available on the Institute's/Center's home page: NCAB: *https://deainfo.nci.nih.gov/advisory/ncab/ncabmeetings.htm,* BSA: *https://deainfo.nci.nih.gov/advisory/bsa/bsameetings.htm,* where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 10, 2020.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25281 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed 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 purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; OCT2020 Cycle 36 NExT SEP Committee Meeting.

Date: December 9, 2020.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Room 3A44, Bethesda, MD 20892 (Virtual Meeting).

Contact Persons: Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20817, (301) 496–4291, *mroczkoskib@mail.nih.gov.*

Toby Hecht, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 3W110, Rockville, MD 20850, (240) 276–5683, *toby.hecht2@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 10, 2020.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25286 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13 Clinical Trial Not Allowed).

Date: November 30, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Bethesda, MD 20892–9834 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Bethesda, MD 20892–9834, (240) 669–5035, *robert.unfer@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 10, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25282 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Preclinical and Translational Vaccine Development Support for HIV and Other Candidate Agents (PTVDS) (N01), Task Areas E and F.

Date: December 9–10, 2020.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Cynthia L. De La Fuente, Ph.D., Scientific Review Officer, Scientific Review Program, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31, Rockville, MD 20852, 240–669–2740, *delafuentecl@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 10, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25284 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: December 7, 2020.

Time: 10:00 a.m. to 2:30 p.m.

Agenda: NICHD Director's report; NCMRR Director's report; Updates on the NIH Rehabilitation Research Conference and NIH Rehabilitation Research Funding; Discussion of Lessons Learned from the Pandemic (supporting research activities and the needs of people with disabilities); Agenda Planning for the next Board meeting.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892–7510 (Virtual Meeting).

Contact Person: Ralph M. Nitkin, Ph.D., Director, Biological Sciences and Career Development Program, National Center for Medical Rehabilitation Research, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2116, Bethesda, MD 20892–7510, (301) 402–4206, *nitkinr@mail.nih.gov.*

The meeting will be NIH Videocast. Please select the following link for Videocast on the day of the meeting: *https://videocast.nih.gov/default.asp.*

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/advisory/nabmrr/Pages/index.aspx* where the current roster and minutes from past meetings are posted.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 12, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25335 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Cancer Institute Special Emphasis Panel; Tobacco Use and HIV in Low- and Middle-Income Countries.

Date: January 13, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20850, 240–276–6343, *schweinfestcw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review I.

Date: January 26–27, 2021.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W244, National Cancer Institute, NIH, Rockville, MD 20850, 240–276–5415, *paul.cairns@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review II.

Date: January 27–28, 2021.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W116, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Rockville, MD 20850, 240–276–5413, *klaus.piontek@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review III.

Date: January 28–29, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, 7W122, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Rockville, MD 20850, 240–276–5085, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Molecular and Cellular Analysis Technologies.

Date: February 4–5, 2021.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W246, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, MD 20850, 240–276–5460, *jfang@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project I (P01).

Date: February 9–10, 2021.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Rockville, MD 20850, 240–276–6611, *mukesh.kumar3@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Participant Engagement and Cancer Genome Sequencing Centers (PE–CGS).

Date: February 11, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Shakeel Ahmad, Ph.D., Chief, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850, 240–276–6442, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review II.

Date: February 16–17, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W634, Rockville, MD 20850, 240–276–5735, *mike.lindquist@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Glioblastoma Therapeutics Network.

Date: February 18–19, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, 7W608, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W608, Rockville, MD 20850, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Physical Sciences—Oncology Projects (PS–OP).

Date: February 24, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W114, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W114, Rockville, MD 20850, 240–276–6371, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Metastasis Research Network.

Date: February 25–26, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W612, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Shari Williams Campbell, DPM, MSHS, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W612, Rockville, MD 20850, 240–276–7381, *shari.campbell@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee I—Transition to Independence.

Date: February 24–25, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, MD 20850, 240–276–6456, *tangd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 10, 2020.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25279 Filed 11–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2020–0034]

Assistance to Firefighters Grant Program—COVID–19 Supplemental Round 2 (AFG–S 2)

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

ACTION: Notice of availability.

SUMMARY: On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (''CARES Act''). This bill provides $100 million for AFG–S to prevent, prepare for, and respond to coronavirus, domestically or internationally. Specifically, AFG–S funds shall be for the purchase of Personal Protective Equipment (PPE) and related supplies, including reimbursements for previously purchased PPE back to January 1, 2020. On May 12, 2020, FEMA published a Notice of availability announcing the application period for the Fiscal Year (FY) 2020 AFG–S Program which opened on April 28, 2020 and closed on May 15, 2020. By law, at least 25 percent of available AFG–S funds must be awarded to volunteer fire departments and at least another 25 percent must be awarded to combination fire departments. FEMA did not receive enough applications to award at least 25 percent of the available AFG–S funds to volunteer or combination fire departments under that initial application period. As a result, FEMA has opened a second application period for the remaining $31 million available. This second application—or AFG–S 2—is limited to volunteer and combination fire departments to fulfill this requirement. Volunteer and combination fire departments are eligible to apply in this round even if they had a successful application in the first round of AFG–S funding. However, such applications must support new or additional needs or capabilities. Departments that applied in the first round of AFG–S funding but were unsuccessful can reapply to be

considered for funding in this round. Applications from the first round of AFG–S funding will not automatically carry forward to this round for consideration. Pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, the Administrator of FEMA is publishing this notice describing the AFG–S 2 application process, deadlines, and award selection criteria. This notice explains the differences, if any, between these guidelines and those recommended by representatives of the national fire service leadership during a Criteria Development meeting, held April 20, 2020. The application period for the FY 2020 AFG–S Program opened on October 6, 2020, and closed on November 13, 2020, and was announced on the AFG website at *https://www.fema.gov/grants/preparedness/firefighters,* as well as at *http://www.grants.gov.*

DATES: Grant applications for AFG–S 2 will be accepted electronically at *https://go.fema.gov,* from October 6, 2020, at 8:00 a.m. Eastern Daylight Time through November 13, 2020, at 5 p.m. ET.

ADDRESSES: Assistance to Firefighters Grant Branch, DHS/FEMA, 400 C Street SW, 3N, Washington, DC 20472–3635.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Branch Chief, Assistance to Firefighters Grant Branch, 1–866–274–0960.

SUPPLEMENTARY INFORMATION: The FY 2020 AFG–S 2 is a modified supplemental funding opportunity under the Assistance to Firefighters Grant (AFG) Program. AFG is one of three grant programs that constitute DHS/FEMA's focus on enhancing the safety of the public and firefighters with respect to fire and fire-related hazards. AFG–S 2 accomplishes this by providing financial assistance directly to eligible volunteer and combination fire departments for critical PPE and supplies needed to prevent, prepare for and respond to the COVID–19 public health emergency. Applications for AFG–S 2 will be submitted and processed online at *https://go.fema.gov.* Before the application period started, the FY 2020 AFG–S 2 NOFO was published on the AFG website, which provides additional information and materials useful to applicants including Frequently Asked Questions. FEMA anticipates receiving 500 to 1,000 applications for AFG–S 2, and the ability to award approximately 500 grants.

Congressional Appropriations: Coronavirus Aid, Relief, and Economic Security (CARES) Act, Div. B (Pub. L. 116–136). The CARES Act provides an additional amount of Federal assistance through the AFG Program to prevent, prepare for, and respond to coronavirus, domestically or internationally. Accordingly, the amount provided shall be for the purchase of PPE and related supplies, including reimbursements.

Allocations and Restrictions of Available Grant Funds by Organization Type

Aggregate Cap: Awards are capped at 1 percent of the total available grant funds for the entire FY 2020 AFG–S, or $1 million. FEMA may waive this aggregate cap of $1 million in certain cases as described in the AFG–S 2 Notice of Funding Opportunity (NOFO) that is published on the AFG website.

Micro Grants: The selection of the voluntary Micro Grant option (cumulative Federal funding of $3,000) for eligible activities does not impact an applicant's request or Federal participation under regional projects. Applicants who select Micro Grants as a funding opportunity choice may still apply for a regional project. Further, at least $150,000 of the available funds will be allocated toward this applicant type.

Regional Projects: A regional application is an opportunity for a volunteer or combination fire department to act as a host and apply for funding on behalf of itself and any number of other participating AFG–S 2 eligible organizations. Fire Departments that serve as host regional applicants can apply on behalf of other eligible fire departments within the same application. Career fire departments are not eligible to apply under the Regional activity or be included in a Regional award. Regional activities should achieve cost effectiveness, support regional efficiency and resilience, and benefit more than one local jurisdiction (county, parish, town, township, city, or village) directly from the activities implemented with the grant funds.

Application Evaluation Criteria: Prior to making a grant award, FEMA is required by 31 U.S.C. 3321 note, 41 U.S.C. 2313, and 2 CFR part 200 to review information available through any Office of Management and Budget (OMB) designated repositories of government-wide eligibility qualification or financial integrity information. Therefore, application evaluation criteria may include the following risk-based considerations of the applicant: (1) Financial stability; (2) quality of management systems and ability to meet management standards; (3) history of performance in managing Federal awards; (4) reports and findings from audits; and (5) ability to effectively implement statutory, regulatory, or other requirements.

Funding priorities and criteria for evaluating AFG–S 2 applications are established by FEMA based on the recommendations from the Criteria Development Panel (CDP). CDP is composed of fire service professionals that make recommendations to FEMA regarding the creation of new or the modification of previously established funding priorities, as well as developing criteria for awarding grants. The content of the FY 2020 AFG–S 2 NOFO reflects implementation of CDP's recommendations with respect to the priorities and evaluation criteria for awards.

The nine major fire service organizations represented on the CDP are:

- International Association of Fire Chiefs;
- International Association of Fire Fighters;
- National Volunteer Fire Council;
- National Fire Protection Association;
- National Association of State Fire Marshals;
- International Association of Arson Investigators;
- International Society of Fire Service Instructors;
- North American Fire Training Directors; and
- Congressional Fire Service Institute.

Review and Selection Process

AFG–S 2 applications are reviewed through a multi-phase process. All applications are electronically pre-scored and ranked based on how well they align with the funding priorities outlined in the FY 2020 AFG–S 2 NOFO. Applications with the highest pre-score rankings are then scored competitively by (no less than three) members of the Peer Review Panel process. Applications will also be evaluated through a series of internal FEMA review processes for completeness, adherence to programmatic guidelines, technical feasibility, and anticipated effectiveness of the proposed project(s). Below is the process by which applications will be reviewed.

i. Pre-Scoring Process

The application undergoes an electronic pre-scoring process based on established program priorities listed within the FY 2020 AFG–S 2 NOFO and answers to activity-specific questions within the online application. Application narratives are not reviewed during pre-scoring. Request details and budget information should comply with program guidance and statutory funding limitations. The pre-score is 50 percent of the total application score.

ii. Peer Review Panel Process

Applications with the highest pre-score will undergo peer review. The peer review panel is comprised of fire service representatives recommended by CDP national organizations. The panelists assess the merits of each application based on the narrative section of the application, including the evaluation elements listed in the Narrative Evaluation Criteria below. Panelists will independently score each project within the application, discuss the merits and/or shortcomings of the application with his or her peers, and document the findings. A consensus is not required. The panel score is 50 percent of the total application score.

iii. Technical Evaluation Process

The highest ranked applications are considered within the fundable range. Applications that are in the fundable range undergo both a technical review by a subject matter expert, as well as a FEMA AFG Branch review prior to being recommended for an award. The FEMA AFG Branch will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending an application for award. During this review, priority for award will be given to applications that did not receive funding in the first round of AFG S application.

Once the technical evaluation process is complete, the cumulative score for each application will be determined and FEMA will generate a final application ranking. FEMA will award grants based on this final ranking and the statutorily required funding limitations listed in this notice and the FY 2020 AFG–S 2 NOFO.

Narrative Evaluation Criteria

1. Financial Need (25 Percent)

Applicants should describe their financial need and how consistent it is with the intent of the AFG–S 2 Program. This statement should include details describing the applicant's financial distress, such as summarized budget constraints, unsuccessful attempts to secure other funding, and proving that the financial distress is out of their control.

2. Project Description and Budget (25 Percent)

The Project Description and Budget statement should clearly explain the applicant's project objectives and its relationship to the applicant's budget and risk analysis. Applicants should link the proposed expenses to operations and safety, as well as to the completion of the project's goals. Applicants should describe how their current response capabilities are impacted by COVID–19 as well as the overall rate of COVID–19 in their community. Applicants can reference data supported by the Centers for Disease Control and Prevention (CDC) through referencing state level data from the website *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html.* This data will be considered when prioritizing funding.

3. Cost Benefit (25 Percent)

Applicants should describe how they plan to address the operations and personal safety needs of their organization, including cost effectiveness and sharing assets. This statement should also include details about gaining the maximum benefits from grant funding by citing reasonable or required costs, such as specific overhead and administrative costs. The applicant's request should also be consistent with their mission and identify how funding will benefit their organization and personnel.

4. Statement of Effect on Daily Operations (25 Percent)

The Statement of Effect on Operations should explain how this funding request will enhance an organization's overall effectiveness. It should address how an award will impact the daily operations and reduce an organization's risk(s). Applicants should include how frequently the requested item(s) will be used and in what capacity. Applicants should detail whether award funding will seek reimbursement of pre-award expenses related to the acquisition of eligible PPE, acquire PPE for immediate use, or acquire PPE resources to strengthen future response capabilities. Applicants will be evaluated on the current inventory of supplies, response usage of requested supplies, and anticipated future needs (*i.e.,* actual or anticipated burn rate percentage of PPE resources).

Eligible Applicants

Volunteer and Combination Fire Departments: Volunteer and Combination fire departments operating in any of the 50 States, as well as fire departments in the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally-recognized Indian Tribe or Tribal organization.

A fire department is an agency or organization having a formally recognized arrangement with a state, local, tribal or territorial authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a geographically fixed primary first due response area.

Combination Fire Department, as defined in 15 U.S.C. 2229, means a fire department that has paid firefighting personnel and volunteer firefighting personnel. Departments that pay fees or stipends to firefighting personnel for each event to which they respond (paid on call) are also considered under this category.

Volunteer Fire Department, as defined in 15 U.S.C. 2229, means a fire department that has an all-volunteer force of firefighting personnel.

Eligible Activities

Activities under this solicitation are limited to the purchase of PPE and supplies to prevent, prepare for, and respond to the COVID–19 public health emergency. This includes reimbursement for expenditures made since January 1, 2020.

Cost Sharing and Maintenance of Effort

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with applicable Federal regulations at 2 CFR part 200, but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA will contact potential awardees to determine whether the grant recipient has the funding in hand or if the grant recipient has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking a grant shall agree to make available non-Federal funds equal to not less than 15 percent of the grant awarded. However, the cost share will vary as follows based on the size of the population served by the organization, with exceptions to this general requirement for entities serving smaller communities:

- Applicants that serve populations of 20,000 or less shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded.
- Applicants serving areas with populations above 20,000, but not more than 1 million, shall agree to make available non-Federal funds in an

amount equal to not less than 10 percent of the grant awarded.

Cost share of non-Federal cash is the only allowable recipient contribution for AFG–S 2 activity. On a case-by-case basis, FEMA may allow recipients already owning assets acquired with non-Federal cash, to use the trade-in allowance/credit value of those assets as cash for the purpose of meeting the cost-share obligation.

For FEMA to consider a trade-in allowance/credit value as cash, the allowance amount must be reasonable, and the allowance amount must be a separate entity clearly identified in the acquisition documents.

In-kind cost share is not allowable for AFG–S 2.

In cases of demonstrated economic hardship, and at the request of the grant recipient, the Administrator of FEMA may waive or reduce certain recipients' AFG–S 2 cost-share requirement or maintenance of expenditure requirement. FY 2020 AFG–S 2 applicants must indicate at the time of application whether they are requesting a waiver and whether the waiver is for the cost-share requirement, maintenance of effort requirement, or both. The FEMA Administrator is required by statute to establish guidelines for determining what constitutes economic hardship. FEMA has published these guidelines at *https://www.fema.gov/media-library-data/1518026897046-483d76a37022b8a581ffb7d42fa9b17e/Eco_Hardship_Waiver_FPS_SAFER_AFG_IB_FINAL.pdf*.

Before the start of the FY 2020 AFG–S 2 application period, FEMA conducted applicant workshops/internet webinars to inform potential applicants AFG–S 2. In addition, FEMA provided applicants with information at the AFG website: *https://www.fema.gov/welcome-assistance-firefighters-grant-program* to help them prepare quality grant applications. The AFG Help Desk is staffed throughout the application period to assist applicants with the automated application process as well as assistance with any questions.

Applicants can reach the AFG Help Desk through a toll-free telephone number during normal business hours (1–866–274–0960) or electronic mail (*firegrants@fema.dhs.gov*).

Application Process

Organizations may submit one application per application period in each of the three AFG program activities (*e.g.,* one application for Operations and Safety, and/or a separate application to be a Joint/Regional Project host). If an organization submits more than one application for any single AFG program activity (*e.g.,* two applications for Operations and Safety, two for Joint/Regional Project, etc.), either intentionally or unintentionally, both applications may be disqualified.

Applicants can access the grant application electronically at *https://portal.fema.gov.* The application is also accessible from the U.S. Fire Administration's website *http://www.usfa.fema.gov* and *http://www.grants.gov.* New applicants must register and establish a username and password for secure access to the grant application. Previous AFG grant applicants must use their previously established username and passwords.

Applicants must answer questions about their grant request that reflect the AFG–S 2 funding priorities described above. In addition, each applicant must complete a separate narrative for each project or grant activity requested. Grant applicants will also provide relevant information about their organization's characteristics, call volume, and existing organizational capabilities.

System for Award Management (SAM)

Per 2 CFR part 25, all Federal grant applicants and recipients must register in *https://SAM.gov.* SAM is the Federal Government's System for Awards Management, and registration is free of charge. Applicants must maintain current information in SAM that is consistent with the data provided in their AFG–S 2 grant application and in the Dun & Bradstreet (DUNS) database. FEMA may not accept any application, process any awards, and consider any payment or amendment requests, unless the applicant or grant recipient has complied with the requirements to provide a valid DUNS number and an active SAM registration. The grant applicant's banking information, EIN, organization/entity name, address, and DUNS number must match the same information provided in SAM. Further guidance is provided in the FY 2020 AFG–S 2 NOFO.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–25330 Filed 11–16–20; 8:45 am]

BILLING CODE 9111–64–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0099]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for T Nonimmigrant Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 19, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0099 in the body of the letter, the agency name and Docket ID USCIS–2006–0059. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0059. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments:

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0059 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for T Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–914; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Federal Government; or State, local or Tribal Government. The information on all three parts of the form will be used to determine whether applicants meet the eligibility requirements for benefits. This application incorporates information pertinent to eligibility under the Victims of Trafficking and Violence Protection Act (VTVPA), Public Law 106–386, and a request for employment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–914 is 1,310 and the estimated hour burden per response is 2.96 hours. The estimated total number of respondents for the information collection I–914A is 1,120 and the estimated hour burden per response is 1.42 hour. The estimated total number of respondents for the information collection I–914B is 459 and the estimated hour burden per response is 3.58 hours. The estimated total number of respondents for the information collection I–914B Declaration is 459 and the estimated hour burden per response is 0.25 hour. The estimated total number of respondents for the information collection of biometrics is 2,430 and the estimated hour burden per response is 1.17 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 10,071 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,532,300.

Dated: November 10, 2020.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020–25265 Filed 11–16–20; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7029–N–10]

60-Day Notice of Proposed Information Collection: Implementation Evaluation of EnVision Centers

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* January 19, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Implementation Evaluation of EnVision Centers.

OMB Approval Number: Pending.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: This request is for the collection of information for an implementation evaluation of EnVision Centers. EnVision Centers offer collocated and integrated services with the goal of helping low-income persons achieve self-sufficiency. Using leveraged resources from local and federal partnerships, HUD encourages EnVision

Centers to target and integrate services within four main pillars: Economic empowerment, educational advancement, health and wellness, and character and leadership. In June 2018, HUD designated 18 EnVision Centers as part of the initiative's first cohort of designations and has since expanded the initiative with three additional cohorts—a total of over 40 designated EnVision Centers. This new and rapidly growing initiative creates a critical need to gain an in-depth understanding from local stakeholders of implementation efforts to date, which will help develop and guide the initiative while establishing a framework of knowledge for future program monitoring and evaluation efforts. The evaluation team will collect data from sites using qualitative, semi-structured interviews with four groups of key local stakeholders: Site leadership, front line staff, participants, and representatives from organizations (partners) that provide services and resources to the EnVision Center. The interviews will primarily seek to understand how communities selected and established their center, the process for centralized intake and participant level data collection, and how new partnerships and services have developed since the center's designation. Through an Inter-Agency Agreement (IAA), the Library of Congress' Federal Research Division will conduct the evaluation under guidance from HUD.

Respondents: This evaluation will conduct qualitative, semi-structured interviews with four groups of respondents: Leadership, front line staff, participants, and partners. 18 EnVision Center sites will be selected for interviews. Leadership will include community executives (from Public Housing Authorities, local government, non-profits, etc.) who were involved with early planning efforts that led the community to apply for EnVision Center designation, and persons involved with managing the daily operations of the center. Front line staff will include onsite service coordinators, intake workers, and case managers who are involved with the intake and triaging of services or work directly with connecting participants to services at the EnVision Center. Participants will include persons who were offered or have received services or assistance at the EnVision Center. Partners will be representatives from organizations (such as service providers, faith-based entities, or philanthropic organizations) that provide services and resources at the EnVision Center.

Estimated Number of Respondents: A total of about 270 respondents for the semi-structured interviews, with about 15 respondents for each site.

Estimated Time per Response: We expect each qualitative interview to last about 1 hour.

Frequency of Response: 1 time.

Estimated Total Annual Burden Hours: 270 burden hours for the qualitative interviews.

Estimated Total Annual Cost: $5,372 for the qualitative interviews.

Respondent's Obligation: Voluntary.

Legal Authority: The interviews will be conducted under Title 12, United States Code, Section 1701z and Section 3507 of the Paperwork Reduction Act of 1995, 44, U.S.C., 35, as amended.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response [1]	Cost
Qualitative Interviews—Leadership	90	1	1	1	90	$35.05	$3,154.50
Qualitative Interviews—Front Line Staff	54	1	1	1	54	17.39	939.06
Qualitative Interviews—Participants	90	1	1	1	90	7.25	652.50
Qualitative Interviews—Partners	36	1	1	1	36	17.39	626.04
Total	270				270		5,372.10

[1] Hourly costs for leadership, front line staff, and partners based on the Occupational Employment Statistics: *https://www.bls.gov/oes/current/naics4_624200.htm#21-0000*. Hourly cost for participants based on the Federal Minimum Wage: *https://www.dol.gov/general/topic/wages/minimumwage.*

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35. The Assistant Secretary for Policy Development and Research, Seth Appleton, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Nacheshia Foxx,

Federal Liaison for the Department of Housing and Urban Development.

[FR Doc. 2020–25323 Filed 11–16–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[19X.LLAK930000.L13100000.EI0000.241A]

Call for Nominations and Comments for the Coastal Plain Alaska Oil and Gas Lease Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Alaska State Office is issuing a call for nominations and comments on the lease tracts considered for the upcoming Coastal Plain (CP) Oil and Gas Lease Sale.

DATES: BLM Alaska must receive all nominations and comments on these tracts on or before December 17, 2020.

ADDRESSES: Mail nominations and/or comments to: State Director, Bureau of Land Management, Alaska State Office, 222 West 7th Avenue, Mailstop 13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, BLM Alaska Energy and Minerals Branch Chief, 907–271–4407. People who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 3131.2, the BLM is issuing this call for nominations and comments on tracts within the Coastal Plain (CP) of the Arctic National Wildlife Refuge that may be offered for lease in the upcoming CP Oil and Gas Lease Sale. The BLM also requests comments on tracts which should receive special concern and analysis as well as the size of the tracts and, specifically, whether the sizes of any tracts should be reduced.

BLM will protect privileged or proprietary information in nominations in accordance with the Freedom of Information Act (FOIA) requirements. To avoid inadvertent release of such information, all documents and every page containing such information should be marked with ''Confidential—Contains Proprietary Information.'' To the extent a document contains a mix of proprietary and nonproprietary information, the document should be clearly marked to indicate which portion of the document is proprietary and which is not. Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential. BLM considers nominations of specific tracts to be proprietary, and therefore BLM will not release information that identifies any particular nomination or any particular submitting party, so as not to compromise the competitive position of any participants in the process of indicating interest.

However, BLM's practice is to make all *comments,* including the names and addresses of individuals, available for public inspection. Before including your address, phone number, email address, or other personal identifying information in your comments, 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.

A Coastal Plain map showing the tracts considered for leasing is online at *https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/alaska*. Tract number 29 covers the disputed Staines-Canning River area. It is currently under litigation with the State of Alaska. The BLM may elect to not offer this tract in the upcoming sale.

To describe the tract(s) you are nominating for leasing or providing comments on, please use the tract number(s) on the referenced Coastal Plain map available at *https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/alaska*.

Chad B. Padgett,

State Director, Alaska.

[FR Doc. 2020–25316 Filed 11–16–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–MISP–NPS0030380; PPSESEROC3.PPMPSAS1Y.YP0000]

Mill Springs Battlefield National Monument

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: As authorized by the John D. Dingell, Jr. Conservation, Management, and Recreation Act, the National Park Service announces that the Secretary of the Interior (Secretary) has established, in the Commonwealth of Kentucky, Mill Springs Battlefield National Monument as a unit of the National Park System.

FOR FURTHER INFORMATION CONTACT: Karen Cucurullo, Deputy Regional Director, National Park Service, South Atlantic Gulf Regional Office at (404) 507–5611.

SUPPLEMENTARY INFORMATION: Section 2302 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act, Public Law 116–9, includes a specific provision relating to establishment of this unit of the National Park System. To establish the national monument, the Secretary must determine that a sufficient quantity of land, or interests in land, has been acquired to constitute a manageable park unit and must publish notice of the establishment of the national monument in the **Federal Register**.

Fought on January 19, 1862, the Battle of Mill Springs is considered one of the earliest major victories for the Union Army on the field of battle during the Civil War. The National Park Service acquired by general warranty deed the fee simple interests in the approximately one-acre Zollicoffer Park on March 6, 2020. Zollicoffer Park is located within the center of the core battlefield area and includes the area of direct engagement between Union and Confederate forces during the Battle of Mill Springs. The National Park Service acquired by general warranty deed the fee simple interests in an approximately 17-acre parcel that includes the Mill Springs Visitor Center/Museum and adjacent parking area on March 24, 2020. The Visitor Center/Museum is currently open to the public and includes artifacts found on the battlefield, interpretive displays, a library, administrative offices, gift shop, and theater room. It is also at this location that visitors begin their visit to Mill Springs Battlefield by following a self-guided automobile tour throughout the battlefield landscape.

On September 22, 2020, the Secretary of the Interior signed a Decision Memorandum determining that a sufficient quantity of land, or interests in land, had been acquired to constitute a manageable park unit. With the signing of this Decision Memorandum by the Secretary, the site to be known as the ''Mill Springs Battlefield National Monument'' was established as a unit of the National Park System, effective September 22, 2020, and is subject to all laws, regulations, and policies pertaining to such units.

Margaret Everson,

Counselor to the Secretary, Exercising the Delegated Authority of the Director, National Park Service.

[FR Doc. 2020–25343 Filed 11–16–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 1205–13]

Recommended Modifications in the Harmonized Tariff Schedule, 2020

AGENCY: U.S. International Trade Commission.

ACTION: Notice of proposed recommendations and solicitation of public comments.

SUMMARY: On October 1, 2019, the U.S. International Trade Commission (Commission) instituted Investigation No. 1205–13, *Recommended Modifications in the Harmonized Tariff Schedule, 2020.* The Commission's proposed recommendations relating to Investigation No. 1205–13 have been posted on the Commission website. Interested Federal agencies and the public are invited to submit written comments on the proposed recommendations by December 14, 2020.

DATES:

November 16, 2020: Posting of the Commission's proposed recommendations on the Commission's website.

December 14, 2020: Interested Federal agencies and the public may file written views with the Commission on the Commission's proposed recommendations.

March 2021 (actual date to be announced later): Transmittal of the Commission's report to the President.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel P. Shepherdson, Attorney-Advisor, Office of Tariff Affairs and Trade Agreements ((202) 205–2598, or *Daniel.Shepherdson@usitc.gov*) or Vanessa Lee, Nomenclature Analyst, Office of Tariff Affairs and Trade Agreements ((202) 205–2053, or *Vanessa.Lee@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations ((202) 205–1819, or *Margaret.OLaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information about the Commission is available by accessing the Commission website at *https://www.usitc.gov/.* 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.

Background: Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3005(a)) requires that the Commission keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and periodically recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate to conform the HTS with amendments made to the International Convention on the Harmonized Commodity Description and Coding System (Convention), which contains the Harmonized System nomenclature in the Annex to the Convention.

On June 28, 2019, the World Customs Organization (WCO) adopted recommended amendments to the Harmonized System nomenclature that are scheduled to enter into force on January 1, 2022. The Commission has posted a copy of the WCO amendments on its website at *https://usitc.gov/harmonized_tariff_information.* On October 1, 2019, the Commission instituted Investigation No. 1205–13 to prepare such modifications in the HTS as it considers necessary or appropriate to conform the HTS with such amendments to the Harmonized System.

As part of this investigation, the Commission will also consider whether it is necessary or appropriate to recommend a modification to the HTS nomenclature for blanched peanuts to conform the HTS with a 2018 opinion of the WCO's Harmonized System Committee, which classified certain blanched peanuts in heading 1202 of the Harmonized System. Prior to the WCO opinion, Customs and Border Protection (CBP) has classified blanched peanuts in heading 2008 based in part on an HTS subheading in chapter 20 that provided for blanched peanuts.

An up-to-date copy of the HTS, which incorporates the Harmonized System in its overall structure, is available on the Commission's website at *https://hts.usitc.gov/current.*

Proposed Recommendations, Opportunity To Comment: The Commission's proposed recommendations relating to Investigation No. 1205–13 have been posted on the Commission website at *https://www.usitc.gov.* Interested Federal agencies and the public are invited to submit written comments on the proposed recommendations by December 14, 2020. To assist the public in understanding the proposed changes and in developing comments, the Commission has included, with the proposed recommendations, a non-authoritative concordance tables linking the proposed tariff codes to the corresponding current tariff codes. Persons using the concordance tables should be aware that the cross-references shown are subject to change during the course of the investigation.

Written Submissions: Interested Federal agencies and the public are invited to file written submissions concerning the proposed recommendations. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., December 14, 2020. All written submissions must conform with the provisions of § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline. Submissions should refer to the docket number (''Docket No. 1205–013'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the President and the U.S. Trade Representative. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Recommendations to the President: After considering written public comments, the Commission will submit its recommended modifications to the

President in the form of a report that will include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also will include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties. The Commission expects to submit that report in March 2021.

By order of the Commission.

Issued: November 12, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–25305 Filed 11–16–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the Federal Bureau of Investigation's (FBI) Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA). This meeting announcement is being published as required by Section 10 of the FACA.

DATES: The APB will meet in open session from 10:00 a.m. until 3:00 p.m. on December 2, 2020 and 10:00 a.m. until 3:00 p.m. on December 3, 2020.

ADDRESSES: Due to COVID–19, the meeting will be held virtually. The public will be permitted to provide comments and/or questions related to matters of the APB prior to the meeting. The first 75 people to register will be permitted to access the meeting virtually. Additional individuals who register may participate in a listen-only mode via a phone bridge. Please see details in the supplemental information.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Amber M. Mann, Management and Program Analyst, Advisory Process Management Office, Global Law Enforcement Support Section; 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; email *agmu@leo.gov,* telephone 304–625–7383.

SUPPLEMENTARY INFORMATION: The FBI CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Law Enforcement Enterprise Portal, National Crime Information Center, Next Generation Identification, National Instant Criminal Background Check System, National Data Exchange System, and Uniform Crime Reporting.

The meeting will be conducted virtually. The public may participate as follows: Public registrations will be processed on a first-come, first-served basis. The first 75 individuals to register will be provided a link to access the meeting via SKYPE. Any additional registrants will be provided with a phone bridge number to participate in a listen-only mode.

Registrations will be taken via email to *AGMU@leo.gov.* Individuals must provide their name, city, state, phone, and email address. Information regarding the SKYPE invitation and phone access will be provided prior to the meeting to all registered individuals. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Designated Federal Officer (DFO).

Any member of the public may file a written statement with the APB. Written comments shall be focused on the APB's current issues under discussion and may not be repetitive of previously submitted written statements. Written comments should be provided to Mr. Nicky J. Megna, DFO, at least seven (7) days in advance of the meeting so the comments may be made available to the APB members for their consideration prior to the meeting.

Individuals requiring special accommodations should contact Mr. Megna by no later than November 23, 2020. Personal registration information will be made publicly available through the minutes for the meeting published on the FACA website.

Nicky J. Megna,

CJIS Designated Federal Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2020–25259 Filed 11–16–20; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities: Comment Request; Information Collections: Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning the revision to Office of Management and Budget (OMB) approval of the Information Collections: Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 19, 2021.

ADDRESSES: You may submit comments, identified by Control Number 1235–0016, by either one of the following methods:

Email: WHDPRAComments@dol.gov.

Mail, Hand Delivery, Courier: Regulatory Analysis Branch, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20001.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20001; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) provides that no person shall engage in any farm labor contracting activity for any money or valuable consideration paid or promised to be paid, unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. *See* 29 U.S.C. 1802(7), 1811(a); 29 CFR 500.1(c), 500.20(i), 500.40. MSPA also provides that a Farm Labor Contractor (FLC) shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration as a FLC or a certificate of registration as a Farm Labor Contractor Employee (FLCE) of the FLC that authorizes the activity for which such individual is hired, employed or used. 29 U.S.C. 1811(b); 29 CFR 500.1(c). Form WH–530 is an application used to obtain a FLC or FLCE certificate of registration. The Department proposes to revise form WH–530 by dividing it into three separate forms, two of which are new forms (WH–535 and WH–540), serving separate purposes. Additionally, the Department proposes to develop electronic forms mirroring the revised and new paper forms so that applications may be submitted online for WH–530, WH–535, and WH–540.

MSPA section 401 (29 U.S.C. 1841) requires, subject to certain exceptions, all FLCs, agricultural employers, and agricultural associations to ensure that any vehicle they use or cause to be used to transport or drive any migrant or seasonal agricultural worker conforms to safety and health standards prescribed by the Secretary of Labor under the MSPA and with other applicable federal and state safety standards. These MSPA safety standards address the vehicle, driver, and insurance. The Wage and Hour Division (WHD) has created forms WH–514, WH–514a, and WH–515, which allow FLC applicants to verify to the WHD that the vehicles used to transport migrant/seasonal agricultural workers meet the MSPA vehicle safety standards and that anyone who drives such workers meets the Act's minimum physical requirements. The WHD uses the information collected on the forms in deciding whether to authorize the FLC/FLCE applicant to transport/drive any migrant/seasonal agricultural worker(s) or to cause such transportation. Form WH–514 is used to verify that any vehicle used or caused to be used to transport any migrant/seasonal agricultural worker(s) meets the Department of Transportation (DOT) safety standards. When the adopted DOT rules do not apply, FLC applicants seeking authorization to transport any migrant/seasonal agricultural workers use form WH–514a to verify that the vehicles meet the DOL safety standards. The form is complete when the applicant lists identifying vehicle information and an independent mechanic attests that the vehicle meets the required safety standards. Form WH–515 is a doctor's certificate used to document that a motor vehicle driver or operator meets the minimum DOT physical requirements that the DOL has adopted.

II. Review Focus

The DOL is particularly interested in comments that:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* enhance the quality, utility, and clarity of the information to be collected; and
* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The DOL seeks to revise the information collection requests for the Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration.

Type of Review: Revision.

Agency: Wage and Hour Division.

Titles: Application for a Farm Labor Contractor or a Farm Labor Contractor Employee Certificate of Registration.

OMB Control Number: 1235–0016.

Agency Numbers: Forms WH–514, WH–514a, WH–515, WH–530, WH–540, WH–535.

Affected Public: Businesses or other for-profits, Farms.

Total Estimated Respondents: 27,632.

Total Annual responses: 34,672.

Estimated Total Burden Hours: 13,304.

Estimated Time per Response: 5 minutes for the vehicle mechanical inspection reports (WH–514 or WH–514a) and 20 minutes for MSPA Doctor's Certification (WH–515) and 30 minutes for the Farm Labor Contractor and the FLCE Applications (WH–530 and WH–535) and 15 minutes for the Application Amendment (WH–540).

Frequency: On Occasion, but no more often than annual.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $988,006.79.

Dated: November 11, 2020.

Amy DeBisschop,

Director, Division of Regulations, Legislation, & Interpretation.

[FR Doc. 2020–25249 Filed 11–16–20; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, November 19, 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, Share Insurance Fund Quarterly Report.

2. Board Briefing, State of Credit Union Diversity and the 2019 Credit Diversity Self-Assessment.

3. Board Briefing, 2020 Budget Update and Reprogramming.

4. NCUA Rules and Regulations, Capitalization of Interest.

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. 2020–25363 Filed 11–13–20; 11:15 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

STEM Education Advisory Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: STEM Education Advisory Panel (#2624).

Date and Time: December 11, 2020; 11:00 a.m.–5:30 p.m.

Place: Virtual meeting sponsored by the National Science Foundation, Directorate for Education and Human Resources, 2415 Eisenhower Avenue, Alexandria, VA 22314.

All participants must register at least 48 hours before the meeting. To attend this virtual meeting in listen-in only mode, send your request to *stemedadvisory@nsf.gov.* The final meeting agenda will be posted to: *https://www.nsf.gov/ehr/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Keaven Stevenson, Directorate Administrative Coordinator, Room C11001, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Contact Information: 703–292–8600/*kstevens@nsf.gov.*

Summary of Minutes: Agenda and Minutes will be available on the STEM Education Advisory Panel website at *https://nsf.gov/ehr/STEMEdAdvisory.jsp* or can be obtained from Dr. Nafeesa Owens, National Science Foundation, 2415 Eisenhower Avenue, Room C11000, Alexandria, VA 22314; (703) 292–8600/*stemedadvisory@nsf.gov.*

Purpose of Meeting: To provide advice to the Committee on Science, Technology, Engineering, and Mathematics Education (CoSTEM) and to assess CoSTEM's progress.

Agenda

- Welcoming Remarks
- FC–STEM and Tiger Teams
- Interagency Working Groups
- CoSTEM Activities
- STEM Education Advisory Panel Subcommittees
- Closing Remarks

Dated: November 12, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–25290 Filed 11–16–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Division of Physics (1208)—Joint Institute for Laboratory Astrophysics (JILA) (Virtual).

Date and Time: December 14, 2020 8:30 a.m.–4:40 p.m.

December 15, 2020 9:00 a.m.–4:00 p.m.

December 16, 2020 9:00 a.m.–1:00 p.m.

Place: University of Colorado-Boulder, 440 UCB, Boulder, CO 80309 (Virtual).

Type of Meeting: Part-open.

Contact Persons: James Shank, Program Director for Physics Frontier Centers, Division of Physics, National Science Foundation, 2415 Eisenhower Avenue, Room W9214, Alexandria, VA 22314; Telephone: (703) 292–4516.

Purpose of Meeting: Virtual site visit to provide an evaluation of the progress of the projects at the host site for the Division of Physics at the National Science Foundation.

Agenda

December 14, 2020; 8:30 a.m.–4:40 p.m.

08:30 a.m.–10:15 a.m. Directors Overview & Science Talks—Session 1
10:15 a.m.–11:15 a.m. Lunch
11:15 a.m.–02:40 p.m. Science Talks—Session 2
02:40 p.m.–03:40 p.m. Executive Session (CLOSED)
Questions delivered to PIs
03:40 p.m.–04:40 p.m. Poster Session

December 15, 2020; 9:00 a.m.–4:00 p.m.

09:00 a.m.–11:00 a.m. Education/Outreach/Diversity
11:00 a.m.–12:00 p.m. Lunch
12:00 p.m.–12:30 p.m. University Administrators
12:30 p.m.–01:30 p.m. Directors Conclusion and Plans for Coming Year
02:00 p.m.–03:30 p.m. Executive Session (CLOSED)
03:30 p.m.–04:00 p.m. Questions delivered to PIs

December 16, 2020; 9:00 a.m.–1:00 p.m.

09:00 a.m.–10:00 a.m. Responses to Questions
10:00 a.m.–01:00 p.m. Panel Discussion of Report

Reason for Closing: Topics to be discussed and evaluated during closed portions of the virtual site review will include information of a proprietary or confidential nature, including technical information and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 12, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–25318 Filed 11–16–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m., Tuesday, December 1, 2020.

PLACE: Virtual.

STATUS: The one item may be viewed by the public through webcast only.

MATTERS TO BE CONSIDERED:

65308 Investigation Report—*Collision Between Pickup Truck with Trailer and Group of Motorcycles, Randolph, New Hampshire, June 21, 2019* (HWY19MH010)

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 590–8384 or by email at *bingc@ntsb.gov.*

Media Information Contact: Peter Knudson by email at *peter.knudson@ntsb.gov* or at (202) 314–6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a link under ''Webcast of Events'' on the NTSB home page at *www.ntsb.gov.*

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID–19). Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: Friday, November 13, 2020.

LaSean R. McCray,

Assistant Federal Register Liaison Officer.

[FR Doc. 2020–25427 Filed 11–13–20; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–17; NRC–2020–0238]

Portland General Electric Company; Trojan Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment request from Portland General Electric Company (PGE) to amend License No. SNM–2509 for the Trojan Independent Spent Fuel Storage Installation (ISFSI), located in Columbia County, Oregon. The amendment would revise the safety analysis report (SAR) description of the licensee's evaluation of explosion accident events. As part of its review, the NRC performed an environmental assessment (EA) of the proposed action. The NRC concluded that the proposed action would have no significant environmental impact. Accordingly, the NRC staff is issuing a finding of no significant impact (FONSI) associated with the proposed amendment.

DATES: The EA and FONSI referenced in this document became available on November 16, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0238 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2020–0238. Address questions about Docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at *PDR.Resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–6877; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In August 2012, the U.S. Army Corps of Engineers installed an anchor buoy for a new Prescott Anchorage Area on the Columbia River just outside the Trojan ISFSI Controlled Area Boundary. During a 2015 inspection, an NRC inspector questioned if the supporting analyses for Trojan Final Safety Analysis Report (FSAR) Sections 2.2.3.1 ''Explosions'' and Section 8.2.8 ''Explosions of Chemicals, Flammable Gasses, and Munitions'' remained bounding due to the new anchorage. To address this issue, PGE reviewed the Trojan FSAR explosion event evaluation description, and concluded that certain statements pertaining to the deterministic evaluation of the design basis explosion event could not be confirmed. Therefore, PGE commissioned a comprehensive new evaluation of potential impacts on the Trojan ISFSI due to explosion events from both rail and waterborne vessel traffic. The evaluation also accounted for waterborne vessels periodically moored at the new Prescott Anchorage Area.

PGE submitted a license amendment application to update the Trojan FSAR evaluation of explosion accident events originating from cargo transported by rail and waterborne vessels that could potentially affect the ISFSI and requested NRC approval of the subject FSAR change. The NRC is reviewing the amendment request from PGE dated March 10, 2020 (ADAMS Package Accession No. ML20083G798).

II. Environmental Assessment Summary

Under the requirements of sections 51.21 and 51.30(a) of title10 of the *Code of Federal Regulations* (10 CFR), the NRC staff developed an EA (ADAMS Accession No. ML20287A234) to evaluate the proposed action, which is for the NRC to approve the PGE amendment request to revise the SAR description of the licensee's evaluation of explosion accident events.

The EA defines the NRC's proposed action (*i.e.,* to approve the amendment request) as well as the purpose of and the need for the proposed action. The EA evaluates the potential environmental impacts of approving the amendment to update the Trojan FSAR evaluation of explosion accident events originating from cargo transported by rail and waterborne vessels that could potentially affect the ISFSI. The EA also provides the NRC's conclusion.

The NRC staff finds that the environmental effects from this amendment request are bounded by the environmental impacts discussed in the June 26, 2019 EA for renewal of the Trojan ISFSI license. That EA found that continued operation of the Trojan ISFSI for an additional 40 years will not significantly affect the quality of the environment (ML19058A264). The NRC staff finds that the environmental impacts from PGE's amendment request are bounded by the previous EA for the following reasons. First, PGE's requested amendment involves no changes to the ISFSI design or operation. Second, the SAR revision is limited to adding a more comprehensive evaluation of offsite explosion events. Third, the evaluation results remain the same. The new evaluation concludes, consistent with the prior evaluation, that offsite explosions would not have radiological consequences.

Because the evaluation results, the ISFSI design, and the ISFSI operation remain unchanged, the proposed action does not change the types or quantities of effluents that may be released offsite, and it does not increase occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. There is no change to non-radiological effluents because the proposed action only requires revising the FSAR and does not have other environmental impacts. Thus, the proposed action will not have a significant effect on the quality of the human environment and the environmental impacts of the proposed action are no greater than those described in the EA for renewal of SNM–2509.

Agencies and Persons Consulted

The NRC provided the Oregon Health Authority a draft copy of the EA for review in an email dated August 27, 2020 (ADAMS Accession No. ML20244A153). The NRC staff has determined that this amendment would have no impact on historic and cultural resources or ecological resources. Consequently, no consultations are necessary under Section 106 of the National Historic Preservation Act or Section 7 of the Endangered Species Act.

III. Finding of No Significant Impact

Based on its review of the proposed action in the EA, in accordance with the requirements in 10 CFR part 51, the NRC staff has concluded that the proposed action, approval of the requested amendment, will not significantly impact the quality of the human environment, as the environmental impacts are bounded by the previous EA for renewal of SNM–2509.

Therefore, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a FONSI is appropriate.

Dated: November 12, 2020.

For the Nuclear Regulatory Commission.

John B. McKirgan,

Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–25297 Filed 11–16–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0233]

Report on Waste Burial Charges

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft report entitled, NUREG–1307, Revision 18, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' This report, which is revised periodically, explains the formula acceptable to the NRC for determining the minimum decommissioning fund requirements for nuclear power reactor licensees, as required by NRC regulations. Specifically, this report provides the adjustment factor and updates the values for the labor, energy, and waste burial escalation factors of the minimum formula.

DATES: Submit comments by December 17, 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; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0233. Address questions about Docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Emil Tabakov, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6814, email: *Emil.Tabakov@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0233 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0233.
- *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.* NUREG–1307, Revision 18, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities, is available in ADAMS under Accession No. ML20296A391.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *PDR.Resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0233 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

Pursuant to section 50.75 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Reporting and Recordkeeping for Decommissioning Planning,'' the NRC requires nuclear power reactor licensees to adjust annually, in current year dollars, their estimate of the cost to decommission their plants. The annual updates are part of the process for providing reasonable assurance that adequate funds for decommissioning will be available when needed.

Revision 18 of NUREG–1307, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' modifies the previous revision to this report issued in February 2019 (ADAMS Accession No. ML19037A405) and incorporates updates to the adjustment factor and to the labor, energy, and waste burial escalation factors of the NRC minimum decommissioning fund formula. Due to modest pricing changes in low-level waste burial charges at the nation's four low-level waste disposal facilities, the minimum decommissioning fund formula amounts calculated by licensees, based on revised low-level waste burial factors presented in this report, will likely reflect minimum decommissioning fund requirements that are similar, on average, to those previously reported by licensees in 2019.

Dated: November 12, 2020.

For the Nuclear Regulatory Commission.

Kevin A. Coyne,

Deputy Director, Division of Rulemaking, Environment, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–25324 Filed 11–16–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0139]

Information Collection: Disposal of High-Level Radioactive Waste in a Geologic Repository at Yucca Mountain, Nevada

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, ''Disposal of High-Level Radioactive Waste in a Geologic Repository at Yucca Mountain, Nevada.''

DATES: Submit comments by December 17, 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–2020–0139 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0139.

• *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 is available in ADAMS under Accession No. ML20272A211.

• *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at *PDR.Resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

• *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

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0139 in your comment submission.

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 request for renewal of an existing collection of information to OMB for review entitled, ''Disposal of High-Level Radioactive Waste in a Geologic Repository at Yucca Mountain, Nevada.'' 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 16, 2020, (85 FR 36427).

1. *The title of the information collection:* Part 63 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Disposal of High-Level Radioactive Waste in a Geologic Repository at Yucca Mountain, Nevada.''

2. *OMB approval number:* 3150–0139.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* One time.

6. *Who will be required or asked to respond:* The State of Nevada, local governments, or affected Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of the potential high-level waste geologic repository site, or wishing to participate in a license application review for the potential geologic repository.

7. *The estimated number of annual responses:* 12.

8. *The estimated number of annual respondents:* 12.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 1,452.

10. *Abstract:* 10 CFR part 63, requires the State of Nevada, local governments, or affected Indian Tribes to submit information to the NRC that describes their request for any consultation with the NRC staff concerning review of the potential repository site, or NRC's facilitation for their participation in a license application review for the potential repository. Representatives of

the State of Nevada, local governments, or affected Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the State of Nevada, local governments, or affected Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of the NRC staff resources to the consultation and participation efforts.

Dated: November 12, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–25337 Filed 11–16–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of November 16, 23, 30, December 7, 14, 21, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of November 16, 2020

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/.*

Week of November 23, 2020—Tentative

There are no meetings scheduled for the week of November 23, 2020.

Week of November 30, 2020—Tentative

Friday, December 4, 2020

10:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (Public Meeting); (Contact: Larry Burkhart: 301–287–3775)

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 December 7, 2020—Tentative

There are no meetings scheduled for the week of December 7, 2020.

Week of December 14, 2020—Tentative

There are no meetings scheduled for the week of December 14, 2020.

Week of December 21, 2020—Tentative

There are no meetings scheduled for the week of December 21, 2020.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, (301–415–1969), or by email at *Tyesha.Bush@nrc.gov* or *Marcia.Pringle@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: November 13, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–25419 Filed 11–13–20; 11:15 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form CB; [SEC File No. 270–457, OMB Control No. 3235–0518]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form CB (17 CFR 239.800) is a document filed in connection with a tender offer for a foreign private issuer. This form is used to report an issuer tender offer conducted in compliance with Exchange Act Rule 13e–4(h)(8) (17 CFR 240.13e–4(h)(8)), a third-party tender offer conducted in compliance with Exchange Act Rule 14d–1(c) (17 CFR 240.14d–1(c)) and a going private transaction conducted in accordance with Rule 13e–3(g)(6) (17 CFR 240.13e–3(g)(6)). Form CB is also used by a subject company pursuant to Exchange Act Rule 14e–2(d) (17 CFR 240.14e–2(d)). This information is made available to the public. Information provided on Form CB is mandatory. Form CB takes approximately 0.5 hours per response to prepare and is filed by approximately 111 respondents annually. We estimate that 25% of the 0.5 hours per response (0.125 hours) is prepared by the respondent for an annual reporting burden of 14 hours (0.125 hours per response $\times$ 111 responses).

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 control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: November 10, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25256 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90390; File No. SR–NASDAQ–2020–076]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize Exchange Rules 1015, 9261, 9524 and 9830 With Recent Changes by the Financial Industry Regulatory Authority, Inc.

November 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to harmonize Exchange Rules 1015, 9261, 9524 and 9830 with recent changes by the Financial Industry Regulatory Authority, Inc. (''FINRA''). These amendments would temporarily grant the Exchange's Office of Hearing Officers (''OHO'') and the Exchange Review Council (''ERC'') authority [3] to conduct hearings in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. As proposed, these temporary amendments would be in effect through December 31, 2020.[4]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* 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 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 harmonize Exchange Rules 1015, 9261, 9524 and 9830 with recent changes by FINRA to its Rules 1015, 9261, 9524 and 9830 in order to temporarily grant its OHO and the ERC authority to conduct hearings in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. As proposed, these temporary amendments would be in effect through December 31, 2020.

Background

The Exchange's rules regarding hearing and evidentiary processes as set forth in Rules 1015, 9261, 9524 and 9830 model FINRA rules. As adopted, the text of Exchange Rule 1015 is substantially the same as FINRA Rule 1015, excepting additional provisions for Ex Parte Communications, Recusal or Disqualification, and conforming and technical differences. Similarly, the text of Exchange Rules 9261, 9524 and 9830 are substantially the same as FINRA Rules 9261, 9524 and 9830, except for conforming and technical differences.

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 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.[5] Accordingly, the Exchange proposes to file this temporary rule change to align with FINRA.

A. OHO Hearings

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.[6] 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.[7]

Pursuant to a regulatory services agreement (''RSA'') between the Exchange and FINRA, FINRA's OHO administers all aspects of adjudications, including assigning hearing officers to serve as Exchange hearing officers. A hearing officer from the OHO, among other things, presides over the disciplinary hearing, selects and chairs the hearing panel, and prepares and issues written decisions. The Chief or Deputy Hearing Officer for all Exchange disciplinary hearings are currently drawn from the OHO and are all FINRA employees. The Exchange believes that the 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 administer 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, pursuant to the RSA, to conduct virtual hearings on its behalf.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For OHO hearings under Exchange Rules 9261 and 9830, the proposed rule change temporarily grants authority to the Chief or Deputy Chief Hearing Officer to order that a hearing be conducted by video conference. For ERC hearings under Exchange Rules 1015 and 9524, this temporary authority is granted to the ERC or relevant Subcommittee.

[4] If the Exchange requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2020, the Exchange may submit a separate rule filing to extend the expiration date of the temporary amendments under these rules. The amended Exchange 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. 89737 (September 2, 2020), 85 FR 55712 (September 9, 2020) (SR–FINRA–2020–027) (''FINRA Filing'').

[6] *See id.* at 55713.

[7] *See id.*

B. ERC Hearings

Mirroring FINRA's NAC, the ERC is the Exchange's appellate body, which reviews initial decisions issued by its OHO and—through Subcommittees—holds evidentiary hearings for Membership Application Program decision appeals and eligibility proceedings under Exchange Rules 1015 or 9524. As with OHO hearings discussed above, this temporary proposed rule change will allow the ERC or relevant Subcommittee to make an assessment as to whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference.

Proposed Rule Change

Consistent with FINRA's temporary amendment to FINRA Rules 1015, 9261, 9524 and 9830, the Exchange proposes to temporarily grant its OHO and the ERC authority to conduct hearings in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. The proposed change will permit the OHO and the ERC 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.[8] The Exchange believes that this is a reasonable procedure to follow in hearings under Rules 1015, 9261, 9524 and 9830.[9]

To effectuate these changes, the Exchange proposes to add the following sentence to Rule 1015(f):

> Upon consideration of the current public health risks presented by an in-person hearing, the Exchange Review Council or Subcommittee may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

The proposed text is substantially the same as the language adopted by FINRA, excepting conforming and technical differences.[10]

Similarly, the Exchange proposes to add the following sentence to Rule 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.[11]

Similarly, the Exchange proposes to add the following sentence to Rule 9524(a):

> Upon consideration of the current public health risks presented by an in-person hearing, the Exchange Review Council or Review Subcommittee may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.

The proposed text is substantially the same as the language adopted by FINRA, excepting conforming and technical differences.[12]

Similarly, the Exchange proposes to add the following sentence to Rule 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.

The proposed text is identical to the language adopted by FINRA.[13]

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, by providing greater harmonization between the Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance.

As previously noted, with certain exceptions, the text of Exchange Rules 1015, 9261, 9524 and 9830 are substantially the same as FINRA's rules. 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[16] 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 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 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.

The Exchange believes that the temporary proposed rule change strikes

[8] *See id.* at 55713.

[9] 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 also* FINRA Filing, 85 FR at 55714, n. 21.

[10] *See* FINRA Filing, 85 FR at 55712.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] As noted herein, FINRA and its OHO administer disciplinary hearings on the Exchange's behalf.

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 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.[17] 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 either solicited or 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)(iii) of the Act[18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[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 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–NASDAQ–2020–076 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–NASDAQ–2020–076. 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–NASDAQ–2020–076 and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25271 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

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[17] See FINRA Filing, 85 FR at 55716.

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90389; File No. SR–NASDAQ–2020–071]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 4613, 4702, and 4703

November 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the 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 proposes to amend Rules 4613, 4702, and 4703 in light of planned changes to the System, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Presently, the Exchange is making functional enhancements and improvements to specific Order Types [3] and Order Attributes [4] that are currently only available via the RASH Order entry protocol.[5] Specifically, the Exchange will be upgrading the logic and implementation of these Order Types and Order Attributes so that the features are more streamlined across the Nasdaq Systems and order entry protocols, and will enable the Exchange to process these Orders more quickly and efficiently. Additionally, this System upgrade will pave the way for the Exchange to enhance the OUCH Order entry protocol [6] so that Participants may enter such Order Types and Order Attributes via OUCH, in addition to the RASH Order entry protocols.[7] The Exchange plans to implement its enhancement of the OUCH protocol sequentially, by Order Type and Order Attribute.[8]

To support and prepare for these upgrades and enhancements, the Exchange now proposes to amend its Rules governing Order Types and Order Attributes, at Rules 4702 and 4703, respectively. In particular, the Exchange proposes to adjust the current functionality of the Market Maker Peg Order [9] and Reserve Size Order Attribute,[10] as described below, so that they align with how the System, once upgraded, will handle these Orders going forward. The Exchange also proposes to make several associated clarifications and corrections to these Rules, and to Rule 4613, as it prepares to enhance its order handling processes.

Changes to Market Maker Peg Order

A Market Maker Peg Order is an Order Type that exists to help a Market Maker to meet its obligation to maintain continuous two-sided quotations (the ''Two-Sided Obligation''), as set forth in Rule 4613(a)(2).[11] The Exchange proposes to make four changes related to the Market Maker Peg Order.

First, the Exchange proposes to amend Rule 4702(b)(7) to correct the conditions under which a Market Maker Peg Order will be sent back to a Participant. Rule 4702(b)(7) currently states that a Market Maker Peg Order will be sent back to the Participant if: (1) Upon entry of the Order, the limit price of the Order is not within the Designated Percentage; [12] or (2) after the Order has been posted to the Nasdaq Book, the Reference Price [13] shifts to reach the Defined Limit,[14] such that the Order is subject to re-pricing at the Designated Percentage away from the shifted Reference Price, but the limit price of the Order would then fall outside of the Defined Limit (which would now be measured by the difference between the re-priced Order and the shifted Reference Price).[15]

The Exchange proposes to correct the second of these two conditions because it inadvertently allows for a circumstance in which a Market Maker Peg Order will be automatically re-priced by the System to a limit price that is outside of the Designated Percentage but inside of the Defined Limit. Such an outcome is inconsistent with a Market Maker's obligations to price or reprice its bid (offer) quotations not more than the Designated Percentage away from the then National Best Bid (Offer), as set forth in Rule 4613(a)(2).[16] In order for Rule 4702(b)(7) to be consistent with Rule 4613(a)(2), Rule 4702(b)(7) cannot permit the System to re-price a Market Maker Peg Order to a limit price that is outside of the Designated Percentage. In any circumstance in which the Order would be re-priced to a limit that is outside of the Designated Percentage, the Rule must require the System to return the Order to the Participant. The Exchange proposes to amend Rule 4702(b)(7) accordingly.[17]

[3] An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. *See* Rule 4701(e).

[4] An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. *See id.*

[5] The RASH (Routing and Special Handling) Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing. *See http://nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/rash_sb.pdf.*

[6] The OUCH Order entry protocol is a Nasdaq proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders. *See https://www.nasdaqtrader.com/Trader.aspx?id=OUCH.*

[7] The Exchange designed the OUCH protocol to enable members to enter Orders quickly into the System. As such, the Exchange developed OUCH with simplicity in mind, and it therefore lacks more complex order handling capabilities. By contrast, the Exchange specifically designed RASH to support advanced functionality, including discretion, random reserve, pegging and routing. Once the System upgrades occur, then the Exchange intends to propose further changes to its Rules to permit participants to utilize OUCH, in addition to RASH, to enter order types that require advanced functionality.

[8] The Exchange notes that its sister exchanges, Nasdaq BX and Nasdaq PSX, plan to file similar proposed rule changes with the Commission shortly.

[9] *See* Rule 4702(b)(7).

[10] *See* Rule 4703(h).

[11] *See* Rule 4613(a)(2).

[12] *See* Rule 4702(b)(7). The ''Designated Percentage'' is 8% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Designated Percentage is 20% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C). *See* Rule 4613(a)(2)(D). As discussed below, the Exchange proposes to amend this definition.

[13] The ''Reference Price'' for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer) (including Nasdaq), or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.,* dividends or stock splits) in the security. *See* Rule 4702(b)(7).

[14] The term ''Defined Limit'' means 9.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Defined Limit is 21.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C). *See* Rule 4613(a)(2)(E).

[15] *See* Rule 4702(b)(7).

[16] Rule 4613(a)(2) states that for a Market Maker to satisfy its Two-Sided Obligation, the Market Maker must price bid (offer) interest not more than the Designated Percentage away from the then current National Best Bid (Offer) (or if there is no National Best Bid (Offer), not more than the Designated Percentage away from the last reported sale from the responsible single plan processor). Moreover, Rule 4613(a)(2) states that if the National Best Bid (Offer) or reported sale increases (decreases) to a level that would cause the bid (offer) interest of the Two-Sided Obligation to be more than the Defined Limit away from the National Best Bid (offer) or last reported sale, or if the bid (offer) is executed or cancelled, then the Market Maker must enter new bid (offer) interest at a price not more than the Designated Percentage away from the then current National Best Bid (Offer) or last reported sale.

[17] The Exchange also proposes to amend this condition to clarify that repricing will occur when the difference between the displayed price of a Market Maker Peg Order and the Reference Price exceeds, rather than merely reaches, the Defined

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Second, the Exchange proposes to amend Rule 4702(b)(7) to no longer allow entry of a Market Maker Peg Order entered with an offset. The Rule presently permits a Market Maker to enter a Market Maker Peg Order with a more aggressive offset than the Designated Percentage, but not a less aggressive offset. The Exchange has reviewed usage of offsets with Market Maker Peg Orders and found that no Market Maker assigned an offset to their Market Maker Peg Orders since January 2019. The Exchange does not believe that there is value in keeping offsets as an option for Market Maker Peg Orders. Accordingly, the Exchange proposes to delete text from Rule 4702(b)(7)(A) that discusses offsets and replace it with text stating that Market Maker Peg Orders entered with pegging offsets will not be accepted. The Exchange also makes conforming changes to Rule 4702(b)(7) where the text refers to offsets.

Third, the Exchange proposes to delete ''Trade Now'' [18] from the list of Order Attributes that may be associated with Market Maker Peg Orders under Rule 4702(b)(7). As noted above, Market Maker Peg Orders allow Market Makers to maintain continuous two-sided quotations at displayed prices that are compliant with the Market Makers' obligations under Rule 4613. By their nature, Market Maker Peg Orders are always Displayed Orders, while Orders with Trade Now are Non-Displayed Orders.[19] Consequently, there are no circumstances in which a Market Maker Peg Order could have Trade Now associated with it; the Exchange proposes to delete text from Rule 4702(b)(7)(B) that incorrectly suggests otherwise. For the same reason, the Exchange also proposes to delete Trade Now from the list of Order Attributes that may be associated with Price to Display Orders; [20] again, Price to Display Orders are Displayed Orders, whereas Trade Now is applicable to Non-Displayed Orders.[21]

Fourth, the Exchange proposes to amend Rule 4702(b)(7) to account for a scenario where, after entry of a Market Maker Peg Order whose initial displayed price was set with reference to the National Best Bid or Offer, the National Best Bid or Offer shifts such that the displayed price of the Order to buy (sell) is equal to or greater (less) than the National Best Bid (Offer). The Exchange proposes to state that the Exchange will not reprice the Market Maker Peg Order in this scenario until a new Reference Price is established that is more aggressive than the displayed price of the Order. By specifying that the Exchange will not reprice Market Maker Peg Orders in this scenario until a new, more aggressive Reference Price is established, the Exchange will ensure that it does not engage in a potential cycle of pegging against a Reference Price established by the Order itself.

Change to Rule 4613

Next, the Exchange proposes to clarify the definitions of ''Designated Percentage'' in Rule 4613(a)(2)(D) and ''Defined Limit'' in Rule 4613(a)(2)(E), which presently are as follows:

(D) For purposes of this Rule, the ''Designated Percentage'' shall be 8% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Designated Percentage shall be 20% for securities subject to Rule 4120(a)(11)(A), 28% for securities subject to Rule 4120(a)(11)(B), and 30% for securities subject to Rule 4120(a)(11)(C). The Designated Percentage for rights and warrants shall be 30%.

(E) For purposes of this Rule, the ''Defined Limit'' shall be 9.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C), except that between 9:30 a.m. and 9:45 a.m. and between 3:35 p.m. and the close of trading, when Rule 4120(a)(11) is not in effect, the Defined Limit shall be 21.5% for securities subject to Rule 4120(a)(11)(A), 29.5% for securities subject to Rule 4120(a)(11)(B), and 31.5% for securities subject to Rule 4120(a)(11)(C).

The Exchange is concerned that these two provisions could be misinterpreted to suggest that prior to 9:30 a.m., when Rule 4120(a)(11) is not in effect, the Exchange applies a narrower Designated Percentage and Defined Limit than it does between 9:30 and 9:45 a.m., under the same conditions. In fact, the Exchange applies the same wider Designated Percentage and Defined Limit prior to 9:30 a.m. as it does between 9:30 and 9:45 a.m. To avoid confusion (and without changing existing market maker obligations), the Exchange therefore proposes to clarify both of these provisions of Rule 4613(a)(2) to read that ''prior to 9:45 a.m.'' and between 3:35 p.m. and the close of trading, the Designated Percentage and Defined Limit (including for Market Maker Peg Orders) shall be as stated. Furthermore, throughout Rule 4613(a)(2)(D), in defining the term ''Designated Percentage,'' the Exchange proposes to replace references to securities subject to Rule 4120(a)(11)(A), (B), and (C) with the following: (i) The Designated Percentage shall be 8% for all Tier 1 NMS Stocks under the LULD Plan,[22] 28% for all Tier 2 NMS Stocks under the LULD Plan with a price equal to or greater than $1), and 30% for all Tier 2 NMS Stocks under the LULD Plan with a price less than $1, except that prior to 9:45 a.m. and between 3:35 p.m. and the close of trading, the Designated Percentage shall be: (i) 20% for Tier 1 NMS Stocks under the LULD Plan; (ii) 28% for all Tier 2 NMS Stocks under the LULD Plan with a price equal to or greater than $1; and (iii) 30% for all Tier 2 NMS Stocks under the LULD Plan with a price less than $1. Similarly, in Rule 4613(a)(2)(E), in defining the term ''Defined Limit,'' the Exchange proposes to replace references to securities subject to Rule 4120(a)(11)(A), (B), and (C) with the following: (i) 9.5% for all Tier 1 NMS Stocks under the LULD Plan; (ii) 29.5% for all Tier 2 NMS Stocks under the LULD Plan with a price equal to or greater than $1; and (iii) 31.5% for all Tier 2 NMS Stocks

Limit. Currently, the Rule uses the term ''reaches,'' but this is inconsistent with the example that follows it (''In the foregoing example, if the Defined Limit is 9.5% and the National Best Bid increases to $10.17, such that the displayed price of the Market Maker Peg Order would be *more than* 9.5% away, the Order will be repriced to $9.36, or 8% away from the National Best Bid.'') (emphasis added). The Exchange proposes to reconcile this inconsistency in a manner that reflects the stated example as well as the manner in which the Exchange's System presently applies the Rule. It would also render the Rule consistent with Market Maker obligations under Rule 4613.

[18] ''Trade Now'' is an Order Attribute that allows a resting Order that becomes locked by an incoming Displayed Order to execute against a locking or crossing Order(s) as a liquidity taker, and any remaining shares of the resting Order will remain posted on the Nasdaq Book with the same priority. *See* Rule 4703(m).

[19] ''Display'' is an Order Attribute that allows the price and size of an Order to be displayed to market participants via market data feeds. All Orders that are Attributable are also displayed, but an Order may be displayed without being Attributable. As discussed in Rule 4702, a Non-Displayed Order is a specific Order Type, but other Order Types may also be non-displayed if they are not assigned a Display Order Attribute; however, depending on context, all Orders that are not displayed may be referred to as ''Non-Displayed Orders.'' An Order with a Display Order Attribute may be referred to as a ''Displayed Order.'' *See* Rule 4703(k).

[20] ''Price to Display'' is an Order Type designed to comply with Rule 610(d) under Regulation NMS by avoiding the display of quotations that lock or cross any Protected Quotation in a System Security during Market Hours. *See* Rule 4702(b)(2).

[21] The Exchange also proposes to amend its discussion of Price to Display Orders, in Rule 4702(b)(2), to correct an erroneous reference to a ''Price to Comply Order'' that should read ''Price to Display Order.''

[22] Tier 1 NMS Stocks under the LULD Plan comprise all NMS Stocks included in the S&P 500® Index, Russell 1000® Index, and a list of Exchange Traded Products identified as Schedule 1 to the Plan to Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS Under the Securities Exchange Act of 1934 (the ''LULD Plan'').

under the LULD Plan with a price less than $1, except that prior to 9:45 a.m. and between 3:35 p.m. and the close of trading, the Defined Limit shall be: (i) 21.5% all Tier 1 NMS Stocks under the LULD Plan; (ii) 29.5% for all Tier 2 NMS Stocks under the LULD Plan with a price equal to or greater than $1; and (iii) 31.5% for all Tier 2 NMS Stocks under the LULD Plan with a price less than $1. The Exchange proposes this change because references to Rule 4120(a)(11) are obsolete.

The Exchange also proposes to add to Rule 4613(a)(2)(E) the fact that the Defined Limit for rights and warrants shall be 31.5%. The Exchange mistakenly omitted the Defined Limit for such securities from prior filings.[23]

Changes to Reserve Size

As set forth in Rule 4703(h), ''Reserve Size'' is an Order Attribute that permits a Participant to stipulate that an Order Type that is Displayed may have its displayed size replenished from additional non-displayed size.[24] The Exchange proposes three changes to the rule text describing the Reserve Size Order Attribute.

First, the Exchange proposes to amend a paragraph of Rule 4703(h) which begins as follows: ''Whenever a Participant enters an Order with Reserve Size, the Nasdaq Market Center will process the Order as two Orders: A Displayed Order (with the characteristics of its selected Order Type) and a Non-Displayed Order. Upon entry, the full size of each such Order will be processed for potential execution in accordance with the parameters applicable to the Order Type.'' The Exchange proposes to amend this language because it does not describe precisely how the Exchange processes Orders with Reserve Size. The Exchange proposes to state instead that whenever a Participant enters an Order with Reserve Size, the full size of the Order will be presented for potential execution in compliance with Regulation NMS and that thereafter, unexecuted portions of the Order will be processed as two Orders: A Displayed Order (with the characteristics of its selected Order Type) and a Non-Displayed Order. The Exchange also proposes to delete the following sentence: ''Upon entry, the full size of each such Order will be processed for potential execution in accordance with the parameters applicable to the Order Type.'' The proposed re-formulation reflects that it is possible that the Order with Reserve Size will be executed immediately in full and without needing to place unexecuted portions of the Order in reserve. Furthermore, it clarifies that the System will present the Order for immediate execution (provided that it does not trade through a protected quotation, in accordance with Regulation NMS) without complying with underlying characteristics of the Order Type that might otherwise require an adjustment to the price of the Order before the System attempts to execute it.[25] The proposed language is consistent with the following example set forth in the existing rule text:

> For example, a Participant might enter a Price to Display Order with 200 shares displayed and an additional 3,000 shares non-displayed. Upon entry, the Order would attempt to execute against available liquidity on the Nasdaq Book, up to 3,200 shares. Thereafter, unexecuted portions of the Order would post to the Nasdaq Book as a Displayed Price to Display Order and a Non-Displayed Order; provided, however, that if the remaining total size is less than the display size stipulated by the Participant, the Displayed Order will post without Reserve Size. Thus, if 3,050 shares executed upon entry, the Price to Display Order would post with a size of 150 shares and no Reserve Size.

The proposed language eliminates confusion that might otherwise arise from perceived inconsistencies between the above example and existing rule text. Again, the existing rule text states that whenever a participant enters an Order with Reserve Size, the System will process the Reserve Order as two orders upon entry and also, upon entry, the full size of an Order with Reserve will be presented for potential execution in accordance with the parameters applicable to the Order Type.

When there is, in fact, an unexecuted portion of the Order, then the Exchange will continue to process the unexecuted portion as two Orders: A Displayed Order and a Non-Displayed Order.

Second, the Exchange proposes to delete text from Rule 4703(h) which states that ''[a] Participant may stipulate that the Displayed Order should be replenished to its original size.'' The Exchange proposes to delete this text because it is redundant of text elsewhere in the Rule that describes how a Displayed Order with Reserve Size replenishes.[26]

Third, the Exchange proposes to amend text from Rule 4703(h) that allows participants to designate that the original and subsequent displayed sizes of the Displayed Order are amounts randomly determined based upon factors they select (''Random Reserve''). The amendments also state that when Participants stipulate use of a Random Reserve, they would select a nominal (rather than a ''theoretical'') displayed size, which is a more precise term. Furthermore, the amendment adds a reminder that the actual displayed size will be randomly determined by the System from a range of ''normal trading units.'' Lastly, the amendments include other changes that do not change the substantive meaning of the text, but simply improve its readability.

The Exchange intends to implement the foregoing changes during the First Quarter of 2021. The Exchange will issue an Equity Trader Alert at least 30 days in advance of implementing the changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Section 6(b)(5) of the Act,[28] 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 Exchange believes that it is consistent with the Act to amend Rule 4702(b)(7), which describes the Market Maker Peg Order Type, to correct one of the stated conditions under which a Market Maker Peg Order will be sent back to a Participant. As presently stated, this condition provides for Market Maker Peg Orders to be repriced automatically at limit prices that are within the Defined Limit, but outside of the Designated Percentage, which places them in conflict with Rule 4613(a)(2), which requires Market Makers to price and re-price bid and offer interest at the Designated Percentage. It is just and in the interests of the investors and the public for the Exchange to correct Rule 4702(b)(7) to ensure that Market Maker Peg Orders operate in a manner that

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[23] *See* Securities Exchange Act Release No. 34–65915 (December 8, 2011), 76 FR 77863 (December 14, 2011) (SR–NASDAQ–2011–166).

[24] An Order with Reserve Size may be referred to as a ''Reserve Order.''

[25] This clarification is needed due to the fact that pursuant to Rule 4702(b)(2)(A), a Price to Display Order would automatically reprice upon entry if its entered limit price would lock or cross a protected quotation.

[26] The Exchange proposes to clarify a portion of Rule 4703(h) which states that if an execution against a Displayed Order causes its size to decrease below a normal unit of trading, another Displayed Order will be entered at the ''level'' stipulated by the Participant while the size of the Non-Displayed Order will be reduced by the same amount. In describing the entry of the new Displayed Order in this instance, the Exchange proposes to replace the word ''level'' with ''limit price and size,'' which is a more precise phrase.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

helps rather than hinders Market Makers from complying with Rule 4613.

It is also consistent with the Act for the Exchange to amend Rule 4702(b)(7) to clarify that repricing will occur when the difference between the displayed price of a Market Maker Peg Order and the Reference Price ''exceeds,'' rather than merely ''reaches,'' the Defined Limit, as the Rule states presently. The proposed change would ensure that the Rule text is internally consistent, as the example set forth in the text suggests that the Rule should be read to mean exceeds. It would also render the Rule consistent with Market Maker obligations under Rule 4613. The Exchange believes that it is in the interest of investors and the public to eliminate such inconsistencies.

Meanwhile, the Exchange believes that it is consistent with the Act to eliminate the option for Participants to enter offsets from the Market Maker Peg Orders. The proposal is consistent with the Act because Market Makers do not actively employ such offsets. As noted above, the Exchange has reviewed usage of offsets with Market Maker Peg Orders and found that no Market Maker has assigned an offset with their Market Maker Peg Orders since January 2019. Moreover, elimination of the option to enter offsets would simplify the Exchange's efforts to improve processing.

The Exchange's proposal to eliminate Trade Now as an Order Attribute that may be associated with the Market Maker Peg and Price to Display Order Types is consistent with the Act because there are no instances in which Trade Now actually may be associated with a Market Maker Peg Order or a Price to Display Order. Eliminating the reference to Trade Now in 4702(b)(7) will serve to avoid market Participant confusion that may otherwise arise from associating an incompatible Order Attribute with these Order Types.

The Exchange believes that it is consistent with the Act to clarify Rule 4702(b)(7) so that it specifies how the System will react when, after entry of a Market Maker Peg Order whose initial displayed price was set with reference to the National Best Bid or Offer, the National Best Bid or Offer shifts such that the displayed price of the Order to buy (sell) is equal to or greater (less) than the National Best Bid (National Best Offer). Specifically, the Exchange believes that it is just and in the interests of investors to specify that the Exchange will not reprice Market Maker Peg Orders in this scenario until a new, more aggressive Reference Price is established, because doing so ensures that the Exchange will not engage in a potential cycle of pegging against a Reference Price established by the Order itself.

The Exchange's proposal to amend the definitions of ''Designated Percentage'' and ''Defined Limit,'' as set forth in Rule 4613(a)(2)(D) and (E), is consistent with the Act because the amendment is necessary to correct obsolete cross-references and to avoid confusion about which particular percentage or limit will apply to orders prior to 9:30 a.m. The proposal clarifies the Rule by stating expressly that the same sets of bands that apply between 9:30–9:45 a.m. and between 3:35 p.m. and the close of trading also apply prior to 9:30 a.m. The proposal also specifies a Defined Limit for rights and warrants, which was mistakenly omitted from prior filings and which relates to the Designated Percentage for rights and warrants, which is set forth already at Rule 4613(a)(2)(D).

It is also consistent with the Act to amend Rule 4703(h) to clarify that when a Participant enters an Order with Reserve Size, the full size of the Order will first be presented for potential execution in compliance with Regulation NMS, and only if there is an unexecuted portion of the Order will it be processed as a Displayed Order and a Non-Displayed Order. This clarification describes the behavior of the System more precisely than the existing Rule language. It also reflects the possibility that the Order with Reserve Size will be executed immediately in full and without needing to place unexecuted portions of the Order in reserve. Furthermore, it eliminates inconsistency between rule text which presently suggests that the System will process the Order with Reserve Size for potential immediate execution consistent with the characteristics of its underlying Order Type, and an example in the rule text in which the Exchange provides that the System will process the Order for potential immediate execution regardless of the parameters applicable to the Order Type. The proposed amendment will resolve this inconsistency by making clear that the System will present an order for potential immediate execution regardless of the characteristics of the underlying Order Type, with the caveat that the Order will not trade-through a protected quotation as required by Regulation NMS.

It is consistent with the Act to amend Rule 4703(h) to state that when participants stipulate use of a Random Reserve, they would select a ''nominal''—rather than a ''theoretical'' displayed size. The proposed term ''nominal'' is more precise than the existing Rule text. Improving the precision of the Exchange's Rules improves the ability of the public and investors to comprehend them and account for and comply with them. For similar reasons, proposed non-substantive amendments to other text in Rule 4703(h) are consistent with the Act because they would improve the readability of the Rule.

Finally, the Exchange believes that various proposed non-substantive clarifications and corrections to the text of the Rule will improve its readability, which is in the interests of market participants and investors, and would promote a more orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that its proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As a general principle, the proposed changes are reflective of the significant competition among Exchanges and non-exchange venues for order flow. In this regard, proposed changes that facilitate enhancements to the Exchange's System and order entry protocols as well as those that clarify and correct the Exchange's Rules regarding its Order Types and Attributes, are pro-competitive because they bolster the efficiency, integrity, and overall attractiveness of the Exchange in an absolute sense and relative to its peers.

Moreover, none of the proposed changes will burden intra-market competition among various Exchange Participants. Proposed changes to the Market Maker Peg Order Type, at Rule 4702(b)(7), and to Rule 4613, will apply equally to all Market Makers. Market Makers will experience no competitive impact from proposals to eliminate their ability to use offsets with Market Maker Peg Orders or the Trade Now functionality for Market Maker Peg Orders and Price to Display Orders because Market Makers do not actually utilize offsets and cannot, by definition, apply Trade Now to Market Maker Peg Orders or Price to Display Orders. Likewise, Market Makers will feel no competitive effects from proposed corrections and clarifications to the manner in which the Exchange prices and re-prices their Market Maker Peg Orders, except that the changes will benefit Market Makers by ensuring that the Exchange always processes those Orders in a manner that complies with their Market Maker pricing obligations under Rule 4613. Proposed changes to Rule 4613 are intended to update obsolete references and to correct inadvertent errors and should have no competitive impact on Market Makers. Proposed clarifications and amendments to the Reserve Order Attribute Rule, at Rule 4703(h), are intended to improve the precision and readability of the Rule text and will not have any competitive impact on participants.

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.

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 [29] and Rule 19b–4(f)(6) thereunder.[30]

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

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 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.

- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–071 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–NASDAQ–2020–071. 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–NASDAQ–2020–071 and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25270 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension: Rule 38a–1; [SEC File No. 270–522, OMB Control No. 3235–0586]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 38a–1 (17 CFR 270.38a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'') is intended to protect investors by fostering better fund compliance with securities laws. The rule requires every registered investment company and business development company (''fund'') to: (i) Adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws by the fund, including procedures for oversight of compliance by each investment adviser, principal underwriter, administrator, and transfer agent of the fund; (ii) obtain the fund board of directors' approval of those policies and procedures; (iii) annually review the adequacy of those policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation; (iv) designate a chief compliance officer to administer the fund's policies and procedures and prepare an annual report to the board that addresses certain specified items relating to the policies and procedures; and (v) maintain for five years the compliance policies and procedures and the chief compliance officer's annual report to the board.

The rule contains certain information collection requirements that are designed to ensure that funds establish and maintain comprehensive, written internal compliance programs. The information collections also assist the Commission's examination staff in assessing the adequacy of funds' compliance programs.

While Rule 38a–1 requires each fund to maintain written policies and procedures, most funds are located within a fund complex. The experience of the Commission's examination and oversight staff suggests that each fund in a complex is able to draw extensively from the fund complex's ''master'' compliance program to assemble appropriate compliance policies and procedures. Many fund complexes already have written policies and procedures documenting their compliance programs. Further, a fund needing to develop or revise policies and procedures on one or more topics in order to achieve a comprehensive compliance program can draw on a number of outlines and model programs available from a variety of industry representatives, commentators, and organizations.

There are approximately 4,093 funds subject to Rule 38a–1. Among these funds, 101 were newly registered in the past year. These 101 funds, therefore, were required to adopt and document the policies and procedures that make up their compliance programs. Commission staff estimates that the average annual hour burden for a fund to adopt and document these policies and procedures is 105 hours. Thus, we estimate that the aggregate annual burden hours associated with the adoption and documentation requirement is 10,605 hours.

All funds are required to conduct an annual review of the adequacy of their existing policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation. In addition, each fund chief compliance officer is required to prepare an annual report that addresses the operation of the policies and procedures of the fund and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, any material changes made to those policies and procedures since the date of the last report, any material changes to the policies and procedures recommended as a result of the annual review, and certain compliance matters that occurred since the date of the last report. The staff estimates that each fund spends 49 hours per year, on average, conducting the annual review and preparing the annual report to the board of directors. Thus, we estimate that the annual aggregate burden hours associated with the annual review and annual report requirement is 200,557 hours.

Finally, the staff estimates that each fund spends 6 hours annually, on average, maintaining the records required by proposed Rule 38a–1. Thus, the annual aggregate burden hours associated with the recordkeeping requirement is 24,558 hours.

In total, the staff estimates that the aggregate annual information collection burden of Rule 38a–1 is 235,720 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. 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.

Written comments are invited on: (i) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (ii) the accuracy of the Commission's estimate of the burden(s) of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 30 days of this publication.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* 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.

Dated: November 10, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25253 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 3a–8; [SEC File No. 270–516, OMB Control No. 3235–0574]

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Title 17 CFR 270.3a–8 (rule 3a–8 of the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act'')), serves as a nonexclusive safe harbor from investment company status for certain research and development companies (''R&D companies'').

The rule requires that the board of directors of an R&D company seeking to rely on the safe harbor adopt an appropriate resolution evidencing that the company is primarily engaged in a non-investment business and record that resolution contemporaneously in its minute books or comparable documents.[1] An R&D company seeking to rely on the safe harbor must retain these records only as long as such records must be maintained in accordance with state law.

Rule 3a–8 contains an additional requirement that is also a collection of information within the meaning of the PRA. The board of directors of a company that relies on the safe harbor under rule 3a–8 must adopt a written policy with respect to the company's capital preservation investments. We expect that the board of directors will base its decision to adopt the resolution discussed above, in part, on investment guidelines that the company will follow to ensure its investment portfolio is in compliance with the rule's requirements.

The collection of information imposed by rule 3a–8 is voluntary because the rule is an exemptive safe harbor, and therefore, R&D companies may choose whether or not to rely on it. The purposes of the information collection requirements in rule 3a–8 are to ensure that: (i) The board of directors of an R&D company is involved in

[1] Rule 3a–8(a)(6) (17 CFR 270.3a–8(6)).

determining whether the company should be considered an investment company and subject to regulation under the Act, and (ii) adequate records are available for Commission review, if necessary. Rule 3a–8 would not require the reporting of any information or the filing of any documents with the Commission.

Commission staff estimates that there is no annual recordkeeping burden associated with the rule's requirements. Nevertheless, the Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

Commission staff estimates that approximately 29,999 R&D companies may take advantage of rule 3a–8.[2] Given that the board resolutions and investment guidelines will generally need to be adopted only once (unless relevant circumstances change),[3] the Commission believes that all the R&D companies that existed prior to the adoption of rule 3a–8 adopted their board resolutions and established written investment guidelines in 2003 when the rule was adopted. We expect that R&D companies formed subsequent to the adoption of rule 3a–8 would adopt the board resolution and investment guidelines simultaneously with their formation documents in the ordinary course of business.[4] Therefore, we estimate that rule 3a–8 does not impose additional burdens.

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 control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* 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.

Dated: November 10, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25248 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

[2] *See* National Science Foundation, National Center for Science and Engineering Statistics, Business R&D and Innovation Survey: 2016 (results published May 13, 2019).

[3] In the event of changed circumstances, the Commission believes that the board resolution and investment guidelines will be amended and recorded in the ordinary course of business and would not create additional time burdens.

[4] In order for these companies to raise sufficient capital to fund their product development stage, Commission staff believes that they will need to present potential investors with investment guidelines. Investors generally want to be assured that the company's funds are invested consistent with the goals of capital preservation and liquidity.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension: Rule 17Ad–3(b); [SEC File No. 270–424, OMB Control No. 3235–0473]

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17Ad–3(b) (17 CFR 240.17Ad–3(b)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17Ad–3(b) requires registered transfer agents to send a copy of the written notice required under Rules 17Ad–2(c), (d), and (h) to the chief executive officer of each issuer for which the transfer agent acts when it has failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad–2(a), or to process at least 75% of all items in accordance with the requirements of Rule 17Ad–2(b), for two consecutive months. The issuer may use the information contained in the notices: (1) As an early warning of the transfer agent's non-compliance with the Commission's minimum performance standards regarding registered transfer agents; and (2) to become aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer's issues. If the issuer does not receive notice of a registered transfer agent's failure to comply with the Commission's minimum performance standards then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent. Pursuant to Rule 17Ad–3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad–2 will only be required to send a copy of that notice to issuers for which it acts when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items for two consecutive months.

The Commission estimates that only one transfer agent will be subject to the third party disclosure requirements of Rule 17Ad–3(b) each year. If a transfer agent fails to meet the turnaround and processing requirements under 17Ad–3(b), it would simply send its issuer-clients a copy of the notice that had already been produced for the Commission pursuant to Rule 17Ad–2(c) or (d). The Commission estimates the requirement will take the transfer agent approximately four hours to complete. The total estimated burden associated with Rule 17Ad–3(b) is thus approximately 4 hours per year. The Commission estimates that the internal compliance cost for the transfer agent to comply with this third party disclosure requirement will be approximately $1,128 per year (4 hours × $283 per hour = $1,128). The total estimated internal cost of compliance associated with Rule 17Ad–3(b) is thus approximately $1,128 per year. There are no external costs associated with sending the notice to issuer-clients.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: November 10, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25251 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90394; File No. SR–PEARL–2020–23]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Certificate of Formation, Amended and Restated Limited Liability Company Agreement, and the By-Laws

November 10, 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 28, 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 amend the Exchange's Certificate of Formation (the ''Certificate of Formation''), Amended and Restated Limited Liability Company Agreement (the ''LLC Agreement''), and the By-Laws (the ''By-Laws'').

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 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

Changes to the Certificate of Formation

The Exchange proposes to amend the Certificate of Formation to make several non-substantive, administrative and clarifying changes. The Exchange first proposes to amend the title of the document in order to accurately reflect the amended document title as the ''Amended and Restated Certificate of Formation of MIAX PEARL, LLC,'' in accordance with the proposed amendments described below.

On February 11, 2016, the Exchange executed the original Certificate of Formation. The Exchange proposes delete the entire sentence in the first paragraph and insert a sentence to clarify that the Certificate of Formation has been executed in accordance with Section 18–208 of the Limited Liability Company Act, and that this document is being amended to restate the original Certificate of Formation. With the proposed changes, the first paragraph of the Certificate of Formation will be as follows:

> This filing has been executed and filed in accordance with Section 18–208 of the Limited Liability Company Act. This document is being executed for the purpose of amending and restating the original Certificate of Formation, filed on February 11, 2016, under file number: 5880323.

The Exchange also proposes to amend the signature line for the Certificate of Formation by deleting the current signature line and inserting, as the signatory, ''Barbara J. Comly, EVP, General Counsel & Corporate Secretary.''

The purpose of the proposed changes to the Certificate of Formation are to ensure that the Exchange's Certificate of Formation accurately reflects correct, current information, including the name of the amended document, in order to reduce potential investor or market participant confusion.

Changes to the LLC Agreement

The Exchange proposes to amend the LLC Agreement to make several non-substantive, administrative and clarifying changes. On March 7, 2016, the Exchange executed the original Limited Liability Company Agreement (the ''original LLC Agreement''). On December 5, 2016, the Exchange executed the Amended and Restated Limited Liability Company Agreement (the ''Amended LLC Agreement''), which restated the original LLC Agreement. The first paragraph of the LLC Agreement also refers to the document as the ''Operating Agreement.'' [3] The Exchange now proposes to amend the first paragraph of the LLC Agreement to reflect the current amended document, which will be the ''Second Amended and Restated Limited Liability Company Agreement'' (the ''Second LLC Agreement''). Accordingly, the Exchange proposes to update the text in the first paragraph of the LLC Agreement to reflect this change, thereby deleting reference to the name and date of the original LLC Agreement, and inserting the name and date of the Amended LLC Agreement as being amended and restated by the Second LLC Agreement. The Exchange also proposes to delete the reference to the ''Operating Agreement,'' for purposes of clarity and uniformity.[4] With the proposed changes, the first paragraph of the LLC Agreement will be as follows:

> Miami International Holdings, Inc., a Delaware corporation, the sole member (the ''*LLC Member*'') of MIAX PEARL, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del.C. § 18–101, *et seq.* (the ''*LLC Act*''), hereby declares the following to be the Second Amended and Restated Limited Liability Company Agreement (the ''*LLC Agreement*'') of the Company which amends and restates in its entirety the Amended and Restated Limited Liability Company Agreement dated December 5, 2016 of the Company. Capitalized terms not otherwise defined herein shall have the meanings set forth on *Schedule A* to this LLC Agreement.

Next, the Exchange proposes to amend Section 3 of the LLC Agreement to amend the address referenced therein for the Exchange's principal place of business. The Exchange has increased its office space at its current address of 7 Roszel Road, Princeton, New Jersey 08540.[5] The new mailing and principal address for the Princeton, New Jersey office is now 7 Roszel Road, Suite 1A, Princeton, New Jersey 08540. Accordingly, the Exchange proposes to amend Section 3 of the LLC Agreement to reflect the change in mailing address from ''5th Floor'' to ''Suite 1A.''

The Exchange proposes to amend Section 4 of the LLC Agreement to update the address of the Exchange's registered office in the State of Delaware, as well as the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* LLC Agreement.

[4] *See id.*

[5] *See id.,* Section 3.

registered agent. In particular, the Exchange proposes to delete the address and company name of the registered office and registered agent, respectively, as contained in the current LLC Agreement. The Exchange proposes to insert in Section 4 of the LLC Agreement the updated address of its registered office and the name of the Exchange's registered agent. With the proposed changes, Section 4 of the LLC Agreement will be as follows:

The registered office of the Company required by the LLC Act to be maintained in the State of Delaware shall be 1209 Orange Street in the City of Wilmington, County of New Castle, ZIP Code 19801 or such other office as the Board of Directors may designate from time to time. The registered agent for the Company shall be The Corporation Trust Company, or such other registered agent as the Board of Directors may designate from time to time.

Next, the Exchange proposes to amend Section 6 of the LLC Agreement to clarify that Miami International Holdings, Inc. (''MIH'') is the sole LLC Member [6] of the Exchange and to update the address for MIH, as described above. The Exchange also proposes to delete the reference to ''Schedule B'' and the following sentence: ''The LLC Member was admitted to the Company as an LLC Member of the Company upon its execution of a counterpart signature page to the Operating Agreement at which time it acquired 100% of the limited liability company interests of the Company.'' The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement. The Exchange also proposes to delete ''Schedule B'' from the LLC Agreement, which simply states that the LLC Member is MIH. This is duplicative information as the term ''LLC Member'' is defined in Schedule A to the LLC Agreement.[7] Accordingly, the Exchange proposes to delete Schedule B and move the information regarding the LLC Member into Section 6.

Next, the Exchange proposes to amend Section 9 of the LLC Agreement to delete the last sentence of Section 9(a), which states, ''The Directors as of the date of this LLC Agreement are set forth on Schedule C attached hereto.'' Schedule C of the LLC Agreement provides the names and classifications of the Board of Directors of the Exchange as of December 5, 2016. The Exchange proposes to delete Schedule C, and all references to Schedule C, as further described below, from the LLC Agreement. The names and classifications of the Board of Directors of the Exchange are publicly available information through the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') website.[8] The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement.

The Exchange also proposes to amend the first sentence of Section 9(c) to clarify that the By-Laws [9] of the Exchange have been adopted, thereby deleting the phrase ''hereby adopt the,'' in order to clarify that this has already occurred. Further, the Exchange proposes to delete the reference to ''Exhibit A'' in Section 9(c). Exhibit A currently provides that the By-Laws of MIAX PEARL are a separate document from the LLC Agreement. The Exchange provides the By-Laws as publicly available information on its website. Accordingly, additional reference to the By-Laws in Exhibit A is duplicative.

Next, the Exchange proposes to amend Section 29 of the LLC Agreement to delete the reference to ''Schedule B'' and provide a cross-reference to Section 6 for the address of the LLC Member, as described above. These proposed changes will provide clarity and uniformity throughout the LLC Agreement.

The Exchange next proposes to amend ''Schedule A, Definitions'' to the LLC Agreement to delete the definition for ''Operating Agreement.'' As described above, the Exchange is amending and restating the LLC Agreement for the second time and as such, is removing the reference in the first paragraph of the LLC Agreement to the ''Operating Agreement.''

Changes to the By-Laws

The Exchange proposes to amend the By-Laws to make several non-substantive, administrative and clarifying changes. First, the Exchange proposes to amend the title of the By-Laws to insert the phrase ''Amended and Restated.'' The Exchange proposes to amend the first paragraph of the By-Laws to make several non-substantive, administrative changes. In particular, the Exchange proposes to amend the first paragraph of the By-Laws to insert the phrase ''Amended and Restated'' in front of the first time the word ''By-Laws'' appears and to delete the phrases ''Amended and Restated'' and ''dated as of December 5, 2016,'' both of which refer to the LLC Agreement.[10] The purpose of these changes is for administrative ease and to provide uniformity among the titles of each of the Exchange's corporate documents. With the proposed changes, the first paragraph of the By-Laws will be as follows:

These Amended and Restated By-Laws have been established as the By-Laws of MIAX PEARL, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to the Limited Liability Company Agreement of the Company (as amended from time to time, the ''*LLC Agreement*''), and, together with the LLC Agreement, constitute the limited liability company agreement of the Company within the meaning of the LLC Act (as defined in the LLC Agreement). In the event of any inconsistency between the LLC Agreement and these By-Laws, the provision of the LLC Agreement shall control.

Finally, the Exchange proposes to make technical and conforming changes to the time and date of effectiveness on the signature pages of each of the Certificate of Formation, LLC Agreement and By-Laws. The Exchange also proposes to amend the signature line of the LLC Agreement to insert the full title of the signatory as ''Thomas P. Gallagher, Chairman and Chief Executive Officer.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] 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) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes to the Certificate of

[6] ''LLC Member'' means Miami International Holdings, Inc., as the sole member of the Company. *See* LLC Agreement, Schedule A, Definitions.

[7] *See id.*

[8] *See https://www.sec.gov/edgar/searchedgar/companysearch.html* and *https://www.sec.gov/oiea/Article/edgarguide.html* for EDGAR filing information.

[9] ''By-Laws'' has the meaning set forth in Section 9(c). *See* LLC Agreement, Schedule A, Definitions.

[10] *See* By-Laws.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

Formation, LLC Agreement and By-Laws are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes are non-substantive, administrative changes and will reduce potential investor or market participant confusion regarding the Exchange's corporate documents. Further, the Exchange believes the proposed changes are not material and will have no impact on the governance, ownership, or operations of the Exchange.

The Exchange believes its proposal to amend the Certificate of Formation, LLC Agreement and By-Laws are consistent with the Act as the changes are to maintain accurate information regarding, among other things, the Exchange's address, registered agent and registered office.

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 Exchange does not believe the proposed rule change will impose any burden on intra-market and inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are not intended to address competitive issues but rather are administrative, non-substantive changes that are concerned solely with updating the Certificate of Formation, LLC Agreement and By-Laws to reflect current, accurate information.

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 [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [17] 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 requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes accuracy and consistency within the Exchange's Certificate of Formation, LLC Agreement, and By-Laws, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[18]

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–2020–23 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–2020–23. 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–PEARL–2020–23, and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25269 Filed 11–16–20; 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). 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.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 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).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90393; File No. SR–EMERALD–2020–14]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Certificate of Formation, Amended and Restated Limited Liability Company Agreement, and the By-Laws

November 10, 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 28, 2020, MIAX Emerald, LLC (''MIAX Emerald'' or ''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 proposes to amend the Exchange's Certificate of Formation (the ''Certificate of Formation''), Amended and Restated Limited Liability Company Agreement (the ''LLC Agreement''), and the By-Laws (the ''By-Laws'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald'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 the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Changes to the Certificate of Formation

The Exchange proposes to amend the Certificate of Formation to make several non-substantive, administrative and clarifying changes. The Exchange first proposes to amend the title of the document in order to accurately reflect the amended document title as the ''Amended and Restated Certificate of Formation of MIAX Emerald, LLC,'' in accordance with the proposed amendments described below.

On January 30, 2018, the Exchange executed the original Certificate of Formation. The Exchange proposes delete the entire sentence in the first paragraph and insert a sentence to clarify that the Certificate of Formation has been executed in accordance with Section 18–208 of the Limited Liability Company Act, and that this document is being amended to restate the original Certificate of Formation. With the proposed changes, the first paragraph of the Certificate of Formation will be as follows:

> This filing has been executed and filed in accordance with Section 18–208 of the Limited Liability Company Act. This document is being executed for the purpose of amending and restating the original Certificate of Formation, filed on January 30, 2018, under file number: 6528291.

The Exchange also proposes to amend the signature line for the Certificate of Formation by deleting the current signature line and inserting, as the signatory, ''Barbara J. Comly, EVP, General Counsel & Corporate Secretary.''

The purpose of the proposed changes to the Certificate of Formation are to ensure that the Exchange's Certificate of Formation accurately reflects correct, current information, including the name of the amended document, in order to reduce potential investor or market participant confusion.

Changes to the LLC Agreement

The Exchange proposes to amend the LLC Agreement to make several non-substantive, administrative and clarifying changes. On February 1, 2018, the Exchange executed the original Limited Liability Company Agreement (the ''original LLC Agreement''). On December 21, 2018, the Exchange executed the Amended and Restated Limited Liability Company Agreement (the ''Amended LLC Agreement''), which restated the original LLC Agreement. The first paragraph of the LLC Agreement also refers to the document as the ''Operating Agreement.'' [3] The Exchange now proposes to amend the first paragraph of the LLC Agreement to reflect the current amended document, which will be the ''Second Amended and Restated Limited Liability Company Agreement'' (the ''Second LLC Agreement''). Accordingly, the Exchange proposes to update the text in the first paragraph of the LLC Agreement to reflect this change, thereby deleting reference to the name and date of the original LLC Agreement, and inserting the name and date of the Amended LLC Agreement as being amended and restated by the Second LLC Agreement. The Exchange also proposes to delete the reference to the ''Operating Agreement,'' for purposes of clarity and uniformity.[4] With the proposed changes, the first paragraph of the LLC Agreement will be as follows:

> Miami International Holdings, Inc., a Delaware corporation, the sole member (the ''*LLC Member*'') of MIAX Emerald, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del.C. § 18–101, *et seq.* (the ''*LLC Act*''), hereby declares the following to be the Second Amended and Restated Limited Liability Company Agreement (the ''*LLC Agreement*'') of the Company which amends and restates in its entirety the Amended and Restated Limited Liability Company Agreement dated December 21, 2018 of the Company. Capitalized terms not otherwise defined herein shall have the meanings set forth on *Schedule A* to this LLC Agreement.

Next, the Exchange proposes to amend Section 3 of the LLC Agreement to amend the address referenced therein for the Exchange's principal place of business. The Exchange has increased its office space at its current address of 7 Roszel Road, Princeton, New Jersey 08540.[5] The new mailing and principal address for the Princeton, New Jersey office is now 7 Roszel Road, Suite 1A, Princeton, New Jersey 08540. Accordingly, the Exchange proposes to amend Section 3 of the LLC Agreement to reflect the change in mailing address from ''5th Floor'' to ''Suite 1A.''

The Exchange proposes to amend Section 4 of the LLC Agreement to update the address of the Exchange's registered office in the State of Delaware, as well as the Exchange's registered agent. In particular, the Exchange proposes to delete the address and company name of the registered office and registered agent, respectively,

[3] *See* LLC Agreement.

[4] *See id.*

[5] *See id.*, Section 3.

as contained in the current LLC Agreement. The Exchange proposes to insert in Section 4 of the LLC Agreement the updated address of its registered office and the name of the Exchange's registered agent. With the proposed changes, Section 4 of the LLC Agreement will be as follows:

The registered office of the Company required by the LLC Act to be maintained in the State of Delaware shall be 1209 Orange Street in the City of Wilmington, County of New Castle, ZIP Code 19801 or such other office as the Board of Directors may designate from time to time. The registered agent for the Company shall be The Corporation Trust Company, or such other registered agent as the Board of Directors may designate from time to time.

Next, the Exchange proposes to amend Section 6 of the LLC Agreement to clarify that Miami International Holdings, Inc. (''MIH'') is the sole LLC Member [6] of the Exchange and to update the address for MIH, as described above. The Exchange also proposes to delete the reference to ''Schedule B'' and the following sentence: ''The LLC Member was admitted to the Company as an LLC Member of the Company upon its execution of a counterpart signature page to the Operating Agreement at which time it acquired 100% of the limited liability company interests of the Company.'' The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement. The Exchange also proposes to delete ''Schedule B'' from the LLC Agreement, which simply states that the LLC Member is MIH. This is duplicative information as the term ''LLC Member'' is defined in Schedule A to the LLC Agreement.[7] Accordingly, the Exchange proposes to delete Schedule B and move the information regarding the LLC Member into Section 6.

Next, the Exchange proposes to amend Section 9 of the LLC Agreement to delete the last sentence of Section 9(a), which states, ''The Directors as of the date of this LLC Agreement are set forth on Schedule C attached hereto.'' Schedule C of the LLC Agreement provides the names and classifications of the Board of Directors of the Exchange as of December 21, 2018. The Exchange proposes to delete Schedule C, and all references to Schedule C, as further described below, from the LLC Agreement. The names and classifications of the Board of Directors of the Exchange are publicly available information through the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') website.[8] The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement.

The Exchange also proposes to amend the first sentence of Section 9(c) to clarify that the By-Laws [9] of the Exchange have been adopted, thereby deleting the phrase ''hereby adopt the,'' in order to clarify that this has already occurred. Further, the Exchange proposes to delete the reference to ''Exhibit A'' in Section 9(c). Exhibit A currently provides that the By-Laws of MIAX Emerald are a separate document from the LLC Agreement. The Exchange provides the By-Laws as publicly available information on its website. Accordingly, additional reference to the By-Laws in Exhibit A is duplicative.

Next, the Exchange proposes to amend Section 29 of the LLC Agreement to delete the reference to ''Schedule B'' and provide a cross-reference to Section 6 for the address of the LLC Member, as described above. These proposed changes will provide clarity and uniformity throughout the LLC Agreement.

The Exchange next proposes to amend ''Schedule A, Definitions'' to the LLC Agreement to delete the definition for ''Operating Agreement.'' As described above, the Exchange is amending and restating the LLC Agreement for the second time and as such, is removing the reference in the first paragraph of the LLC Agreement to the ''Operating Agreement.''

Changes to the By-Laws

The Exchange proposes to amend the By-Laws to make several non-substantive, administrative and clarifying changes. First, the Exchange proposes to amend the title of the By-Laws to insert the phrase ''Amended and Restated.'' The Exchange proposes to amend the first paragraph of the By-Laws to insert the phrase ''Amended and Restated'' in front of the first time the word ''By-Laws'' appears and to delete the phrases ''Amended and Restated'' and ''dated as of December 21, 2018,'' both of which refer to the LLC Agreement.[10] The purpose of these changes is for administrative ease and to provide uniformity among the titles of each of the Exchange's corporate documents. With the proposed changes, the first paragraph of the By-Laws will be as follows:

These Amended and Restated By-Laws have been established as the By-Laws of MIAX Emerald, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to the Limited Liability Company Agreement of the Company (as amended from time to time, the ''*LLC Agreement*''), and, together with the LLC Agreement, constitute the limited liability company agreement of the Company within the meaning of the LLC Act (as defined in the LLC Agreement). In the event of any inconsistency between the LLC Agreement and these By-Laws, the provision of the LLC Agreement shall control.

Finally, the Exchange proposes to make technical and conforming changes to the time and date of effectiveness on the signature pages of each of the Certificate of Formation, LLC Agreement and By-Laws. The Exchange also proposes to amend the signature line of the LLC Agreement to insert the full title of the signatory as ''Thomas P. Gallagher, Chairman and Chief Executive Officer.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] 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) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes to the Certificate of Formation, LLC Agreement and By-Laws are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

[6] ''LLC Member'' means Miami International Holdings, Inc., as the sole member of the Company. *See* LLC Agreement, Schedule A, Definitions.

[7] *See id.*

[8] *See https://www.sec.gov/edgar/searchedgar/companysearch.html* and *https://www.sec.gov/oiea/Article/edgarguide.html* for EDGAR filing information.

[9] ''By-Laws'' has the meaning set forth in Section 9(c). *See* LLC Agreement, Schedule A, Definitions.

[10] *See* By-Laws.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes are non-substantive, administrative changes and will reduce potential investor or market participant confusion regarding the Exchange's corporate documents. Further, the Exchange believes the proposed changes are not material and will have no impact on the governance, ownership, or operations of the Exchange.

The Exchange believes its proposal to amend the Certificate of Formation, LLC Agreement and By-Laws are consistent with the Act as the changes are to maintain accurate information regarding, among other things, the Exchange's address, registered agent and registered office.

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 Exchange does not believe the proposed rule change will impose any burden on intra-market and inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are not intended to address competitive issues but rather are administrative, non-substantive changes that are concerned solely with updating the Certificate of Formation, LLC Agreement and By-Laws to reflect current, accurate information.

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 [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [17] 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 requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes accuracy and consistency within the Exchange's Certificate of Formation, LLC Agreement, and By-Laws, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[18]

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–EMERALD–2020–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2020–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EMERALD–2020–14, and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25266 Filed 11–16–20; 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). 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.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 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).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90392; File No. SR–MIAX–2020–35]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Amended and Restated Certificate of Formation, Second Amended and Restated Limited Liability Company Agreement, and the Amended and Restated By-Laws

November 10, 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 28, 2020, Miami International Securities Exchange LLC (''MIAX Options'' or ''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 amend the Exchange's Amended and Restated Certificate of Formation (the ''Certificate of Formation''), Second Amended and Restated Limited Liability Company Agreement (the ''LLC Agreement''), and the Amended and Restated By-Laws (the ''By-Laws'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' 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 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

Changes to the Certificate of Formation

The Exchange proposes to amend the Certificate of Formation to make several non-substantive, administrative and clarifying changes. On June 17, 2011, the Exchange executed the Amended and Restated Certificate of Formation. The Exchange first proposes to amend the first paragraph of the Certificate of Formation in order to accurately reflect the amended document title and the date upon which it was executed. In particular, the Exchange proposes to delete the word ''original'' and the phrase ''under Miami International Stock Exchange, LLC on September 10, 2007, as amended by the Certificate of Amendment, filed on April 21, 2010.'' [3] The Exchange proposes to insert the amended document title and date upon which the Amended and Restated Certificate of Formation was executed. With the proposed changes, the first paragraph of the Certificate of Formation will be as follows:

> This filing has been executed and filed in accordance with Section 18–208 of the Limited Liability Company Act. This document is being executed for the purpose of amending and restating the Amended and Restated Certificate of Formation, filed on June 17, 2011 under file number: 4420452.

The Exchange also proposes to amend the Second clause in the Certificate of Formation to update the address of the Exchange's registered office in the State of Delaware, as well as the Exchange's registered agent. In particular, the Exchange proposes to delete the address and company name of the registered office and registered agent, respectively, as contained in the current Certificate of Formation.[4] The Exchange proposes to insert in the Second clause of the Certificate of Formation the updated address of its registered office and the name of the Exchange's registered agent. With the proposed changes, the Second clause of the Certificate of Formation will be as follows:

> The address of its registered office in the State of Delaware is 1209 Orange Street in the City of Wilmington, County of New Castle, ZIP Code 19801. The name of its registered agent at such address is The Corporation Trust Company.

The Exchange also proposes to amend the signature line for the Certificate of Formation by deleting ''Thomas P. Gallagher, Chairman,'' as the signatory.[5] In its place, the Exchange proposes to insert the signatory as ''Barbara J. Comly, EVP, General Counsel & Corporate Secretary.''

The purpose of the proposed changes to the Certificate of Formation are to ensure that the Exchange's Certificate of Formation accurately reflects correct, current information, including the name of the amended document as well as the legal address and name of the registered office and registered agent for the Exchange in order to reduce potential investor or market participant confusion.

Changes to the LLC Agreement

The Exchange proposes to amend the LLC Agreement to make several non-substantive, administrative and clarifying changes. On May 20, 2011, the Exchange executed the First Amended and Restated Limited Liability Company Agreement (the ''First LLC Agreement''). On December 1, 2012, the Exchange executed the Second Amended and Restated Limited Liability Company Agreement (the ''Second LLC Agreement''), which restated the First LLC Agreement. The first paragraph of the LLC Agreement refers to the document as the ''Operating Agreement.'' [6] The Exchange now proposes to amend the first paragraph of the LLC Agreement to reflect the current amended document, which will be the ''Third Amended and Restated Limited Liability Company Agreement'' (the ''Third LLC Agreement''). Accordingly, the Exchange proposes to update the text in the first paragraph of the LLC Agreement to reflect this change, thereby deleting reference to the name and date of the First LLC Agreement, and inserting the name and date of the Second LLC Agreement as being amended and restated by the Third LLC Agreement. The Exchange also proposes to delete the reference to the ''Operating Agreement,'' for purposes of clarity and uniformity.[7] With the proposed changes, the first paragraph of the LLC Agreement will be as follows:

> Miami International Holdings, Inc., a Delaware corporation, the sole member (the ''*LLC Member*'') of Miami International Securities Exchange, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del.C. § 18–101, *et seq.* (the ''*LLC Act*''), hereby

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Certificate of Formation.

[4] *See id.,* SECOND Clause.

[5] *See supra* note 3.

[6] *See* LLC Agreement.

[7] *See id.*

declares the following to be the Third Amended and Restated Limited Liability Company Agreement (the ''*LLC Agreement*'') of the Company which amends and restates in its entirety the Second Amended and Restated Limited Liability Company Agreement dated December 1, 2012 of the Company. Capitalized terms not otherwise defined herein shall have the meanings set forth on *Schedule A* to this LLC Agreement.

Next, the Exchange proposes to amend Section 3 of the LLC Agreement to amend the address referenced therein for the Exchange's principal place of business. The Exchange has increased its office space at its current address of 7 Roszel Road, Princeton, New Jersey 08540.[8] The new mailing and principal address for the Princeton, New Jersey office is now 7 Roszel Road, Suite 1A, Princeton, New Jersey 08540. Accordingly, the Exchange proposes to amend Section 3 of the LLC Agreement to reflect the change in mailing address from ''5th Floor'' to ''Suite 1A.''

The Exchange next proposes to amend Section 4 of the LLC Agreement to update the address of the Exchange's registered office in the State of Delaware, as well as the Exchange's registered agent. In particular, the Exchange proposes to delete the address and company name of the registered office and registered agent, respectively, as contained in the current LLC Agreement. The Exchange proposes to insert in Section 4 of the LLC Agreement the updated address of its registered office and the name of the Exchange's registered agent. With the proposed changes, Section 4 of the LLC Agreement will be as follows:

The registered office of the Company required by the LLC Act to be maintained in the State of Delaware shall be 1209 Orange Street in the City of Wilmington, County of New Castle, ZIP Code 19801 or such other office as the Board of Directors may designate from time to time. The registered agent for the Company shall be The Corporation Trust Company, or such other registered agent as the Board of Directors may designate from time to time.

Next, the Exchange proposes to amend Section 6 of the LLC Agreement to clarify that Miami International Holdings, Inc. (''MIH'') is the sole LLC Member[9] of the Exchange and to update the address for MIH, as described above. The Exchange also proposes to delete the reference to ''Schedule B'' and the following sentence: ''The LLC Member was admitted to the Company as an LLC Member of the Company upon its execution of a counterpart signature page to the Operating Agreement at which time it acquired 100% of the limited liability company interests of the Company.'' The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement. The Exchange also proposes to delete ''Schedule B'' from the LLC Agreement, which simply states that the LLC Member is MIH. This is duplicative information as the term ''LLC Member'' is defined in Schedule A to the LLC Agreement.[10] Accordingly, the Exchange proposes to delete Schedule B and move the information regarding the LLC Member into Section 6.

Next, the Exchange proposes to amend Section 9 of the LLC Agreement to delete the last sentence of Section 9(a), which states, ''The Directors as of the date of this LLC Agreement are set forth on Schedule C attached hereto.'' Schedule C of the LLC Agreement provides the names and classifications of the Board of Directors of the Exchange as of December 1, 2012. The Exchange proposes to delete Schedule C, and all references to Schedule C, as further described below, from the LLC Agreement. The names and classifications of the Board of Directors of the Exchange are publicly available information through the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') website.[11] The purpose of these changes is for administrative ease and to provide uniformity throughout the LLC Agreement.

The Exchange also proposes to amend the first sentence of Section 9(c) to clarify that the By-Laws[12] of the Exchange have been adopted, thereby deleting the phrase ''hereby adopt the,'' in order to clarify that this has already occurred. Further, the Exchange proposes to delete the reference to ''Exhibit A'' in Section 9(c). Exhibit A currently provides that the By-Laws of MIAX are attached to the LLC Agreement. The Exchange provides the By-Laws as publicly available information on its website. Accordingly, additional reference to the By-Laws in Exhibit A is duplicative.

Next, the Exchange proposes to amend Section 29 of the LLC Agreement to delete the reference to ''Schedule B'' and provide a cross-reference to Section 6 for the address of the LLC Member, as described above. These proposed changes will provide clarity and uniformity throughout the LLC Agreement.

The Exchange next proposes to amend ''Schedule A, Definitions'' to the LLC Agreement to delete the definition for ''Operating Agreement.'' As described above, the Exchange is amending and restating the LLC Agreement for the third time and as such, is removing the reference in the first paragraph of the LLC Agreement to the ''Operating Agreement.''

Changes to the By-Laws

The Exchange proposes to amend the first paragraph of the By-Laws to make several non-substantive, administrative changes. In particular, the Exchange proposes to amend the first paragraph of the By-Laws to delete the phrases ''Second Amended and Restated'' and ''dated as of December 1, 2012,'' both of which refer to the LLC Agreement.[13] The purpose of these changes is for administrative ease and to provide uniformity among the titles of each of the Exchange's corporate documents. With the proposed changes, the first paragraph of the By-Laws will be as follows:

These Amended and Restated By-Laws have been established as the By-Laws of Miami International Securities Exchange, LLC, a Delaware limited liability company (the ''*Company*''), pursuant to the Limited Liability Company Agreement of the Company (as amended from time to time, the ''*LLC Agreement*''), and, together with the LLC Agreement, constitute the limited liability company agreement of the Company within the meaning of the LLC Act (as defined in the LLC Agreement). In the event of any inconsistency between the LLC Agreement and these By-Laws, the provision of the LLC Agreement shall control.

Finally, the Exchange proposes to make technical and conforming changes to time and date of effectiveness on the signature pages of each of the Certificate of Formation, LLC Agreement and By-Laws. The Exchange also proposes to amend the signature line of the LLC Agreement to insert the full title of the signatory as ''Thomas P. Gallagher, Chairman and Chief Executive Officer.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section

[8] *See id.,* Section 3.

[9] ''LLC Member'' means Miami International Holdings, Inc., as the sole member of the Company. *See* LLC Agreement, Schedule A, Definitions.

[10] *See id.*

[11] *See https://www.sec.gov/edgar/searchedgar/companysearch.html* and *https://www.sec.gov/oiea/Article/edgarguide.html* for EDGAR filing information.

[12] ''By-Laws'' has the meaning set forth in Section 9(c). *See* LLC Agreement, Schedule A, Definitions.

[13] *See* By-Laws.

[14] 15 U.S.C. 78f(b).

6(b)(5) [15] 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) [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes to the Certificate of Formation, LLC Agreement and By-Laws are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that the proposed changes are non-substantive, administrative changes and will reduce potential investor or market participant confusion regarding the Exchange's corporate documents. Further, the Exchange believes the proposed changes are not material and will have no impact on the governance, ownership, or operations of the Exchange.

The Exchange believes its proposal to amend the Certificate of Formation, LLC Agreement and By-Laws are consistent with the Act as the changes are to maintain accurate information regarding, among other things, the Exchange's address, registered agent and registered office.

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 Exchange does not believe the proposed rule change will impose any burden on intra-market and inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are not intended to address competitive issues but rather are administrative, non-substantive changes that are concerned solely with updating the Certificate of Formation, LLC Agreement and By-Laws to reflect current, accurate information.

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 [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [19] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [20] 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 requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes accuracy and consistency within the Exchange's Certificate of Formation, LLC Agreement, and By-Laws, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change 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–MIAX–2020–35 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–MIAX–2020–35. 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

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 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).

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–MIAX–2020–35, and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25264 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34092; File No. 812–15146]

AdvisorShares Trust, et al.

November 12, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

APPLICANTS: AdvisorShares Trust (the ''Trust''), AdvisorShares Investments, LLC (the ''Initial Adviser''), and Foreside Fund Services, LLC (the ''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order (''Order'') that permits: (a) ActiveShares ETFs (as described in the Reference Order (as defined below)) to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value; and (c) certain affiliated persons of an ActiveShares ETF to deposit securities into, and receive securities from, the ActiveShares ETF in connection with the purchase and redemption of creation units. The relief in the Order would incorporate by reference terms and conditions of the same relief of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

FILING DATE: The application was filed on July 31, 2020 and amended on November 3, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on December 7, 2020, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: *info@advisorshares.com.*

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819 or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants

1. The Trust is a statutory trust established under the laws of Delaware and will consist of one or more series operating as ActiveShares ETFs. The Trust is registered as an open-end management investment company under the Act. Applicants seek relief with respect to Funds (as defined below), including two initial Funds (''Initial Funds''). The Funds will operate as ActiveShares ETFs as described in the Reference Order.[2]

2. The Initial Adviser, a Delaware limited liability company, will be the investment adviser to the Initial Funds. An Adviser (as defined below) will serve as investment adviser to each Fund. The Initial Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser may enter into sub-advisory agreements with other investment advisers to act as sub-advisers with respect to the Funds (each a ''Sub-Adviser''). Any Sub-Adviser will be registered under the Advisers Act.

3. The Distributor is a Delaware limited liability company and a broker-dealer registered under the Securities Exchange Act of 1934, as amended, and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser and/or Sub-Adviser (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act. The requested Order would permit applicants to offer ActiveShares ETFs. Because the relief requested is the same as certain of the relief granted by the Commission under the Reference Order and because the Initial Adviser has entered into a license agreement with Precidian Investments LLC, or an affiliate thereof, in order to offer ActiveShares ETFs,[3] the Order would incorporate by reference the terms and conditions of the same relief of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by

[22] 17 CFR 200.30–3(a)(12).

[1] Precidian ETFs Trust, *et al.,* Investment Company Act Release Nos. 33440 (April 8, 2019) (notice) and 33477 (May 20, 2019) (order). Applicants are not seeking relief under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act (the ''Section 12(d)(1) Relief''), and relief under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act relating to the Section 12(d)(1) Relief, as granted in the Reference Order. Accordingly, to the extent the terms and conditions of the Reference Order relate to such relief, they are not incorporated by reference into the Order.

[2] To facilitate arbitrage, an ActiveShares ETF disseminates a ''verified intraday indicative value'' or ''VIIV,'' reflecting the value of its portfolio holdings, calculated every second during the trading day. To protect the identity and weightings of its portfolio holdings, an ActiveShares ETF sells and redeems its Shares in creation units to authorized participants only through an unaffiliated broker-dealer acting on an agency basis.

[3] Aspects of the Funds are covered by intellectual property rights, including but not limited to those which are described in one or more patent applications.

the Initial Adviser or any entity controlling, controlled by, or under common control with the Initial Adviser (any such entity, along with the Initial Adviser, included in the term ''Adviser''); (b) operates as an ActiveShares ETF as described in the Reference Order; and (c) complies with the terms and conditions of the Order and the terms and conditions of the Reference Order that are incorporated by reference into the Order (each such company or series and each Initial Fund, a ''Fund'').[4]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Applicants submit that for the reasons stated in the Reference Order the requested relief meets the exemptive standards under sections 6(c) and 17(b) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25329 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

[4] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and the terms and conditions of the Reference Order that are incorporated by reference into the Order.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90387; File No. SR–NYSE–2020–93)

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Amend Rules 7.35 and 7.35A

November 10, 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 November 3, 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 (1) amend Rule 7.35 to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction; and (2) amend Rule 7.35A regarding consultations in connection with an IPO or Direct Listing. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) amend Rule 7.35 to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction;[4] and (2) amend Rule 7.35A regarding consultations in connection with an IPO or Direct Listing.

Proposed Rule Changes

Rule 7.35—Auction Imbalance Information

In connection with the closing of the Trading Floor facilities located at 11 Wall Street in New York City as of March 23, 2020 and moving the Exchange, on a temporary basis, to fully electronic trading,[5] and subsequent reopening of the Trading Floor on a limited basis first to Floor Brokers on May 26, 2020[6] and then to DMMs on June 15, 2020,[7] the Exchange added Commentaries to Rule 7.35.[8] Currently, these Commentaries are in effect until the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on December 31, 2020.[9]

[4] *See* Rules 7.35(a)(1)(D) (defining the term ''IPO Auction'' to mean the Core Open Auction for the first day of trading on the Exchange of a security that is an IPO) and 7.35(a)(1)(E) (defining the term ''Direct Listing Auction'' to mean the Core Open Auction for the first day of trading on the Exchange of a security that is a Direct Listing).

[5] Pursuant to Rule 7.1(e), the CEO notified the Board of Directors of the Exchange of her determination under Rule 7.1(c)(3). The Exchange's rules establish how the Exchange will function fully-electronically. *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/all-categories/2020/03-18-2020-204202110.*

[6] *See* Securities Exchange Act Release No. 88933 (May 22, 2020), 85 FR 32059 (May 28, 2020) (SR–NYSE–2020–47) (Notice of filing and immediate effectiveness of proposed rule change).

[7] *See* Securities Exchange Act Release No. 89086 (June 17, 2020) (SR–NYSE–2020–52) (Notice of filing and immediate effectiveness of proposed rule change).

[8] *See* Securities Exchange Act Release Nos. 88725 (April 22, 2020), 85 FR 23583 (April 28, 2020) (SR–NYSE–2020–37) (amending Rule 7.35 to add Commentary .01) (''IPO Filing'') and 89925 (September 18, 2020), 85 FR 60276 (September 24, 2020) (SR–NYSE–2020–75) (amending Rule 7.35 to add Commentary .02) (''Direct Listing Filing'').

[9] *See* Securities Exchange Act Release No. 90005 (September 25, 2020), 85 FR 61999 (October 1, 2020) (SR–NYSE–2020–78) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C; and temporary rule relief in Rule 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on December 31, 2020) (''Extension Filing'').

Specifically, the Exchange added Commentary .01 to Rule 7.35, which provides:

For a temporary period that begins on April 21, 2020 and ends on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on December 31, 2020, for an IPO Auction, paragraph (c)(3) of this Rule will not be in effect, and the Exchange will disseminate Auction Imbalance Information if a security is an IPO and has not had its IPO Auction. Such Auction Imbalance Information will be disseminated in the same manner that Auction Imbalance Information is disseminated for a Core Open Auction, as set forth in Rule 7.35A(e)(1)—(3), except that with respect to an IPO Auction, references to the term ''Consolidated Last Sale Price'' in Rule 7.35A(e)(3) and subparagraphs (A)—(C) of that Rule will be replaced with the term ''the security's offering price.''

In addition, the Exchange added Commentary .02 to Rule 7.35, which provides:

For a temporary period that begins on September 4, 2020 and ends on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on December 31, 2020, for a Direct Listing Auction, paragraph (c)(3) of this Rule will not be in effect, and the Exchange will disseminate Auction Imbalance Information if a security is a Direct Listing and has not had its Direct Listing Auction. Such Auction Imbalance Information will be disseminated in the same manner that Auction Imbalance Information is disseminated for a Core Open Auction, as set forth in Rule 7.35A(e)(1)–(3), except that with respect to a Direct Listing Auction, references to the term ''Consolidated Last Sale Price'' in Rule 7.35A(e)(3) and subparagraphs (A)–(C) of that Rule will be replaced with the term ''the security's Indication Reference Price as determined under Rule 7.35A(d)(2)(A)(iv).''

The Exchange proposes to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction.

Rule 7.35(c)(3) provides that the Exchange will not disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction. This Rule is based on a change that the Exchange made in 2015 to reflect that Exchange systems would not publish Order Imbalance Information for an IPO.[10] In 2015, the rationale provided for excluding IPOs from Order Imbalance Information was because Exchange systems at the time did not have access to interest represented in the crowd by Floor brokers. Since the Exchange transitioned to Pillar in August 2019, all Floor broker interest intended for a Core Open Auction, IPO Auction, or Direct Listing Auction must be entered electronically [11] and therefore Exchange systems are able to include such orders in the Auction Imbalance Information.

The Exchange believes that because Floor broker interest is now entered electronically and can be included in Auction Imbalance Information for all Core Open Auctions, the original rationale provided in 2015 for excluding IPO Auctions has become moot. Accordingly, the Exchange proposes to amend Rule 7.35 to eliminate, on a permanent basis, the current restriction on the Exchange disseminating Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction. With this change, beginning at 8:00 a.m. Eastern Time, the following information would be disseminated in the Auction Imbalance Information in advance of an IPO Auction or Direct Listing Auction: Total Imbalance, Side of Total Imbalance, Paired Quantity, and Continuous Book Clearing Price, as these terms are defined in Rule 7.35(a)(4).[12]

To effect this change, the Exchange proposes to delete Rule 7.35(c)(3), which specifically excludes IPOs and Direct Listings from the Auction Imbalance Information. By deleting this text, IPOs and Direct Listings would no longer be treated differently than other Core Open Auctions with respect to Auction Imbalance Information, and therefore would be included in the Auction Imbalance Information. The Exchange believes that disseminating Auction Imbalance Information in advance of an IPO Auction or Direct Listing Auction would promote transparency in advance of such Auctions, which would benefit investors and other market participants.

As part of this proposed change, the Exchange proposes that the Imbalance Reference Price for either an IPO Auction or a Direct Listing Auction would continue to be determined in the same manner as provided for under the temporary Commentaries .01 and .02 to Rule 7.35, respectively. Specifically, the Imbalance Reference Price for determining the Auction Imbalance Information for a Core Open Auction under Rule 7.35A(e)(3) is the Consolidated Last Sale Price,[13] bound by the bid and offer of any published pre-opening indication.[14] Because this definition of Imbalance Reference Price does not currently specify what the Consolidated Last Sale Price would be for an IPO Auction or Direct Listing Auction (which does not exist because the security has not been previously listed on an exchange), temporary Commentaries .01 and .02 to Rule 7.35 establish that the security's offering price (for an IPO) or Indication Reference Price (for a Direct Listing) would be used instead of the Consolidated Last Sale Price for determining the Imbalance Reference Price for such Auctions.

Accordingly, in conjunction with deleting paragraph (c) of Rule 7.35 to make permanent the dissemination of Auction Imbalance Information for IPOs and Direct Listings, the Exchange proposes to amend the definition of Consolidated Last Sale Price in Rule 7.35(a)(11)(A) to provide that: (i) For an IPO that has not had its IPO Auction, the Consolidated Last Sale Price would mean the security's offering price; and (ii) for a Direct Listing that has not had its Direct Listing Auction, the Consolidated Last Sale Price would mean the Indication Reference Price for such security.

To effect this change, the Exchange proposes to make the last sentence of current Rule 7.35(a)(11)(A) (relating to transferred securities) as new Rule 7.35(a)(11)(A)(i) and then add the provisions relating to IPO Auctions and Direct Listing Auctions, described above, as new Rules 7.35(a)(11)(A)(ii) and (iii), respectively. With this proposed rule change, the Consolidated Last Sale Price would be defined differently only for that period of time leading up to an IPO Auction or Direct Listing Auction. Once such Auctions

[10] *See* Securities Exchange Act Release No. 74837 (April 29, 2015), 80 FR 25741 (May 5, 2015) (SR–NYSE–2015–19) (Notice of filing and immediate effectiveness of proposed rule change). The Exchange added Direct Listings in 2018. *See* Securities Exchange Act Release No. 82627 (February 2, 2018), 83 FR 5650 (February 8, 2018) (SR–NYSE–2017–30) (Approval Order).

[11] *See* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188, 26208 at n. 73 (June 5, 2019) (SR–NYSE–2019–05) (Approval Order).

[12] *See* Rule 7.35A(e)(2) (specifying the content of the Auction Imbalance Information that is disseminated in advance of a Core Open Auction).

[13] The term ''Consolidated Last Sale Price'' is defined in Rule 7.35(a)(11)(A) to mean: ''The most recent consolidated last-sale eligible trade in a security on any market during Core Trading Hours on that trading day, and if none, the Official Closing Price from the prior trading day for that security. For a transferred security, the Consolidated Last Sale Price means the most recent consolidated last-sale eligible trade in a security on any market during Core Trading Hours on that trading day, and if none, the official closing price from the prior trading day for that security from the exchange from which the security was transferred.''

[14] As provided for in Rule 7.35A(e)(3), the Imbalance Reference Price changes if a pre-opening indication has been published for such Auction. For example, if the security's Consolidated Last Sale Price were lower than the bid price of a pre-opening indication, the Imbalance Reference Price for that Core Open Auction would be the pre-opening indication bid price, and not the Consolidated Last Sale Price. *See, e.g.,* Rule 7.35A(e)(3)(A).

have concluded, the Consolidated Last Sale Price for such securities would be determined under the first sentence of Rule 7.35(a)(11)(A), which is not changing.

Because these proposed changes would make permanent Commentaries .01 and .02 to Rule 7.35, the Exchange proposes to delete these Commentaries.

Rule 7.35A—DMM Consultations

Pursuant to Rule 7.35A(g), the DMM assigned to an Exchange-listed security is responsible for determining the Auction Price for Core Open Auctions. In connection with the temporary closure of the Trading Floor to prevent the spread of COVID–19, the Exchange filed proposed rule changes that noted that during the period when there has been reduced staff on the Trading Floor, communications from an underwriter or financial advisor to a DMM may be conveyed via Exchange staff to the DMM rather than via a Floor broker.[15] Such communications from an underwriter or financial advisor [16] had previously been conveyed to the DMM via a Floor broker,[17] in part because Rule 36.30 restricts telephone communications for DMMs while they are on the Trading Floor.[18]

Because the Trading Floor continues to operate with reduced DMM and Floor broker staff, underwriters and financial advisors have continued to have the choice to use Exchange staff to convey information to the DMM in connection with such Core Open Auctions.[19]

The Exchange believes that going forward, even once the Trading Floor is fully open to DMM and Floor broker staff, underwriters or financial advisors should be able to choose whether to use a Floor broker or Exchange staff to convey information to the DMM. In particular, because the information conveyed from an underwriter or financial advisor to a DMM is purely factual, and does not involve performing broker-dealer services, the Exchange believes that such information can be conveyed to a DMM via Exchange staff without any difference in scope of information than what would have otherwise been conveyed by a Floor broker.[20]

Current Exchange rules do not specify the consultations a DMM may have with an underwriter or financial advisor for initial listings that are not Direct Listings or for follow-on offerings. To provide clarity and transparency in Exchange rules, the Exchange proposes to amend Rule 7.35A(g)(1) to include the current process for DMM consultations with an underwriter or financial advisor for initial listings and follow-on offerings. The Exchange further proposes to specify that any such consultations may be conveyed to the DMM via either a Floor broker or Exchange staff.

To effect this change, proposed Rule 7.35A(g)(1) would provide (proposed additions italicized, deleted text bracketed):

In order to effect a fair and orderly opening on the first day of trading of a security having its initial listing on the Exchange or for a follow-on offering, a DMM may consult with an underwriter or financial advisor for the issuer of such security provided that, [W]*w*hen facilitating the opening on the first day of trading of a Direct Listing that has not had recent sustained history of trading in a Private Placement Market prior to listing, the DMM will consult with a financial advisor to the issuer of such security [in order to effect a fair and orderly opening of such security]. *Any such consultations will be conducted by an underwriter or financial advisor relaying information to the DMM via either a Floor broker or Exchange staff.*

The Exchange notes that the proposed changes to what would be the first sentence of amended Rule 7.35A(g)(1) reflect long-standing practice relating to the type of consultations that a DMM may have with an underwriter or financial advisor. As with current practice, the only consultations that would be required in Exchange rules would be in connection with a Direct Listing that has not had recent sustained history of trading in a Private Placement Market prior to listing. The Exchange believes that this proposed rule text would promote transparency and clarity in Exchange rules by specifying the existing process whereby a DMM may consult with an underwriter or financial advisor in connection with a security having its initial listing on the Exchange or for a follow-on offering.

The proposed second sentence would reflect the proposed new process, which is currently in place on a temporary basis during the period when the Trading Floor is operating with reduced DMM and Floor broker staff to reduce the spread of COVID–19, that for such consultations, an underwriter or financial advisor may choose to relay information to the DMM via either a Floor broker or Exchange staff.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[22] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[15] *See* Securities Exchange Act Release Nos. 88488 (March 26, 2020), 85 FR 18286 (April 1, 2020) (SR–NYSE–2020–23) (''In addition, Exchange staff on the Trading Floor will be in communication with the lead underwriter or financial advisor, as applicable, for such IPO Auction and will convey to the DMM information that the underwriter would normally convey to the DMM via a Floor broker, such as when the underwriter has entered all interest for such auction.''), and 88546 (April 2, 2020), 85 FR 19782 (April 8, 2020) (SR–NYSE–2020–28) (''Exchange staff would be in communication with the lead underwriter and would convey to the DMM information that the underwriter would normally convey to the DMM via a Floor broker, such as when the underwriter has entered all interest for such auction.'')

[16] Rule 7.35A(g)(1) requires the DMM to consult with a financial advisor to the issuer of a security that is having a Direct Listing and has not had recent sustained history of trading in a Private Placement Market prior to listing.

[17] In many instances, the Floor broker conveying such information to the DMM works for the same broker-dealer that is functioning as the underwriter or financial advisor for the issuer. If the underwriter or financial advisor does not have a Floor broker operation, they can retain an independent Floor broker to provide such services.

[18] Rule 36.30 prescribes the circumstances when a DMM on the Trading Floor may use a telephone and provides that, with the approval of the Exchange, a DMM unit may maintain a telephone line at its stock trading post location to the off-floor offices of the DMM unit, the unit's clearing firm, or to persons providing non-trading relating services and that such telephone connections shall not be used for the purpose of transmitting to the Floor orders for the purchase or sale of securities. DMMs are permitted to use cellular phones outside of the Trading Floor only. *See* Rule 36.23.

[19] As of the date of this filing, underwriters and financial advisors have chosen to convey information to the DMM via Exchange staff for over 30% of the IPO Auctions and the two Direct Listing Auctions on September 30, 2020.

[20] The Exchange notes that on the Nasdaq Stock Market, LLC (''Nasdaq''), an underwriter for an IPO communicates directly with Nasdaq staff and in such communications, the underwriter advises Nasdaq staff that a security is ''ready to trade,'' Nasdaq displays an expected price to the underwriter, the underwriter is responsible for approving proceeding with the auction, and the underwriter can determine to postpone and reschedule the IPO. *See* Nasdaq Rule 4120(c)(8)(A) and (B). Under Nasdaq Rule 4120(c)(9), for any other security with an initial listing on Nasdaq, a financial advisor performs the role of an underwriter as prescribed in Nasdaq Rule 4120(c)(8).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

Rule 7.35—Auction Imbalance Information

The Exchange believes that the proposed change to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote fair and orderly IPO Auctions and Direct Listing Auctions. Specifically, because such Auction Imbalance Information would include Floor broker interest eligible to participate in an IPO Auction or Direct Listing Auction (and therefore the original rationale for excluding such information is now moot), the Exchange believes that including such information in the Auction Imbalance Information on the same terms that such information is disseminated for other Core Open Auctions would provide more granular information in advance of an IPO Auction or Direct Listing Auction. As described above, the Auction Imbalance Information for an IPO Auction or Direct Listing Auction would begin being published at 8:00 a.m. Eastern Time, would be published every second, and would include Total Imbalance, Side of Total Imbalance, Paired Quantity, and Continuous Book Clearing Price information. The Exchange therefore believes that proposed rule change would promote transparency in advance of an IPO Auction or Direct Listing Auction, which would benefit investors and the public.

Rule 7.35A—DMM Consultations

The Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to make permanent the ability of an underwriter or financial advisor to convey information to the DMM in connection with initial listings and follow-on offerings via either a Floor broker or Exchange staff. The Exchange believes that because the purpose of such consultations is to convey information to the DMM, Exchange staff or a Floor broker can perform this function. The Exchange further notes that the type of information being conveyed via Exchange staff is similar to the scope of information provided to Nasdaq staff by an underwriter or financial advisor pursuant to Nasdaq Rules 4120(c)(8) and (9). Moreover, the proposed change has been in operation on a temporary basis during the period when there have been reduced DMM and Floor broker staff on the Trading Floor to prevent the spread of COVID–19 and underwriters and financial advisors have chosen to convey information to the DMM via Exchange staff for over 30% of the IPOs and the two Direct Listings. Accordingly, broker-dealers functioning as underwriters and financial advisors, DMMs, and Exchange staff are already experienced in using Exchange staff to perform this function. The Exchange therefore believes it would promote fair and orderly Core Open Auctions on the Exchange for underwriters and financial advisors to be provided the option to continue using this method of conveying information to a DMM in connection with initial listings or follow-on offerings.

The Exchange further believes that the proposed change to Rule 7.35A(g)(1) to specify the long-standing practice for DMM consultations with the underwriter or financial advisor of an issuer of a security in connection with initial listings and follow-on offerings would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote transparency and clarity in Exchange rules. More specifically, this proposed rule change would not result in any changes to how a DMM would determine the Auction Price for Core Open Auctions under Rule 7.35A(g), and therefore this proposed change would not result in any substantive differences to the Exchange's auction rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[23] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issues. Instead, the proposed rule changes are designed to (i) promote transparency by including information about IPO Auctions and Direct Listing Auctions in Auction Imbalance Information on a permanent basis; and (ii) promote transparency and clarity in Exchange rules by specifying the existing process for DMM consultations with the underwriter or financial advisor of an issuer of a security in connection with initial listings and follow-on offerings and making permanent that Exchange staff, in addition to Floor brokers, may be used for such consultations.

[23] 15 U.S.C. 78f(b)(8).

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

Within 45 days of the date of publication of this notice in the **Federal Register** or such longer period *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2020–93 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–2020–93. 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–NYSE–2020–93 and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25268 Filed 11–16–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90391; File No. SR–NYSE–2020–92]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List

November 10, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 2, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 amend its Price List to extend through December 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April through October 2020. The Exchange proposes to implement the fee changes effective November 2, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to extend through December 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April through October 2020.

The proposed changes respond to the current volatile market environment that has resulted in unprecedented average daily volumes and the temporary closure of the Trading Floor, which are both related to the ongoing spread of the novel coronavirus (''COVID–19'').

The Exchange proposes to implement the fee changes effective November 2, 2020.

Background

Beginning on March 16, 2020, in order to slow the spread of COVID–19 through social distancing measures, significant limitations were placed on large gatherings throughout the country. As a result, on March 18, 2020, the Exchange determined that beginning March 23, 2020, the physical Trading Floor facilities located at 11 Wall Street in New York City would close and that the Exchange would move, on a temporary basis, to fully electronic trading.[4] Following the temporary closure of the Trading Floor, the Exchange waived certain equipment fees for the booth telephone system on the Trading Floor and associated service charges for the months of April and May.[5]

On May 14, 2020, the Exchange announced that on May 26, 2020 trading operations on the Trading Floor would resume on a limited basis to a subset of Floor brokers, subject to health and safety measures designed to prevent the spread of COVID–19.[6] On June 15, 2020, the Exchange announced that on June 17, 2020, the Trading Floor would reintroduce a subset of DMMs, also subject to health and safety measures designed to prevent the spread of COVID–19.[7] Following this partial reopening of the Trading Floor, the Exchange extended the equipment fee waiver for the months of June, July, August, September and October.[8] The Trading Floor continues to operate with reduced headcount and additional health and safety precautions.[9]

Proposed Rule Change

The proposed rule change responds to the unprecedented events surrounding the spread of COVID–19 by extending the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations for the remainder of 2020.

As noted, for the months of April, May, June, July, August, September and October, the Exchange waived the Annual Telephone Line Charge of $400 per phone number and the $129 fee for

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[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/allcategories/2020/03-18-2020-204202110.*

[5] *See* Securities Exchange Act Release No. 88602 (April 8, 2020), 85 FR 20730 (April 14, 2020) (SR–NYSE–2020–27); Securities Exchange Act Release No. 88874 (May 14, 2020), 85 FR 30743 (May 20, 2020) (SR–NYSE–2020–29). *See* footnote 11 of the Price List.

[6] *See* Trader Update, dated May 14, 2020, available here: *https://www.nyse.com/traderupdate/history#110000251588.*

[7] *See* Trader Update, dated June 15, 2020, available here: *https://www.nyse.com/trader-update/history#110000272018.*

[8] *See* Securities Exchange Act Release No. 89050 (June 11, 2020), 85 FR 36637 (June 17, 2020) (SR–NYSE–2020–49); Securities Exchange Act Release No. 89324 (July 15, 2020), 85 FR 44129 (July 21, 2020) (SR–NYSE–2020–59); Securities Exchange Act Release No. 89754 (September 2, 2020), 85 FR 55550 (September 8, 2020) (SR–NYSE–2020–71); Securities Exchange Act Release No. 89798 (September 9, 2020), 85 FR 57263 (September 15, 2020) (SR–NYSE–2020–72); and Securities Exchange Act Release No. 90161 (October 13, 2020), 85 FR 66370 (October 19, 2020) (SR–NYSE–2020–81).

[9] *See* Trader Update, dated June 15, 2020, available here: *https://www.nyse.com/trader-update/history#110000272018.* DMMs continue to support a subset of NYSE-listed securities remotely.

a single line phone, jack, and data jack. The Exchange also waived related service charges, as follows: $161.25 to install single jack (voice or data); $107.50 to relocate a jack; $53.75 to remove a jack; $107.50 to install voice or data line; $53.75 to disconnect data line; $53.75 to change a phone line subscriber; and miscellaneous telephone charges billed at $106 per hour in 15 minute increments.[10] These fees were waived for (1) member organizations with at least one trading license, a physical Trading Floor presence, and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, or, beginning in August 2020, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, *i.e.,* the date the Trading Floor re-opened on a limited basis, and (2) member organizations with at least one trading license that are Designated Market Makers with 30 or fewer assigned securities for the billing month of March 2020.

Because the Trading Floor continues to operate with reduced capacity, the Exchange proposes to extend the waiver of these Trading Floor-based fees through December 2020. To effectuate this change, the Exchange proposes to replace ''October'' with ''December'' after ''through'' and before ''2020'' in footnote 11 to the Price List.

In order to further reduce costs for member organizations with a Trading Floor presence, the Exchange also waived the April, May, June, July, August, September and October 2020 monthly portion of all applicable annual fees for (1) member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, or, beginning in August 2020, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, and (2) member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020.[11]

The Exchange proposes to also waive the November and December monthly portion of all applicable annual fees for member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020 or, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020. The indicated annual trading license fees would also be waived for November and December 2020 for member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020. To effectuate this change, the Exchange proposes to replace ''October'' with ''December'' after ''through'' and before ''2020'' in footnote 15 of the Price List.

The proposed extension of the fee waivers would reduce monthly costs for member organizations with a Trading Floor presence whose operations were disrupted by the Floor closure, which lasted approximately two months, and remains partially closed. The Exchange believes that extension of the fee waiver would ease the financial burden associated with the ongoing partial Trading Floor closure. The Exchange believes that all member organization that conduct a significant portion of trading on the Trading Floor would benefit from this proposed fee change.

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [14]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [15] Indeed, equity trading is currently dispersed across 15 exchanges,[16] 31 alternative trading systems,[17] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 20% market share.[18] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tape A, B and C securities combined is less than 14%.

The Proposed Change is Reasonable

The proposed extension of the waiver of equipment and related service fees and the applicable monthly trading

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[10] The Service Charges also include an internet Equipment Monthly Hosting Fee that the Exchange did not waive for April, May, June, July, August and September 2020 and that the Exchange does not propose to waive for November and December 2020.

[11] *See* notes 5–8, *supra. See* footnote 15 of the Price List. Beginning in August 2020, member organizations with a physical trading Floor presence that became member organizations on or after April 1, 2020 are eligible for a one-time credit for the member organization's indicated annual trading license fee for the months of April through July 2020 if the member organization meets the other requirements for the waiver described in footnote 15 of the Price List.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) & (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[15] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[16] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[17] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[18] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

license fee for Trading Floor-based member organizations is reasonable in light of the partial continued closure of the NYSE Trading Floor. Beginning March 2020, markets worldwide experienced unprecedented declines and volatility because of the ongoing spread of COVID–19 also resulted in the temporary closure of the NYSE Trading Floor. As noted, the Trading Floor was recently partially reopened on a limited basis to a subset of Floor brokers and DMMs, subject to health and safety measures designed to prevent the spread of COVID–19. The proposed change is designed to reduce costs for Floor participants for the end of 2020 and therefore ease the financial burden faced by member organizations that conduct business on the Trading Floor while it continues to operate with reduced capacity.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations to December 2020 are an equitable allocation of fees. The proposed waivers apply to all Trading Floor-based firms meeting specific requirements during the period that the Trading Floor remains partially open. The proposed change is equitable as it merely continues the fee waiver granted in April, May, June, July, August, September and October 2020, and is designed to reduce monthly costs for Trading Floor-based member organizations that are unable to fully conduct Floor operations while the Trading Floor remains partially open during the ongoing COVID–19 pandemic.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposed continuation of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during November and December 2020 is not unfairly discriminatory because the proposed waivers would benefit all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange is not proposing to waive the Floor-related fees indefinitely, but rather during the period that the Trading Floor is not fully open. The proposed fee change is designed to ease the financial burden on Trading Floor-based member organizations that cannot fully conduct Floor operations.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[19] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the continued participation of member organizations on the Exchange by providing certainty and fee relief during the unprecedented volatility and market declines caused by the continued spread of COVID–19. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition. The proposed continued waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during November and December 2020 is designed to reduce monthly costs for those Floor participants whose operations continue to be impacted by the spread of COVID–19 despite the fact that the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would provide a degree of certainty and ease the financial burden on Trading Floor-based member organizations impacted by the temporary closing and partial reopening of the Trading Floor. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market 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. The Exchange believes that the proposed rule change reflects this competitive environment because it permits impacted member organizations to continue to conduct market-making operations on the Exchange and avoid unintended costs of doing business on the Exchange while the Trading Floor is not fully open, which could make the Exchange a less competitive venue on which to trade as compared to other equities markets.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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) [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–NYSE–2020–92 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.

[19] 15 U.S.C. 78f(b)(8).

[20] Regulation NMS, 70 FR at 37498–99.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSE–2020–92. 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–NYSE–2020–92 and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25263 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90386; File No. SR–FICC–2020–013]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Government Securities Division Rulebook To Add a Pre-Payment Assessment and Certain Credits in Connection With a New Service, Which Has Not Yet Been Proposed for and Would Be Subject to Regulatory Approval

November 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 28, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to the FICC Government Securities Division (''GSD'') Rulebook (''Rules'')[5] in order to add a $250,000 pre-payment assessment (the ''Sponsored GC Pre-Payment Assessment'') in connection with a new service offering, which has not yet been proposed for and would be subject to regulatory approval, that would allow Sponsoring Members to transact cleared tri-party Repo Transactions with their Sponsored Members on a general collateral basis (the ''Sponsored GC Service''). The proposal would include certain credits in connection with the Sponsored GC Pre-Payment Assessment, as further described below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Capitalized terms not defined herein are defined in the Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Rules to add the Sponsored GC Pre-Payment Assessment in connection with the Sponsored GC Service. The proposal would include certain credits in connection with the Sponsored GC Pre-Payment Assessment, as further described below.

Proposal

FICC is proposing to add the Sponsored GC Pre-Payment Assessment to the Rules to ensure Sponsoring Members' support of and readiness to participate in the Sponsored GC Service in order to justify FICC's investment in building the new technology infrastructure that would be necessary to implement the Sponsored GC Service, and also to ensure equitable treatment of Sponsoring Members irrespective of when they elect to onboard into the Sponsored GC Service. It is important to note that FICC's proposed use of the Sponsored GC Pre-Payment Assessment relates to the Sponsored GC Service being a new service for FICC, which as described above requires an investment by FICC in new technology infrastructure. As such, FICC does not anticipate using similar payment mechanisms for its existing services.

As described in detail below, satisfaction of the Sponsored GC Pre-Payment Assessment would be required at or before the time a Sponsoring Member onboards into the Sponsored GC Service. Because a Sponsoring Member would be required to obtain appropriate internal approvals prior to satisfying the Sponsored GC Pre-Payment Assessment, FICC believes that the Sponsored GC Pre-Payment Assessment would ensure that the Sponsoring Member is supportive of and ready to utilize the Sponsored GC Service, and would similarly reduce the likelihood that the Sponsoring Member later withdraws from the Sponsored GC Service.

The Sponsored GC Service, which as described above has not yet been proposed for and would be subject to regulatory approval, would be a voluntary service offering, which would allow (but not require) Sponsoring Members and their Sponsored Members to transact cleared tri-party Repo Transactions on a general collateral basis.

Any Sponsoring Member that chooses to participate in the Sponsored GC Service would be charged the Sponsored GC Pre-Payment Assessment at the time such Sponsoring Member onboards into the Sponsored GC Service. The Sponsored GC Pre-Payment Assessment would be credited against the Sponsoring Member's use of the Sponsored GC Service such that the Sponsoring Member would not make any payment to FICC for its use of the Sponsored GC Service until after the Sponsored GC Pre-Payment Assessment is completely depleted.

In addition, any Sponsoring Member that elects to be charged the Sponsored GC Pre-Payment Assessment between November 2020 and February 2021 would receive an additional $25,000 credit toward its use of the Sponsored GC Service (the ''Additional Sponsored GC Credit'') such that FICC's books and records would reflect that such Sponsoring Member has a total of $275,000 of credit towards its use of the Sponsored GC Service.[6]

In light of current market conditions depressing cleared repo volumes generally, FICC believes that requiring the Sponsored GC Pre-Payment Assessment is necessary for FICC to be assured that Sponsoring Members are supportive of the Sponsored GC Service and also ready to utilize it in order to justify FICC's investment in the new technology infrastructure that would be necessary to implement the Sponsored GC Service. The $250,000 amount for the Sponsored GC Pre-Payment Assessment was selected as a result of dialogue between FICC and its Sponsoring Members. FICC believes this amount represents a sufficiently substantial outlay of funds by the Sponsoring Member to require it to obtain the appropriate internal approvals in order for the Sponsoring Member to satisfy such amount, and thereby ensures the Sponsoring Member's support of and readiness to utilize the Sponsored GC Service. In addition, although the amount was not specifically selected to ensure total coverage of the cost of the new technology infrastructure required in order for FICC to implement the Sponsored GC Service, FICC believes that the $250,000 amount for the Sponsored GC Pre-Payment Assessment would ensure coverage of a reasonable amount of FICC's costs associated with implementing the Sponsored GC Service.

Similarly, the $25,000 amount for the Additional Sponsored GC Credit was chosen by FICC to reflect reasonable compensation for Sponsoring Members who elect to be charged the Sponsoring GC Pre-Payment Assessment at least several months prior to implementation of the Sponsored GC Service (*i.e.,* between November 2020 and February 2021).

Sponsoring Members that elect to participate in the Sponsored GC Service would have 36 months after their onboarding into the Sponsored GC Service to deplete their Sponsored GC Assessment and Additional Sponsored GC Credit, if applicable, before the credits would expire.

To the extent that FICC, in consultation with its Board of Directors, decides at a later date, for any reason, not to implement the Sponsored GC Service, all previously collected Sponsored GC Pre-Payment Assessments would be returned to the contributing Sponsoring Members in full at such time.

In addition, if a Sponsoring Member elects to withdraw from the Sponsored GC Service before expiration of its Sponsored GC Pre-payment Assessment, it would be entitled to a return of any unused portion of its Sponsored GC Pre-payment Assessment from FICC. However, to the extent such Sponsoring Member should ever elect to participate in the Sponsored GC Service at a later time, it would be obligated to pay the entire Sponsored GC Pre-Payment Assessment again at such time.

Proposed Rule Changes

In order to effectuate the proposal described above, FICC would amend Rule 1 (Definitions) to add two new definitions, ''Sponsored GC Pre-Payment Assessment'' and ''Sponsored GC Service.''

The ''Sponsored GC Pre-Payment Assessment'' would be defined as a $250,000 assessment that shall be charged to a Sponsoring Member at the time the Sponsoring Member onboards into the Sponsored GC Service. Such assessment shall be credited by the Corporation against the Sponsoring Member's fees for use of the Sponsored GC Service until the earlier of (i) the assessment being completely depleted and (ii) thirty-six (36) months after the Sponsoring Member onboards into the Sponsored GC Service.

The ''Sponsored GC Service'' would be defined as the service to be offered by FICC, which has not yet been proposed for and would be subject to regulatory approval, to clear tri-party repurchase agreement transactions between Sponsoring Members and Sponsored Members, as shall be described in Rule 3A. FICC would also add a footnote to this proposed definition stating that the Sponsored GC Service shall be the subject of a subsequent rule filing with the Commission, and the proposed definition shall be revised upon approval of the subsequent rule filing, and the footnote shall sunset at that time.

In addition, FICC would amend Section VII (Sponsoring Members) of the Fee Structure to provide that a Sponsoring Member shall also be liable to FICC for the Sponsored GC Pre-Payment Assessment to the extent it participates in the Sponsored GC Service, and that FICC's books and records shall reflect the Sponsored GC Pre-Payment Assessment as a credit to such Sponsoring Member until expiration.

Moreover, FICC would amend Section VII of the Fee Structure to provide that any Sponsoring Member that elects to be charged the Sponsored GC Pre-Payment Assessment between November 2020 and February 2021 shall receive the Additional Sponsored GC Credit, which shall be credited by FICC against the Sponsoring Member's fees for use of the Sponsored GC Service until the earlier of (i) the Additional Sponsored GC Assessment being completely depleted and (ii) thirty-six (36) months after the Sponsoring Member onboards into the Sponsored GC Service, and that FICC's books and records shall reflect the Additional Sponsored GC Credit as a credit to such Sponsoring Member until expiration.

Furthermore, FICC would amend Section VII of the Fee Structure to provide that to the extent FICC, in consultation with its Board of Directors, does not implement the Sponsored GC Service, all previously collected Sponsored GC Pre-Payment Assessments shall be returned to the contributing Sponsoring Members in full. FICC would also add a footnote stating that the Sponsored GC Service shall be the subject of a subsequent rule filing with the Commission, and the referenced sentence shall be removed upon approval of the subsequent rule

[6] The Sponsored GC Service would be priced using the existing delivery-versus-payment (''DVP'') service fees for transaction processing, and intraday and end-of-day position management. *See* Fee Structure, *supra* note 5.

filing, and the footnote shall sunset at that time.

Additionally, FICC would amend Section VII of the Fee Structure to provide that to the extent a Sponsoring Member elects to withdraw from the Sponsored GC Service prior to the expiration of its Sponsored GC Pre-Payment Assessment, it shall be entitled to a return of any unused portion of such Sponsored GC Pre-Payment Assessment from FICC; provided that, for the avoidance of doubt, such Sponsoring Member shall be liable for the Sponsored GC Pre-Payment Assessment to the extent that it ever elects to participate in the Sponsored GC Service in the future.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. FICC believes this proposal is consistent with Section 17A(b)(3)(D) of the Act,[7] for the reasons described below.

Section 17A(b)(3)(D) of the Act requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.[8] FICC believes the proposed rule changes to add the Sponsored GC Pre-Payment Assessment and to provide for certain credits as described above would provide for the equitable allocation of reasonable charges.

FICC believes the proposed rule changes are equitable because the Sponsored GC Pre-Payment Assessment would represent for every Sponsoring Member that elects to participate in the Sponsored GC Service a sufficiently substantial outlay of funds to require it to obtain appropriate internal approvals in order to satisfy it, thereby ensuring such Sponsoring Member's support of and readiness to utilize the Sponsored GC Service.

In addition, FICC believes the proposed rule changes are equitable because the Sponsored GC Pre-Payment Assessment would apply uniformly to all Sponsoring Members that choose to use the Sponsored GC Service, regardless of when the Sponsoring Member elects to onboard into this service, and every Sponsoring Member would have the same amount of time, *i.e.,* 36 months from their firm's onboarding into the Sponsored GC Service, to deplete their Sponsored GC Pre-Payment Assessment and Additional Sponsored GC Credit, if applicable, before the credits would expire. Based on volume estimates provided by Sponsoring Members that have expressed interest in participating in the Sponsored GC Service, FICC believes that 36 months represents ample time for every Sponsoring Member to utilize the Sponsored GC Pre-Payment Assessment and Additional Sponsored GC Credit, if applicable, before the credits would expire.

Moreover, FICC believes the proposed Additional Sponsored GC Credit is reasonable as between the Sponsoring Members that would elect to be charged the Sponsored GC Pre-Payment Assessment during the period from November 2020 to February 2021, and those Sponsoring Members that would not, because the former Sponsoring Members would be contributing their capital to FICC at least several months prior to the implementation of the Sponsored GC Service, and therefore, would not have use of that capital during that time period. In consideration of this early contribution of capital, FICC believes it would be reasonable for such Sponsoring Members to receive the Additional Sponsored GC Credit, and for those Sponsoring Members that elect to hold onto their capital and not pay their Sponsored GC Pre-Payment Assessments until the time they onboard into the Sponsored GC Service after its implementation, not to receive the Additional Sponsored GC Credit.

Furthermore, FICC believes the Sponsored GC Pre-Payment Assessment would represent a reasonable charge to assess on the Sponsoring Members that elect to participate in the Sponsored GC Service because, as described above, the Sponsored GC Pre-Payment Assessment would be credited against a Sponsoring Member's use of the Sponsored GC Service such that the Sponsoring Member would not make any payment to FICC for its use of the Sponsored GC Service until after the Sponsored GC Pre-Payment Assessment is completely depleted or has expired. In addition, as described above, to the extent a Sponsoring Member elects to withdraw from the Sponsored GC Service prior to the expiration of its Sponsored GC Pre-Payment Assessment, FICC would be obligated to return any unused portion of such Sponsored GC Pre-Payment Assessment to the Sponsoring Member. However, to the extent such Sponsoring Member should ever elect to participate in the Sponsored GC Service at a later time, it would be obligated to pay again the Sponsored GC Pre-Payment Assessment at such time.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have any impact, or impose any burden, on competition. First, as described above, participation in the proposed Sponsored GC Service would be entirely voluntary on the part of Sponsoring Members, and those Sponsoring Members who elect not to participate in the Sponsored GC Service would not be required to satisfy the Sponsored GC Pre-Payment Assessment. In addition, the Sponsored GC Pre-Payment Assessment would not have any impact, or impose any burden, on competition because, as described above, it would be applied uniformly to all Sponsoring Members who elect to participate in the Sponsored GC Service regardless of when the Sponsoring Member elects to onboard into the Sponsored GC Service, and every Sponsoring Member would have the same amount of time, *i.e.,* 36 months from their firm's onboarding into the proposed Sponsored GC Service, to deplete it. Moreover, applying the Additional Sponsored GC Credit to Sponsoring Members who elect to be charged the Sponsored GC Pre-Payment Assessment between November 2020 and February 2021, and not applying the Additional Sponsored GC Credit to those Sponsoring Members that do not elect to make such early contribution of capital, would not have any impact, or impose any burden, on competition because the former Sponsoring Members would have contributed their capital at least several months prior to the implementation of the Sponsored GC Service, and the latter Sponsoring Members would be able to hold onto their capital until the time they onboard into the Sponsored GC Service after its implementation.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. FICC will notify the Commission of any written comments received by FICC.

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)[9] of the Act and paragraph (f)[10] of Rule 19b–4 thereunder. At any

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] *Id.*

[9] 15 U.S.C 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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–FICC–2020–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2020–013. 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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2020–013 and should be submitted on or before December 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25267 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17Ac3–1(a) and Form TA–W; [SEC File No. 270–96, OMB Control No. 3235–0151]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17Ac3–1(a) (17 CFR 240.17Ac3–1(a)) and Form TA–W (17 CFR 249b.101), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Section 17A(c)(4)(B) of the Securities Exchange Act of 1934 authorizes transfer agents registered with an appropriate regulatory agency (''ARA'') to withdraw from registration by filing with the ARA a written notice of withdrawal and by agreeing to such terms and conditions as the ARA deems necessary or appropriate in the public interest, for the protection of investors, or in the furtherance of the purposes of Section 17A.

In order to implement Section 17A(c)(4)(B) of the Exchange Act, the Commission promulgated Rule 17Ac3–1(a) and accompanying Form TA–W on September 1, 1977. Rule 17Ac3–1(a) provides that notice of withdrawal of registration as a transfer agent with the Commission shall be filed on Form TA–W. Form TA–W requires the withdrawing transfer agent to provide the Commission with certain information, including: (1) The locations where transfer agent activities are or were performed; (2) the reasons for ceasing the performance of such activities; (3) disclosure of unsatisfied judgments or liens; and (4) information regarding successor transfer agents.

The Commission uses the information disclosed on Form TA–W to determine whether the registered transfer agent applying for withdrawal from registration as a transfer agent should be allowed to deregister and, if so, whether the Commission should attach to the granting of the application any terms or conditions necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of Section 17A of the Exchange Act. Without Rule 17Ac3–1(a) and Form TA–W, transfer agents registered with the Commission would not have a means to voluntarily deregister when it is necessary or appropriate to do so.

On average, respondents have filed approximately 58 TA–Ws with the Commission annually from 2017 to 2020. A Form TA–W filing occurs only once, when a transfer agent is seeking deregistration. In view of the readily-available information requested by Form TA–W, its short and simple presentation, and the Commission's experience with the filers, we estimate that approximately 30 minutes is required to complete and file Form TA–W. Thus, the total annual time burden to the transfer agent industry is approximately 29 hours (58 filings $\times$ 0.5 hours). We estimate that the internal labor cost of compliance per filing is approximately $35.5 (0.5 hours $\times$ $71 average hourly rate for clerical staff time). The total internal compliance cost per year is thus approximately $1,030 (29 $\times$ $35.5 = $1029.5 rounded up to $1,030).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain,* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: November 10, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25255 Filed 11–16–20; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 19, 2021.

ADDRESSES: Send all comments to Renee Mascarenas, Financial Specialist, Denver Finance Center, Small Business Administration, 721 19th Street, 3rd Floor, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Renee Mascarenas, Financial Specialist, Denver Finance Center, *renee.mascarenas@sba.gov,* 303–844–7179, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA Form 172 is only used by lenders for loans that have been purchased by SBA and are being serviced by approved SBA lending partners. The lenders use the SBA Form 172 to report loan payment data to SBA on a monthly basis. The purpose of this reporting is to (1) show the remittance due SBA on a loan serviced by participating lending institutions (2) update the loan receivable balances.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Collection: 3245–0136

(1) Title: Transaction Report on Loans Serviced by Lender.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 172.

Total Estimated Annual Responses: 1,012.

Total Estimated Annual Hour Burden: 9,636.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–25319 Filed 11–16–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 19, 2021.

ADDRESSES: Send all comments to Cynthia Pitts, Director, Disaster Administrative Services, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Director, Disaster Administrative Services, Disaster Assistance, *Cynthia.pitts@sba.gov,* 202–205–7570, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: SBA is required to survey affected disaster areas within a state upon request by the Governor of that state to determine if there is sufficient damage to warrant a disaster declaration. Information is obtained from individuals, businesses, and public officials.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Collection: 3245–0136

Title: Disaster Survey Worksheet.

Description of Respondents: Disaster effected individuals and businesses.

Form Number: SBA Form 987.

Total Estimated Annual Responses: 2,400.

Total Estimated Annual Hour Burden: 199.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–25317 Filed 11–16–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires Federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 19, 2021.

ADDRESSES: Send all comments to Adrienne D. Grierson, Deputy Director for Portfolio Management and Quality Control, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Grierson, Deputy Director for Portfolio Management and Quality Control, *Adrienne.grierson@sba.gov,* 202–205–6573, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The objective of the debt collection activities is to obtain immediate repayment or arrive at a satisfactory arrangement for future repayment of debts owed to the Government. SBA uses the financial information provided by the debtor on Form 770 in making a determination regarding the compromise of such debts and other liquidation proceedings including litigation by the Agency and/or the Department of Justice.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Collection: 3245–0012

(1) Title: Financial Statement of Debtor.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 770.

Total Estimated Annual Responses: 5,000.

Total Estimated Annual Hour Burden: 5,000.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–25313 Filed 11–16–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–1056]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Unmanned Aircraft Systems (UAS) Market Survey

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 for a new information collection. The collection involves an electronic distribution of a survey to gather information on current practices for pilots of unmanned aircraft systems (UAS). The target information to be gathered is the common fatigue-related practices, and the minimum knowledge, skills, abilities (KSAs), testing, and staffing procedures required for operating UAS. The information to be collected will be used to inform future rulemaking and the development of supporting guidance. The information is necessary because the existing regulatory framework, to include the certification of airmen, was not designed with remote pilots in mind. To broadly integrate UAS and remote pilots into the National Airspace System, further rulemaking will be required to address remote pilot certification for air carrier operations and flight and duty time periods applicable to remote pilot air carrier operations.

DATES: Written comments should be submitted by January 19, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: https://www.regulations.gov (Enter docket number into search field).

By mail: Kevin Williams, Ph.D., Bldg. 13, Rm. 250D, 6500 S MacArthur Blvd., Oklahoma City, OK 73125.

By fax: (405) 954–4852.

FOR FURTHER INFORMATION CONTACT: Ashley Awwad by email at: *ashley.awwad@faa.gov;* phone: (816) 786–5716.

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–XXXX.

Title: Unmanned Aircraft Systems (UAS) Market Survey.

Form Numbers: List all forms.

Type of Review: New information collection.

Background: The FAA mission and vision are to provide the safest, most efficient aerospace system in the world as new users and technologies integrate into the system. Currently, unmanned aircraft systems (UAS) operations are expanding beyond 14 Code of Federal Regulations (CFR) part 107 via waiver and exemption. To broadly integrate these expanded operations, to include air carrier operations, further rulemaking will be necessary. To support revisions to current regulations and the development of new regulations that will support integration, the FAA plans to survey experts in industry and academia on UAS. The survey seeks to collect data from industry leaders on the common fatigue-related practices for the operation of UAS and the minimum knowledge, skills, abilities (KSAs), testing, and staffing procedures required for operating UAS.

Respondents: 180 respondents.

Frequency: One-time collection.

Estimated Average Burden per Response: 45-minute burden per response.

Estimated Total Annual Burden: 135 hours, total burden.

Issued in Oklahoma City, Oklahoma, on November 11, 2020.

Ashley Awwad,

Management & Program Analyst, Civil Aerospace Medical Institute (CAMI), Flight Deck Human Factors Research Lab, AAM–510.

[FR Doc. 2020–25260 Filed 11–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0121; FMCSA–2014–0103; FMCSA–2014–0385; FMCSA–2015–0329; FMCSA–2016–0002; FMCSA–2017–0059; FMCSA–2018–0135]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 14 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on October 13, 2020. The exemptions expire on October 13, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0385, FMCSA–2015–0329, FMCSA–2016–0002, FMCSA–2017–0059, or FMCSA–2018–0135, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On October 1, 2020, FMCSA published a notice announcing its decision to renew exemptions for 14 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (85 FR 62009). The public comment period ended on November 2, 2020, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 14 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41(b)(11).

As of October 13, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 14 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (85 FR 62009):

Cory Adkins (FL)
David Alagna (TN)
Matthew Albrecht (PA)
Keith Bryd (TN)
David Chappelear (TX)
Ralph Domel (TX)
Jacquelyn Hetherington (OK)
Paul Mansfield (KS)
Ervin Mitchell (TX)
Jose Ramirez (IL)
Fernando Ramirez-Savon (FL)
Thomas Sneer (MN)
Daniel Stroud (UT)
Jason Wynne (TX)

The drivers were included in docket number FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0385, FMCSA–2015–0329, FMCSA–2016–0002, FMCSA–2017–0059, and FMCSA–2018–0135. Their exemptions were applicable as of October 13, 2020, and will expire on October 13, 2022.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–25340 Filed 11–16–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0128]

Washington's Meal and Rest Break Rules for Drivers of Commercial Motor Vehicles; Petition for Determination of Preemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Order; grant of petition for determination of preemption.

SUMMARY: FMCSA grants the petition submitted by the Washington Trucking Associations (WTA) requesting a determination that the State of Washington's Meal and Rest Break rules (MRB rules) are preempted as applied to property-carrying commercial motor vehicle drivers subject to FMCSA's hours of service (HOS) regulations. Federal law provides for preemption of State laws on commercial motor vehicle safety that are additional to or more stringent than Federal regulations if they (1) have no safety benefit; (2) are incompatible with Federal regulations; or (3) would cause an unreasonable burden on interstate commerce. FMCSA has determined that Washington's MRB rules are laws on commercial motor vehicle (CMV) safety, that they are more stringent than the Agency's HOS regulations, that they have no safety benefits that extend beyond those that the Federal Motor Carrier Safety Regulations (FMCSRs) already provide, that they are incompatible with the Federal HOS regulations, and that they cause an unreasonable burden on interstate commerce. The Washington MRB rules, therefore, are preempted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Fromm, Deputy Chief Counsel, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 493–0349; *Charles.Fromm@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket FMCSA–2019–0128 to read background documents or comments, go to *http://www.regulations.gov.* The FDMS is available 24 hours each day, 365 days each year.

Privacy Act: Anyone may search the FDMS for all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on December 29, 2010. 75 FR 82132.

Background

On April 8, 2019, WTA petitioned FMCSA to preempt Washington statutes and rules requiring employers to give their employees meal and rest breaks during the work day, as applied to drivers of CMVs subject to FMCSA's HOS rules. For the reasons set forth below, FMCSA grants the petition.[1]

Washington's Meal and Rest Break Rules

Section 49.12.005 of Washington's Industrial Welfare Act, codified at chapter 49.12, Revised Code of Washington (RCW), defines ''employer'' as:

''[A]ny person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. However, this chapter and the rules adopted thereunder apply to these public employers only to the extent that this chapter and the rules adopted thereunder do not conflict with: (i) Any state statute or rule; and (ii) respect to political subdivisions of the state and any municipal or quasi-municipal corporation, any local resolution, ordinance, or rule adopted under the authority of the local legislative authority before April 1, 2003.''

The Industrial Welfare Act defines ''employee'' as, ''an employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise.'' RCW 49.12.005.

To implement the Industrial Welfare Act, the Washington Department of Labor and Industries promulgated regulations at chapter 296–126 of the Washington Administrative Code (WAC), entitled ''Standards of Labor for the Protection of the Safety, Health and Welfare of Employees for All Occupations Subject to Chapter 49.12 RCW.'' In accordance with WAC 296–126–001(1), the regulations apply to all employers and employees, as defined in the Industrial Welfare Act, except as specifically excluded.[2]

The regulations at WAC 296–126–092 establish the required meal and rest periods employers must provide employees, and read as follows:

''(1) Employees shall be allowed a meal period of at least thirty minutes which commences no less than two hours nor more than five hours from the beginning of the shift. Meal periods shall be on the employer's time when the employee is required by the employer to remain on duty on the premises or at a prescribed work site in the interest of the employer.

''(2) No employee shall be required to work more than five consecutive hours without a meal period.''

''(3) Employees working three or more hours longer than a normal work day shall be allowed at least one thirty-minute meal period prior to or during the overtime period.''

''(4) Employees shall be allowed a rest period of not less than ten minutes, on the employer's time, for each four hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the work period. No employee shall be required to work more than three hours without a rest period.''

''(5) Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each 4 hours worked, scheduled rest periods are not required.''

Federal Preemption Under the Motor Carrier Safety Act of 1984

Section 31141 of title 49, United States Code, a provision of the Motor Carrier Safety Act of 1984 (the 1984 Act), 49 U.S.C. Chap. 311, Subchap. III, prohibits States from enforcing a law or regulation on CMV safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether a State law or regulation: (1) Has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the FMCSRs; (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation. 49 U.S.C. 31141(c)(1). If the Secretary determines that a State law or regulation has the same effect as a regulation based on section 31136, it may be enforced. 49 U.S.C. 31141(c)(2). A State law or regulation that is less stringent may not be enforced. 49 U.S.C. 31141(c)(3). And a State law or regulation that the Secretary determines to be additional to or more stringent than a regulation based on section 31136 may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulation prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce. 49 U.S.C. 31141(c)(4). To determine whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State's law or regulation and all similar laws and regulations of other States will have on interstate commerce. 49 U.S.C. 31141(c)(5). The Secretary need only find that one of the conditions set forth at paragraph (c)(4) exists to preempt the State provision(s) at issue. The Secretary may review a State law or regulation on her own initiative, or on the petition of an interested person. 49 U.S.C. 31141(g). The Secretary's authority under section 31141 is delegated to the FMCSA Administrator. 49 CFR 1.87(f).

FMCSRs Concerning HOS for Drivers of Property-Carrying CMVs, Fatigue, and Coercion

For truck drivers operating a CMV in interstate commerce, the Federal HOS rules impose daily limits on driving time. 49 CFR 395.3. In this regard, a driver may not drive after a period of 14 consecutive hours after coming on-duty following 10 consecutive hours off-duty. Id. at 395.3(a)(1)–(2). A driver may drive a total of 11 hours during the 14-hour duty window. Id. at 395.3(a)(3)(i). In addition, after 8 hours of driving time, the HOS rules require long-haul truck drivers operating a CMV in interstate commerce to take a break from driving for at least 30 consecutive minutes, if they wish to continue driving. Id. at 395.3(a)(3)(ii).[3] A driver may satisfy the 30-minute break requirement by spending the time off-duty, on-duty not driving, in the sleeper berth, or any

[1] While WTA seeks preemption of Washington's MRB rules ''insofar as they are applied to commercial motor vehicle drivers subject to the hours-of-service regulations promulgated by FMCSA,'' the Agency's determination of preemption does not apply to drivers of passenger-carrying CMVs in interstate commerce. The Agency, however, would consider any petition asking for a determination as to whether Washington's MRB rules are preempted with respect to such drivers.

[2] The regulations do not apply to newspaper vendors or carriers; domestic or casual labor in or about private residences; agricultural labor as defined in RCW 50.04.150; or sheltered workshops. WAC 296–126–001(2).

[3] On June 1, 2020, FMCSA published a final rule, which went into effect on September 29, 2020, revising the 30-minute break requirement. The revised HOS rules require a ''consecutive 30-minute interruption in driving status'' after 8 hours of driving time, rather than a 30-minute off-duty break after 8 hours of on-duty time. See Final Rule: Hours of Service of Drivers, 85 FR 33396, 33452.

combination of these non-driving statuses. Id. The HOS rules also impose weekly limits after which driving is prohibited. Id. at 395.3(b). There are separate HOS rules, imposing different limits on driving time, for drivers of passenger-carrying CMVs. Id. at 395.5.

In addition, the FMCSRs also prohibit a driver from operating a CMV, and a motor carrier from requiring a driver to operate a CMV, while the driver is so impaired, or so likely to become impaired by illness, fatigue, or other cause that it is unsafe for the driver to begin or continue operating the CMV. 49 CFR 392.3. The FMCSRs also prohibit a motor carrier, shipper, receiver or transportation intermediary from coercing a driver to operate a CMV in violation of this and other provisions of the FMCSRs or Hazardous Materials Regulations. 49 CFR 390.6.

The Agency's Prior Decisions Regarding Preemption of Meal and Rest Break Rules Under Section 31141

I. FMCSA's 2008 Decision Rejecting a Petition to Preempt California's MRB Rules

On July 3, 2008, a group of motor carriers [4] petitioned FMCSA for a determination under 49 U.S.C. 31141(c) that: (1) California's MRB rules were regulations on CMV safety, (2) the putative State regulation imposed limitations on a driver's time that were different from and more stringent than Federal ''hours of service'' regulations governing the time a driver may remain on duty, and (3) the State law should therefore be preempted. 73 FR 79204.

On December 24, 2008, the Agency denied the petition for preemption, reasoning that California's MRB rules were merely one part of the State's comprehensive regulation of wages, hours, and working conditions, and that they applied to employers in many other industries in addition to motor carriers. 73 FR 79204. FMCSA concluded that California's MRB rules were not regulations ''on commercial motor vehicle safety'' within the meaning of 49 U.S.C. 31141 because they applied broadly to all employers and not just motor carriers, and that they therefore were not within the scope of the Secretary's statutory authority to declare unenforceable as a State motor vehicle safety regulation that is inconsistent with Federal safety requirements.[5] Id. at 79205–06.

II. FMCSA's 2018 Decision Granting Petitions to Preempt California's MRB Rules, as applied to Drivers of Property-Carrying CMVs

In 2018, the American Trucking Associations (ATA) and the Specialized Carriers and Rigging Association petitioned FMCSA to reconsider its 2008 decision and declare California's MRB rules preempted under section 31141 insofar as they apply to drivers of CMVs subject to the Federal HOS rules. The ATA acknowledged that FMCSA had previously determined that it could not declare the California MRB rules preempted under section 31141 because they were not regulations ''on commercial motor vehicle safety.'' The 2018 petitioners urged the Agency to revisit that determination, noting that, by its terms, the statute did not limit the Agency's preemption authority to those State laws that directly targeted the transportation industry. Rather, the appropriate question was whether the State law targeted conduct that a Federal regulation designed to ensure motor vehicle safety already covered. The 2018 petitioners also provided evidence that California's meal and rest break laws were detrimental to the safe operation of CMVs.

On December 21, 2018, FMCSA issued a determination declaring California's MRB rules preempted with respect to drivers of property-carrying CMVs subject to the Federal HOS rules. 83 FR 67470. The Agency first acknowledged that it was departing from its 2008 decision finding that the MRB rules were not laws ''on commercial motor vehicle safety'' because they were laws of broad applicability and not specifically directed to motor vehicle safety. Id. at 67473–74. The Agency explained that its 2008 decision was ''unnecessarily restrictive'' and not supported by either the statutory language or legislative history. Id. The Agency considered the fact that the language of section 31141 mirrors that of 49 U.S.C. 31136, which instructs the Secretary to ''prescribe regulations on commercial motor vehicle safety.'' 49 U.S.C. 31136(a). The Agency explained that Congress, by tying the scope of the Secretary's preemption authority directly to the scope of the Secretary's authority to regulate the CMV industry, provided a framework for determining whether a State law or regulation is subject to section 31141. The Agency concluded that ''[I]f the State law or regulation imposes requirements in an area of regulation that is already addressed by a regulation promulgated under 31136, then the State law or regulation is a regulation ''on commercial motor vehicle safety.'' Id. at 67473. The Agency further determined that because California's MRB rules plainly regulated the same conduct as the Federal HOS rules, they were laws ''on commercial motor vehicle safety.''

Having concluded that the California MRB rules were laws ''on commercial motor vehicle safety,'' under section 31141, the Agency next determined that they are additional to or more stringent than the Federal HOS rules. 83 FR 67474–75. FMCSA found that California's MRB rules require employers to provide property-carrying CMV drivers with more rest breaks than the Federal HOS rules; and allow a smaller window of driving time before a break is required. Id.

The Agency next explained that because California's MRB rules are more stringent, they may be preempted if the Agency determined that the MRB rules have no safety benefit, that they are incompatible with HOS rules, or that enforcement of the MRB rules would cause an unreasonable burden on interstate commerce. 83 FR 67475. FMCSA found that California's MRB rules provided no safety benefit beyond the Federal regulations, and that, given the current shortage of available parking for CMVs, the required additional breaks adversely impacted safety because they exacerbated the problem of CMVs parking at unsafe locations. Id. at 67475–77. The Agency also determined that the MRB rules were incompatible with the Federal HOS rules because they required employers to provide CMV drivers with more breaks, at less flexible times, than the Federal HOS rules. Id. at 67477–78.

Lastly, the Agency determined that enforcing California's MRB rules would impose an unreasonable burden on interstate commerce. 83 FR 67478–80. In this regard, the 2018 petitioners and other commenters provided information demonstrating that the MRB rules imposed significant and substantial costs stemming from decreased productivity and administrative burden. Id. at 67478–79. The Agency also

[4] Affinity Logistics Corp.; Cardinal Logistics Management Corp.; C.R. England, Inc.; Diakon Logistics (Delaware), Inc.; Estenson Logistics, LLC; McLane Company, Inc.; McLane/Suneast, Inc.; Penske Logistics, LLC; Penske Truck Leasing Co., L.P.; Trimac Transportation Services (Western), Inc.; and Velocity Express, Inc.

[5] In a 2014 amicus brief in the matter of *Dilts* v. *Penske Logistics, LLC,* United States Court of Appeals for the Ninth Circuit, No. 12–55705 (2014), the United States explained that FMCSA continued to adhere to the view expressed in the 2008 decision that section 31141 did not preempt California's MRB rules because they were not laws ''on commercial motor vehicle safety.'' 2014 WL 809150, 26–27. The Ninth Circuit made no determination whether the MRB rules were within the scope of the Secretary's preemption authority under section 31141 because that question was not before the court. See 769 F.3d 637.

considered the cumulative effect on interstate commerce of similar laws and regulations in other States. Currently 21 States have varying applicable break rules. The Agency determined that the diversity of State regulation of meal and rest breaks for CMV drivers has resulted in a patchwork of requirements that the Agency found to be an unreasonable burden on interstate commerce. Id. at 67479–80.

Accordingly, FMCSA granted the petitions for preemption and determined that California ''may no longer enforce'' its meal and rest break rules with respect to drivers of property-carrying commercial motor vehicles subject to the HOS rules.

III. FMCSA's 2020 Decision Granting a Petition to Preempt California's MRB Rules, as Applied to Drivers of Passenger-Carrying CMVs

In 2019, the American Bus Association (ABA) submitted a petition to FMCSA requesting a determination that California's MRB rules are preempted under 49 U.S.C. 31141, as applied to passenger-carrying CMV drivers subject to the Agency's HOS regulations. Citing the Agency's 2018 decision, ABA argued that California's MRB rules are within the scope of the Secretary's preemption authority under section 31141 because they are laws on CMV safety. In addition, ABA argued that California's MRB rules undermine existing Federal fatigue management rules, that they are untenable due to inadequate parking for CMVs, and that compliance costs create an unreasonable burden on interstate commerce.

On January 13, 2020, FMCSA issued a determination declaring California's MRB rules preempted with respect to drivers of passenger-carrying CMVs subject to the Federal HOS rules; the decision was published in the **Federal Register** on January 21, 2020. See 85 FR 3469. The Agency determined that both California's MRB rules and the Federal HOS rules govern fatigue management for drivers of passenger-carrying CMVs; therefore, they are laws ''on commercial motor vehicle safety.'' See id. at 3472–74. FMCSA next determined that California's MRB rules are additional to or more stringent than the Federal HOS rules for passenger carriers because they require employers to provide CMV drivers with meal and rest breaks at specified intervals. See id. at 3474–75. The Agency found that California's MRB rules provide no safety benefit beyond the Federal regulations and that they are incompatible with the Federal HOS rules. See id. at 3475–77. The Agency also determined that enforcing California's MRB rules would impose an unreasonable burden on interstate commerce due to the increased operational burden and costs associated with compliance. See id. at 3478–80. In addition, the Agency considered the cumulative effect on interstate commerce of similar meal and rest break laws and regulations in other States and determined that the diversity of State regulation of meal and rest breaks for CMV drivers has resulted in a patchwork of requirements that is an unreasonable burden on interstate commerce. See id. at 3480.

The WTA Petition and Comments Received

As set forth more fully below, WTA argued in its 2019 petition that ''FMCSA's recent determination that California's meal and rest break rules are preempted under section 31141 compels the same conclusion with respect to Washington's rules.'' In this regard, WTA contended that Washington's MRB rules are like California's and therefore are also laws ''on commercial motor vehicle safety'' within the scope of the Secretary's preemption authority under section 31141. WTA further argued that Washington's MRB rules are additional to or more stringent than the Federal HOS rules, that they provide no safety benefits beyond the Federal HOS rules, that they are incompatible with the Federal HOS rules, and that they impose an unreasonable burden on interstate commerce. WTA's petition seeks an FMCSA determination that Washington's MRB rules, as applied to CMV drivers who are subject to the HOS rules, are preempted pursuant to section 31141 and, therefore, may not be enforced.

FMCSA published a notice in the **Federal Register** on October 9, 2019 seeking public comment on whether Federal law preempts Washington's MRB rules. 84 FR 54266. Although preemption under section 31141 is a legal determination reserved to the judgment of the Agency, FMCSA sought comment on the issues raised in WTA's petition or those that were otherwise relevant. Id. The Agency received and considered 33 comments on the petition,[6] with 24 commenters supporting preemption and 9 opposing.[7]

[6] Thirty-five comments were submitted to the docket; however, two comments raised unrelated issues.

[7] The Center for Justice and Democracy submitted a comment letter, opposing WTA's petition, that 30 organizations joined. Senator Patty Murray and Representative Peter DeFazio submitted a comment letter, opposing WTA's petition, that 12 members of Congress joined.

The comments are discussed more fully below.

Decision

I. Section 31141 Expressly Preempts State Law, Therefore the Presumption Against Preemption Does Not Apply

In joint comments opposing WTA's petition, the American Association for Justice and the Washington State Association for Justice (collectively ''the Associations for Justice'') contended that Washington's MRB rules are subject to a presumption against preemption that requires FMCSA to adopt ''the reading that disfavors pre-emption'' in interpreting section 31141. Quoting *Bates* v. *Dow Agrosciences LLC,* 544 U.S. 431, 449 (2005), the Associations for Justice argued, ''Only if Congress has made its preemptive intent 'clear and manifest' will state law be forced to give way '[i]n areas of traditional state regulation.'''

The presumption against preemption is a canon of statutory interpretation that courts employ that favors reading ambiguous Federal statutes in a manner that avoids preempting State law absent clear congressional intent to do so. See, *e.g., Association des Eleveurs de Canards et d'Oies du Quebec* v. *Becerra,* 870 F.3d 1140, 1146 (9th Cir. 2017). The Agency acknowledges that ''in all preemption cases, and particularly in those in which Congress has legislated in a field which the States have traditionally occupied, [courts] start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.'' *Wyeth* v. *Levine,* 555 U.S. 555, 565 (2009) (quoting *Medtronic, Inc.* v. *Lohr,* 518 U.S. 470, 485 (1996)). Where, however, a provision at issue constitutes an area of traditional State regulation, ''that fact alone does not 'immunize' state employment laws from preemption if Congress in fact contemplated their preemption.'' *Dilts* v. *Penske Logistics, LLC,* 769 F.3d 637, 643 (9th Cir. 2014). And here there is no dispute that Congress has given FMCSA the authority to review and preempt State laws; the only questions concern the application of that authority to specific State laws. The Associations for Justice's reliance on *Bates* v. *Dow Agrosciences LLC* is misplaced because section 31141 is an express preemption clause that makes ''clear and manifest'' Congress's preemptive intent. FMCSA is aware of no authority suggesting that the presumption against preemption limits an agency's ability to interpret a statute authorizing it to preempt State laws.

In any event, when a ''statute contains an express pre-emption clause, [courts] do not invoke any presumption against pre-emption but instead focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' pre-emptive intent.'' *Puerto Rico* v. *Franklin California Tax-Free Trust,* 136 S. Ct. 1938, 1946 (2016) (quotations omitted); see also *Atay* v. *County of Maui,* 842 F.3d 688, 699 (9th Cir. 2016). Section 31141 expressly authorizes the Secretary to preempt State laws on commercial motor vehicle safety. Thus, Washington's MRB rules are not subject to a presumption against preemption, and the question that FMCSA must answer is whether they should be preempted under section 31141.

II. Washington's MRB Rules, as Applied to Drivers of Property-Carrying CMVs, Are Laws or Regulations ''on Commercial Motor Vehicle Safety'' Within the Meaning of 49 U.S.C. 31141

The initial question in a preemption analysis under section 31141 is whether the State provisions at issue are laws or regulations ''on commercial motor vehicle safety.'' 49 U.S.C. 31141(c)(1). In FMCSA's 2008 decision declining to preempt California's MRB rules, which are similar to Washington's rules, the Agency narrowly construed section 31141. In this regard, the Agency concluded that because the MRB rules are ''one part of California's comprehensive regulations governing wages, hours and working conditions,'' and apply to many industries, the provisions are not regulations ''on CMV safety,'' and, thus, were not within the scope of the Secretary's preemption authority. 73 FR 79204, 79206. FMCSA reconsidered this conclusion and explained in its 2018 decision preempting California's MRB rules, as applied to driver of property-carrying CMVs, that both the text of section 31141 and its structural relationship with other statutory provisions make it clear that Congress's intended scope of section 31141 was broader than the construction the Agency gave it in the 2008 decision. In this regard, the Agency explained:

The ''on commercial motor vehicle safety'' language of section 31141 mirrors that of section 31136, and by tying the scope of the Secretary's preemption authority directly to the scope of the Secretary's authority to regulate the CMV industry, the Agency believes that Congress provided a framework for determining whether a State law or regulation is subject to section 31141. In other words, if the State law or regulation imposes requirements in an area of regulation that is already addressed by a regulation promulgated under 31136, then the State law or regulation is a regulation ''on commercial motor vehicle safety.'' Because California's MRB rules impose the same types of restrictions on CMV driver duty and driving times as FMCSA's HOS regulations, which were enacted pursuant to the Secretary's authority in section 31136, they are ''regulations on commercial motor vehicle safety.'' Thus, the MRB rules are ''State law[s] or regulation[s] on commercial motor vehicle safety,'' and are subject to review under section 31141. 83 FR 67470.

The Agency adopted this reasoning in its January 2020 decision preempting California's MRB rules, as applied to drivers of passenger-carrying CMVs. 85 FR 3473. Consistent with the Agency's decisions preempting California's MRB rules, FMCSA reiterated that if the State law or regulation at issue imposes requirements in an area of regulation that is within FMCSA's section 31136 regulatory authority, then the State law or regulation is a regulation ''on commercial motor vehicle safety.''

With regard to Washington's MRB rules, WTA argued that, ''Washington's meal and rest break rules . . . are subject to review under section 31141'' in accordance with the Agency's framework established in the 2018 decision preempting California's MRB rules. Quoting FMCSA's 2018 decision, WTA further contended that Washington's MRB rules are laws on CMV safety because they ''impose the same types of restrictions on CMV driver duty and driving times as FMCSA's HOS rules, which were enacted pursuant to the Secretary's authority in section 31136.'' The Agency agrees. The Federal HOS rules have long imposed drive time limits for drivers. In addition, the Federal regulations also prohibit drivers from operating CMVs when fatigued, require drivers to take any additional breaks necessary to prohibit fatigued driving, and prohibit employers from coercing drivers into operating a CMV during these required breaks. Thus, both Washington's MRB rules and FMCSA's regulations cover the same subject matter concerning CMV driver duty and driving times. Therefore, the Agency determines that Washington's MRB rules, as applied to drivers of property-carrying CMVs, are laws on CMV safety.

Joint comments from Washington's Governor and Attorney General opposing WTA's petition further illustrate that Washington's MRB rules are laws on CMV safety. In this regard, the Governor and Attorney General stated, ''Washington enacted our meal-and-rest break standards to provide increased safety protections to all drivers.'' They further explained, ''By ensuring workers can take a rest break after every four hours worked and a meal break within the first five hours of their shift, Washington's rules are a critical tool to prevent drivers from reaching the levels of fatigue that could result in significant increased risk of accidents on our roadways . . . .'' The Governor and Attorney General characterized the Washington MRB and Federal HOS rules as having ''the common purpose of preventing fatigue and decreasing the likelihood of dangerous accidents.'' These statements support FMCSA's conclusion that Washington's MRB rules are laws ''on CMV safety'' and, therefore, fall squarely within the scope of the Secretary's preemption authority.

In comments opposing WTA's petition, the Washington Department of Labor and Industries argued that the State's MRB rules are not laws ''on CMV safety'' but, rather, are ''laws of general applicability, governing rest breaks across multiple industries.'' Citing *Merriam-Webster Dictionary,* the Department of Labor and Industries further contended that ''on'' is defined as ''with respect to'' and that Washington's MRB rules are not laws '''with respect to' commercial motor vehicle safety where [their] topic is not commercial motor vehicle safety but employee meal and rest breaks generally.'' The Washington Employment Lawyers Association (WELA) and the International Brotherhood of Teamsters (Teamsters), made similar arguments concerning the generally applicable nature of Washington's MRB rules in their comments opposing WTA's petition.

The Agency disagrees. While a State law specifically directed only at CMV safety would unquestionably be within the scope of section 31141, the Federal statute does not limit preemption to State laws enacted only to cover CMV safety. Instead, section 31141 asks the Agency to review ''state law[s] or regulation[s] on commercial motor vehicle safety,'' and compare them to Federal regulations ''on commercial motor vehicle safety'' promulgated under 49 U.S.C. 31136 in order to promote a more uniform nationwide regulatory regime. As explained below, a State regulation of broad applicability might, as applied to commercial trucking, raise precisely the concerns that Congress required the Secretary to address in order to avoid unnecessary disuniformity and undue burdens on interstate commerce. See Public Law 98–554, title II § 202, 203; S. Rep. 98–424, at 14 (1984). Therefore, it is immaterial that Washington's MRB rules have general applicability to employers and workers in the State. When the

MRB rules are applied to CMV drivers, they govern the same conduct as the Federal HOS rules; they are therefore laws on CMV safety.

The Associations for Justice and WELA argued that section 31141 should be read in line with the safety exception to the express preemption provision of the Federal Aviation Administration Authorization Act of 1994 (FAAAA), which preempts State laws that are related to a price, route, or service of a motor carrier of property. See 49 U.S.C. 14501(c). The FAAAA exempts from preemption ''the safety regulatory authority of a State with respect to motor vehicles.'' See 49 U.S.C. 14501(c)(2)(A). Quoting *City of Columbus* v. *Ours Garage & Wrecker Serv., Inc.,* 536 U.S. 424, 441 (2002), the Associations for Justice stated that laws directed at safety are exempt from section 14501(c) because section 31141 '' 'affords the Secretary . . . a means to prevent the safety exception from overwhelming [Congress's] deregulatory purpose.' '' WELA notes that several district courts have held that California's MRB rules do not fall within the FAAAA's safety exception, and argues that the rules therefore cannot be covered by section 31141.

The Agency finds this argument unavailing. Nothing in the FAAAA's safety exception in section 14501(c)(2)(A) or in the Supreme Court's decision in *Ours Garage* serves to limit the scope of the Secretary's preemption authority under section 31141 to just those State laws enacted with the specific intent to cover only CMV safety. Congress enacted sections 14501(c)(2)(A) and 31141 to achieve different purposes; therefore, the scope of one section does not necessarily correlate to the other. In this regard, section 14501(c)(2)(A) serves to ensure that the preemption of a State's economic authority over motor carriers of property does not infringe upon a State's exercise of its traditional police power over safety. See *Ours Garage,* 536 U.S. at 426. However, as explained above, Congress enacted the earlier 1984 Act, which includes section 31141, to ensure that there be as much uniformity as practicable whenever a Federal standard and a State requirement cover the same subject matter.[8] The Supreme Court's decision in *Ours Garage* merely noted that a State law that falls within the FAAAA's safety exception—and therefore is not preempted by the FAAAA—may nevertheless be preempted under section 31141. That decision did not suggest that the two provisions are necessarily coextensive. The Agency is not here called upon to decide whether the FAAAA's safety exception would apply to California's MRB rules, and need not decide that question in order to determine that section 31141 applies.

The Associations for Justice also argued that the Agency should adhere to the legal position articulated in the 2008 decision regarding California's rules and stated, ''FMCSA's previous longstanding position is correct—it lacks statutory authority to preempt generally applicable state labor laws that are not specifically directed at safety.'' FMCSA disagrees. As the Agency explained in the 2018 and 2020 decisions preempting California's MRB rules, FMCSA's prior position articulated in 2008 need not forever remain static. When an Agency changes course, it must provide a ''reasoned analysis for the change.'' See *Motor Vehicle Manufacturers* v. *State Farm,* 463 U.S. 29, 42 (1983). FMCSA's decisions preempting California's MRB rules acknowledged the Agency's changed interpretation of section 31141 and provided a reasoned explanation for the new interpretation. See *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 514–16 (2009). Similarly, this decision explains the basis for the Agency's conclusion that Washington's MRB rules are laws on CMV safety, as applied to drivers of property-carrying CMVs.

WELA argued that section 31141 gives no indication that Congress intended that the Agency's preemption authority extend to a State law that imposes requirements in an area of regulation that is within FMCSA's section 31136 regulatory authority. WELA stated, ''If Congress had intended such a result, it could (and would) have said so explicitly.'' The Agency disagrees. As FMCSA explained in its decisions preempting California's MRB rules, the Agency's interpretation of section 31141 is consistent with congressional purposes. Congress was concerned that a lack of uniformity between Federal and State laws on the same subject matter could impose substantial burdens on interstate truck and bus operations, and potentially hamper safety. See, *e.g.,* 1984 Cong. Rec. 28215 (Oct. 2, 1984) (statement of Sen. Packwood); id. at 28219 (statement of Sen. Danforth). Accordingly, as the Senate Report on the bill that became the 1984 Act explained, the preemption review provision was designed to ensure ''as much uniformity as practicable whenever a Federal standard and a state requirement cover the same subject matter.'' S. Rep. 98–424 at 14. The Agency believes that the fact that a State regulation may be broader than a Federal safety regulation and impose requirements outside the area of CMV safety does not eliminate Congress's concerns. Such laws may still be incompatible with Federal safety standards or unduly burden interstate commerce when applied to the operation of a CMV.

Furthermore, the Agency continues to find that its interpretation of section 31141 is consistent with the legislative history of the 1984 Act. As originally enacted, the 1984 Act granted the Agency authority to promulgate regulations ''pertaining to'' CMV safety, and likewise to review State laws ''pertaining to'' CMV safety. Public Law 98–554 §§ 206(a), 208(a) (originally codified at 49 U.S.C. App. 2505, 2507). Congress amended these provisions during the 1994 recodification of Title 49 of the United States Code. See Public Law 103–272 (July 5, 1994), 108 Stat. 1008. As recodified, the law allows the Agency to promulgate regulations and review State laws ''on commercial motor vehicle safety,'' rather than ''pertaining to commercial motor vehicle safety.'' Compare 49 U.S.C. app. 2505 and 49 U.S.C. app. 2507 (1984) with 49 U.S.C. 31136 and 49 U.S.C. 31141(c)(1). Congress made clear, however, that any changes made during its comprehensive effort to restructure and simplify Title 49 ''may not be construed as making a substantive change in the laws replaced.'' Public Law 103–272 §§ 1(e), 6(a). The change in wording therefore did not narrow the Agency's rulemaking authority or the scope of the State laws subject to preemption review. Washington's MRB rules, as applied to drivers of property-carrying CMVs subject to the HOS rules, clearly ''pertain to'' CMV safety, as Washington's Governor and Attorney General confirmed, and therefore fall within the scope of section 31141. See, *e.g.,* ''Pertain,'' Black's Law Dictionary (11th ed. 2019) (''To relate directly to; to concern or have to do with.'')

The Associations for Justice argued that, ''Congress and the Supreme Court declined to preempt the rules, largely because these laws are viewed as important state employment protections applicable across industries.'' In this regard, the Associations stated:

> In the last two years, the motor carrier industries have unsuccessfully tried to preempt state meal and rest laws through the legislative branch by amendments to the recently passed Federal Aviation

[8] Congress enacted the 1984 Act 10 years before the FAAAA. See Motor Carrier Safety Act of 1984, Public Law 98–554, title II, sec. 208, 98 Stat. 2829, 2836–37 (Oct. 30, 1984); Federal Aviation Administration Authorization Act of 1994, Public Law 103–305, title VI, sec. 601(c), 108 Stat. 1569, 1606 (Aug. 23, 1994); see also ICC Termination Act of 1995, Public Law 104–88, title I, sec. 103, 109 Stat. 803, 899 (Dec. 29, 2995).

Administration Reauthorization Act of 2018. *See* H.R.302 FAA Reauthorization Act of 2018, Public Law 115–254 (2018). Congress decided not to include these amendments in the final passage of the bill. Additionally, the trucking industry also unsuccessfully tried to preempt state meal-and-rest-break rules by asking the U.S. Supreme Court to overturn yet another court of appeals decision upholding state meal and rest break laws. *Ortega* v. *J. B. Hunt Transport, Inc.,* 694 Fed. Appx. 589 (9th Cir. 2017) (unpublished), cert. denied, 138 S. Ct. 2601 (2018). The Supreme Court declined the invitation, allowing the rules to continue to be enforced.

The Agency finds this argument unpersuasive. The Supreme Court has explained that ''Congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction . . .'' *Central Bank of Denver, N.A.* v. *First Interstate Bank of Denver, N. A.,* 511 U.S. 164, 187 (1994) (internal quotations omitted); see also *Rapanos* v. *United States,* 547 U.S. 715, 750 (noting that, while the Supreme Court has ''sometimes relied on congressional acquiescence when there is evidence that Congress considered and rejected the '*precise* issue' presented before the Court,'' it does so only when there is ''*overwhelming evidence* of acquiescence'') (emphases in original). Here, the Associations have presented no evidence that Congress considered the ''precise issue'' of whether State meal and rest break laws are within the Secretary's preemption authority under section 31141. Thus, what the Associations portray as congressional recognition that the MRB rules are ''important state employment protections applicable across industries'' should more appropriately be called Congress's failure to express any opinion. See id. The Associations' argument that the Supreme Court declined to preempt meal and rest break laws is equally flawed. In the matter of *Ortega* v. *J. B. Hunt Transport, Inc.,* the question before the Ninth Circuit was whether California's MRB rules were ''related to'' prices, routes, or services, and therefore as a matter of law preempted by the FAAAA. See 694 Fed. Appx. at 590. The Supreme Court declined to review preemption of California's MRB rules under the FAAAA, not under section 31141. And even with respect to the FAAAA issue, the Supreme Court's ''denial of a writ of certiorari import[ed] no expression of opinion upon the merits of the case. . .'' *Missouri* v. *Jenkins,* 515 U.S. 70, 85 (1995) (quoting *United States* v. *Carver,* 260 U.S. 482, 490 (1923)).

The Associations for Justice also argued that the Agency's interpretation of the scope of the phrase ''on commercial motor vehicle safety'' in section 31141 would ''impose on the Secretary an implausible, impractical burden of reviewing many thousands of background state rules and then determining how their effect on safety compares with federal requirements.'' The Agency finds this argument without merit. Title 49 CFR parts 350 and 355 set forth the process for FMCSA's continuous review of State laws and regulations.

III. Washington's MRB Rules Are ''Additional to or More Stringent Than'' the Agency's HOS Rules for Property-Carrying Vehicles Within the Meaning of Section 31141

Having concluded that Washington's MRB rules, as applied to drivers of property-carrying CMVs, are laws ''on commercial motor vehicle safety,'' under section 31141, the Agency next must decide whether they have the same effect as, are less stringent than, or are additional to or more stringent than the Federal HOS rules for property-carrying CMVs. 49 U.S.C. 31141(c)(1). As described above, the Federal HOS rules establish daily and weekly limits on driving time for all drivers of property-carrying CMVs operating in interstate commerce and additionally require long-haul truck drivers to take a break from driving of at least 30 minutes after 8 hours of driving time if they wish to continue driving. 49 CFR 395.3(a)–(b). Washington's MRB rules require employers to provide a meal period of at least 30 minutes that commences after the second hour and before the fifth hour after the shift commences. WAC 296–126–092(1)–(2). To illustrate, the Department of Labor and Industries explained, ''[A]n employee who normally works a 12-hour shift shall be allowed to take a 30-minute meal period no later than at the end of each five hours worked.'' See Department of Labor and Industries, Administrative Policy ES.C.6.1, paragraph 5 (Dec. 1, 2017).[9] The Washington MRB rules further provide, ''Employees working three or more hours longer than a normal work day shall be allowed at least one thirty-minute meal period prior to or during the overtime period.'' WAC 296–126–092(3). While an employee may choose to waive the meal period requirement, the employee may rescind the waiver agreement at any time. *See* Department of Labor and Industries, Administrative Policy ES.C.6.1, paragraph 8.

In addition, Washington's MRB rules provide for a 10-minute rest period ''for each four hours of working time'' and must occur no later than the end of the third working hour. WAC 296–126–092(4).[10] The rest period must be scheduled as near as possible to the midpoint of the four hours of working time, and no employee may be required to work more than three consecutive hours without a rest period. See Department of Labor and Industries, Administrative Policy ES.C.6.1, paragraph 11. Employees may not waive their right to a rest period. Id. at paragraph 9.

Quoting the Agency's 2018 decision preempting California's MRB rules, WTA argued that because Washington's rules '''require employers to provide CMV drivers with more rest breaks than the Federal HOS rules, and they allow a smaller window of driving time before a break is required' . . . they are additional to, and more stringent than, the federal HOS rules.'' In comparing Washington's and California's MRB rules, WTA stated, ''In certain respects, . . . Washington's rules are more restrictive than California's. For example, Washington requires a 30-minute break somewhere between the second and fifth hour of each five-hour work period, while California's requirement only requires such a break any time before the end of the fifth hour of work.'' The Agency agrees. The HOS rules require long-haul truck drivers in interstate commerce to take a 30-minute break from driving within a specified period; however, drivers are not constrained as to when to take the break within that period. While the HOS rules do not require short-haul truck drivers operating in interstate commerce to take a driving break during the duty window, both long- and short-haul drivers may schedule rest periods as needed to avoid driving while too fatigued to do so safely, as the Federal regulations prohibit. See 49 CFR 392.3. Washington's MRB Rules require employers to provide CMV drivers with more rest breaks than the Federal HOS rules, and they allow a smaller window of driving time before a break is required.

[9] The Department of Labor and Industries further explained that while meal periods may be unpaid as long as employees are completely relieved from duty, employees who are not relieved of all work duties during the meal break must be paid. See Department of Labor and Industries, Administrative Policy ES.C.6.1, paragraph 6.

[10] Employers are excepted from the requirement to provide a rest period ''Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each 4 hours worked.'' WAC 296–126–092(5). The Department of Labor and Industries defines an ''intermittent rest period'' as ''an interval of short duration in which employees are allowed to rest, relax, and engage in brief personal activities while relieved of all work duties.'' Department of Labor and Industries, Administrative Policy ES.C.6.1, paragraph 12.

The Department of Labor and Industries did not deny that Washington's MRB rules require more breaks than the HOS rules. The Department of Labor and Industries argued that the MRB rules are not more stringent than the HOS rules because employers can seek a variance to allow for alternative scheduling of breaks. The Agency disagrees with this argument. Washington plainly requires more breaks at more frequent intervals than the HOS rules. Because of this, employers of drivers of property-carrying CMVs could not meet just the minimum requirements of the Federal HOS rules without violating the MRB rules on their face. That alone is dispositive of the relevant inquiry. See, *e.g.,* S. Rep. No. 98–424, at 14 (''It is the Committee's intention that there be as much uniformity as practicable whenever a Federal standard and a State requirement cover the same subject matter. However, a State requirement and a Federal standard cover the same subject matter only when meeting the minimum criteria of the less stringent provision causes one to violate the other provision on its face.'')

In addition, while Washington law [11] provides that employers may receive a variance from the MRB rules if the employer can show ''good cause,'' the Department of Labor and Industries would determine if the employer met the burden of showing that ''good cause'' exists.[12] Thus, a variance is not a matter of right for employers, and the Department of Labor and Industries may deny a variance request if it determines, in its judgment, that the employer failed to establish good cause. In addition, the Department of Labor and Industries ''may terminate and revoke the variance at any time, as long as the employer is given 30 days notice.'' Department of Labor and Industries, Administrative Policy ES.C.9 (Jan. 2, 2002). Washington's MRB rules therefore are ''additional to or more stringent than'' the HOS rules.

[11] Under Washington law, ''An employer may apply to the director for an order for a variance from any rule or regulation establishing a standard for wages, hours, or conditions of labor adopted by the director under this chapter. The director shall issue an order granting a variance if the director determines or decides that the applicant for the variance has shown good cause for the lack of compliance.'' RCW 49.12.105.

[12] '' 'Good cause' means, but is not limited to, those situations where the employer can justify the variance and can prove that the variance does not have a harmful effect on the health, safety, and welfare of the employees involved.'' WAC 296–126–130(4).

IV. Washington's MRB Rules Have No Safety Benefits That Extend Beyond Those That the FMCSRs Provide

Because Washington's MRB rules, as applied to drivers of property-carrying CMVs, are more stringent than the Federal HOS rules, they may be enforced unless the Agency also decides either that they have no safety benefit, that they are incompatible with the HOS rules, or that enforcement of the MRB rules would cause an unreasonable burden on interstate commerce. 49 U.S.C. 31141(c)(4). The Agency need only find that one of the three conditions in paragraph (c)(4) exists to preempt the MRB rules. Id.

Section 31141 authorizes the Secretary to preempt Washington's MRB rules if they have ''no safety benefit.'' 49 U.S.C. 31141(c)(4)(A). Consistent with the Agency's decisions preempting California's MRB rules, FMCSA continues to interpret this language as applying to any State law or regulation that provides no safety benefit beyond the safety benefit that the relevant FMCSA regulations already provide. The statute tasks FMCSA with determining whether a State law that is more stringent than Federal law, which would otherwise undermine the Federal goal of uniformity, is nevertheless justified. There would be no point to the ''safety benefit'' provision if it were sufficient that the more stringent State law provides the same safety benefit as Federal law. A State law or regulation need not have a negative safety impact to be preempted under section 31141(c)(4)(A); although, a law or regulation with a negative safety impact could be preempted.

A. Fatigue

WTA argued that Washington's MRB rules offer no safety benefits beyond those already realized under Federal regulations and that they ''interfere with the flexibility that is an important component of the federal HOS rules.'' In its comments, ATA agreed, stating:

> Washington's break rules offer no prospect of a safety benefit. The federal rules themselves give drivers the absolute right to take a break whenever they believe fatigue or anything else renders them unable to drive safely, 49 CFR 392.3, with stiff penalties for motor carriers or customers who coerce them not to exercise that right, id. § 390.6. Thus, with respect to mitigating driver fatigue, Washington's rules provide federally-regulated commercial drivers with nothing they do not already enjoy under the federal rules.

In joint comments, the National Propane Gas Association and the Pacific Propane Gas Association (collectively, ''the Propane Gas Associations'') stated that Washington's MRB rules ''do not present [a] reasonable safety benefit for the transportation of hazardous materials.'' Oak Harbor Freight Lines, a company that employs more than 1,700 people in five western states, commented that the company focuses on its safety data, and, ''ha[s] not seen a difference in accident rates or other safety concerns between [the company's] drivers who operate under Washington's rules and those operating under DOT rules.''

Other commenters discussed the lack of flexibility under Washington's MRB rules. The National Industrial Transportation League stated, ''imposing the Washington standards without any flexibility disincentivizes drivers from taking breaks when they truly are fatigued, as they are forced to take the prescribed breaks when they may not need them. This approach increases rather than reduces the safety risks associated with fatigued driving.'' Similarly, Uline, an interstate property carrier, commented that FMCSA's HOS rules ''provide drivers with the flexibility to take breaks when they actually need them in order to reduce accidents caused by fatigue or exhaustion.''

The Agency agrees with WTA. The HOS rules and other provisions of the FMCSRs establish a fatigue management framework for drivers of property-carrying CMVs that requires drivers to take a 30-minute break from driving after eight hours of drive time, prohibits a driver from operating a CMV if she feels too fatigued or is otherwise unable to drive safely, and prohibits employers from coercing a driver too fatigued to operate the CMV safely to remain behind the wheel. See 49 CFR 395.3(a)(3)(ii), 392.3, 390.6. For short-haul drivers who are exempt from FMCSA's 30-minute break requirement, the Federal regulations sufficiently mitigate the risk of crashes by prohibiting fatigued driving and coercion. The HOS rules, moreover, prohibit drivers of property-carrying CMVs from driving more than 11 hours during a 14-hour shift, require them to take at least 10 hours off between 14-hour shifts, and prohibit them from exceeding certain caps on weekly on-duty time. 49 CFR 395.3. The Agency believes that this framework is appropriate because it provides some level of flexibility while still prohibiting a driver from operating a CMV when too fatigued to do so safely. Washington's additional requirements that breaks be of specific durations, and occur within specific intervals, do not provide additional safety benefits. In addition, interposing the MRB rules on top of the

Agency's framework eliminates the regulatory flexibilities provided and requires the driver to stop the CMV and log off duty at fixed intervals each day regardless of the driver's break schedule or actual level of fatigue. FMCSA notes, moreover, that the HOS rules are the product of multiple rounds of thorough consideration of the best ways to ensure CMV safety, extending through the issuance of the recent final rule. See 85 FR 33396 (June 1, 2020). Washington's generally-applicable requirements, in contrast, are not tailored to the specific circumstances of the motor carrier industry, and do nothing to enhance the safety benefits that FMCSA's comprehensive, tailored regulations already provide.

The Department of Labor and Industries contended that Washington's MRB rules have safety benefits and attached the following studies, reports, and other documents, totaling more than 350 pages, to its comments:

1. Susan A. Soccolich, et al., *An Analysis of Driving and Working Hour on Commercial Motor Vehicle Driver Safety Using Naturalistic Data Collection,* 58 Accident Analysis and Prevention 249 (2013);
2. Kun-Feng Wu, Paul Jovanis, *Effect of Driving Breaks and 34-hour Recovery Period on Motor Carrier Crash Odds,* In: Proceedings of the Sixth International Driving Symposium on Human Factors in Driver Assessment, Training and Vehicle Design, Lake Tahoe, California (2011);
3. Paul P. Jovanis, et al., *Effects of Hours of Service and Driving Patterns on Motor Carrier Crashes,* Transportation Research Board, Journal of the Transportation Research Board, No. 2231, p 119–127 (2012);
4. Myra Blanco, et al., *The Impact of Driving, Non-Driving Work, and Rest Breaks on Driving Performance in Commercial Motor Vehicle Operations,* Federal Motor Carrier Safety Administration, FMCSA–RRR–11–017 (2011);
5. Lianzhen Wang, Yulong Pei, *The Impact of Continuous Driving Time and Rest Time on Commercial Drivers' Driving Performance and Recovery,* 50 Journal of Safety Research 11 (2014);
6. Sergio Garbarino, et al., *Sleep Apnea, Sleep Debt and Daytime Sleepiness Are Independently Associated with Road Accidents. A Cross-Sectional Study on Truck Drivers,* PLoS ONE, e0166262 (2016);
7. Lynn Meuleners, et al., *Determinants of The Occupational Environment and Heavy Vehicle Crashes in Western Australia: A Case–Control Study,* 99 Accident Analysis and Prevention 452 (2017);
8. Wash. State Emp't Security Dep't, *2018 Labor Market and Economic Report;*
9. Wash. State Dep't of Licensing, 2018 Statistics At-a-Glance;
10. Guang X. Chen, et al., *NIOSH National Survey of Long-Haul Truck Drivers: Injury and Safety,* 85 Accident Analysis & Prevention 66 (2015);
11. Federal Motor Carrier Safety Administration, CMV Driving Tips—Driver Fatigue;
12. Department of Labor and Industries, Administrative Policy ES.C.6.1 (2017);
13. Chen and Yuanchang Xie, *Modeling the Safety Impacts of Driving Hours and Rest Breaks on Truck Drivers Considering the Dependent Covariates,* 51 J. Safety Research 57 (Dec. 2014);
14. Chen and Yuanchang Xie, *The Impacts of Multiple Rest Break Periods on Commercial Truck Drivers' Crash Risk,* 48 J. Safety Research 87 (2014);
15. National Transportation Safety Board, 2017–2018 Most Wanted List, Reduce Fatigue Related Accidents (2017);
16. National Transportation Safety Board, Safety Recommendation, H–94–005, H–94–006 (1994);
17. National Transportation Safety Board, Safety Recommendation, H–95–005 (1995);
18. Ping-Huang Ting, et al., *Driver Fatigue and Highway Driving: A Simulator Study,* 94 Physiology & Behavior 448 (2008).

While the Department of Labor and Industries did not make a specific argument about most of the documents appended to its comments, it made reference to a few of them. In this regard, the Department of Labor and Industries quoted the Agency's CMV Driving Tips on driver fatigue, which state, ''[Thirteen] percent of commercial motor vehicle (CMV) drivers were considered to have been fatigued at the time of their crash.'' *See* FMCSA, CMV Driving Tips—Driver Fatigue, also available at *https://www.fmcsa.dot.gov/safety/driver-safety/cmv-driving-tips-driver-fatigue.* The Driving Tips further advise drivers to take a nap of at least 10 minutes when feeling drowsy. Id. The Department of Labor and Industries also cited two studies published in the Journal of Safety Research and argued that ''commercial truck drivers' safety performance can deteriorate easily due to fatigue caused by long driving hours and irregular work schedules [and] that increasing the number of rest breaks or their duration helps to reduce crash risk.'' See *The Impacts of Multiple Rest Break Periods on Commercial Truck Drivers' Crash Risk* and *Modeling the Safety Impacts of Driving Hours and Rest Breaks on Truck Drivers Considering the Dependent Covariates.* The Department of Labor and Industries further argued that a study by the National Institute of Occupational Safety and Health (NIOSH) ''found that 35% of long-haul truck drivers reported at least one crash in the course of their work as commercial drivers.'' See *NIOSH National Survey of Long-Haul Truck Drivers: Injury and Safety.* The Department of Labor and Industries also cited the National Transportation Safety Board's (NTSB) Most Wanted List concerning reducing fatigue-related accidents. See *NTSB 2017–2018 Most Wanted List, Reduce Fatigue-Related Accidents.* In addition, the Associations for Justice cited the NTSB Report, *Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue* and argued that ''the relevant safety issue is driver fatigue and not inadequate truck parking.'' See NTSB Report SR–99/01 (1999).

FMCSA agrees with the Department of Labor and Industries and the Associations for Justice that drowsy driving may cause crashes. The Agency has reached the same conclusion and has established a fatigue management framework for drivers of property-carrying CMVs that mitigates the risks associated with drowsy driving. The FMCSRs establish driving-time limits and prohibit a driver from operating a CMV when too fatigued to do so safely. Washington's MRB rules do not improve upon the Federal regulatory framework. The two Journal of Safety Research studies the Department of Labor and Industries cite found that ''trips with one or two rest breaks had significantly lower odds'' of a crash ''compared to trips without any breaks,'' and that ''having a third rest break did not have a significant effect,'' ''indicating the third rest break had very limited impacts on reducing crash risk.'' *Modeling the Safety Impacts of Driving hours and Rest breaks on Truck Drivers Considering the Dependent Covarities* at 62; see also *The Impacts of Multiple Rest Break Periods on Commercial Truck Drivers' Crash Risk* at 88. In other words, the studies support the Agency's conclusion that layering additional break requirements over the Federal HOS regulations—which require a 30-minute break from driving and any additional breaks that a driver finds necessary to avoid unsafe fatigued driving—does not provide additional protection against the risks of fatigued driving. The Jovanis study, *Effects of Hours of Service and Driving Patterns on Motor Carrier Crashes,* further supports this conclusion. Journal of the Transportation Research Board, No. 2231 at 126. Similarly, the *NIOSH National Survey of Long-Haul Truck Drivers* the Department of Labor and Industries cites does not show that MRB rules, such as Washington's, provide an additional safety benefit over the Federal HOS regulations. Rather, the purpose of the NIOSH survey was to "bring to light a number of important safety issues for further research and interventions, *e.g.,* high prevalence of truck crashes, injury underreporting, unrealistically tight delivery schedules, noncompliance with hours-of-service rules, and inadequate entry-level training." See *NIOSH National Survey of Long-Haul Truck Drivers: Injury and Safety* at 2.

With regard to the other materials that the Department of Labor and Industries appended but did not discuss, FMCSA considered and discussed at length the implications of the Blanco study, *The Impact of Driving, Non-Driving Work, and Rest Breaks on Driving Performance in Commercial Motor Vehicle Operations,* both in promulgating the recent 2020 HOS final rule and in the 2011 HOS final rule. See 85 FR 33412, 33416–17, 33420, 33445; 76 FR 81147–48, 54. In the 2011 HOS final rule, which instituted the original Federal 30-minute break requirement, FMCSA explained that the "Blanco [study] also showed that when non-driving activities (both work- and rest-related) were introduced during the driver's shift—creating a break from the driving task—these breaks significantly reduced the risk of being involved in a [safety critical event] during the one-hour window after the break." See 76 FR 81148. The Agency again discussed the Blanco study at length in issuing the 2020 final rule and noted that, consistent with the changes to the Federal 30-minute break requirement, the study found that any type of break (both off-duty, and on-duty not driving) was beneficial to the driver. See 85 FR 33416–17, 33420. FMCSA applied the findings of the Blanco study to the Agency's HOS rules and determined that requiring drivers to take a 30-minutes break from driving after 8 hours of driving time provides safety benefits. Id. Moreover, FMCSA's prohibition against fatigued driving requires drivers to take additional rest as needed. Nothing in the Blanco study supports the conclusion that Washington's MRB rules provide additional safety benefits not already realized under the HOS rules and FMCSA's regulatory prohibitions on fatigued driving and coercion.

With regard to the NTSB safety recommendations the Department of Labor and Industries cite, recommendations H–94–005 and H–94–006, addressed to FMCSA's predecessor agency, the Federal Highway Administration (FHWA), pertained to evaluating which bridges are vulnerable to high-speed heavy-vehicle collision and subsequent collapse.[13] That issue is not relevant to the instant matter. NTSB safety recommendation H–95–005, addressed to FHWA, ATA, the Professional Truck Driver Institute of America, the Commercial Vehicle Safety Alliance, and the National Private Truck Council, asked the organizations to develop a training and education module to inform truck drivers of the hazards of driving while fatigued. The NTSB closed safety recommendation H–95–005 and noted that FMCSA took acceptable action on the recommendation.[14] Safety recommendation H–95–005 pertains to fatigue management training for truck drivers and in no way suggests that Washington's MRB rules provide additional safety benefits. The remaining studies that the Department of Labor and Industries appended, two of which examined CMV operations under the rules of China and Australia, do not demonstrate that Washington's MRB rules provide additional safety benefits beyond those provided by the HOS rules.

Citing the NTSB report, *Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue,* the Associations for Justice argued that "the relevant safety issue is driver fatigue and not inadequate truck parking." The Associations' argument fails. FMCSA believes that the issues of fatigue *and* truck parking are relevant to the Agency's consideration of WTA's petition. In addition, the Agency notes that as part of the report, the NTSB addressed safety recommendation H–99–019 to FHWA asking the Agency to, "Establish within 2 years scientifically based hours-of-service regulations that set limits on hours of service, provide predictable work and rest schedules, and consider circadian rhythms and human sleep and rest requirements." See *Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue* at 26. The NTSB closed safety recommendation H–99–019 and noted that FMCSA took acceptable alternate action on the recommendation.[15]

The Teamsters argued that Washington's MRB rules "ensure drivers have alternative legal protections in place helping to guard them against predatory companies who would rather pressure drivers into not taking a break, even when the driver feels it is physically necessary to do so." The Agency is unpersuaded by the Teamsters' argument. As explained above, the FMCSRs contain a prohibition against coercion, and the Teamsters point to no evidence showing that the Federal prohibition is any less effective than Washington's MRB rules in preventing coercion.

FMCSA determines that Washington's MRB Rules do not provide a safety benefit not already provided by the Federal regulations for property-carrying CMV drivers.

B. Parking

WTA argued that Washington's MRB rules undermine safety "by artificially exacerbating the shortage of safe truck parking" and making it "more likely that drivers will have to spend additional time looking for parking when they need rest, or resort to unsafe places to park." Several commenters agreed. In this regard, ATA stated, "[T]he predictable effect of Washington's arbitrary break rules is to exacerbate the shortage of safe and legal truck parking, in Washington and elsewhere . . . ." C.R. England commented, "[I]t may be unsafe or simply impossible for a driver to safely stop a truck, find adequate or safe parking, and leave the truck in order to comply with Washington's rest break requirements. Other commenters, such as Uline, Hoovestol, and the National Industrial Transportation League also echoed this sentiment. Uline stated, "The limited parking spots should be used by workers actually in need of rest and should not be occupied by drivers that are merely complying with arbitrary rest break laws." The Truckload Carriers Association cited a 2018 survey where 95 percent of 5,400 surveyed drivers stated that they park in unauthorized areas when legal parking is not available. See Heavy Duty Trucking, August 29, 2018, *https://www.truckinginfo.com/312029/80-of-drivers-say-elds-make-finding-parking-harder.*

The Agency agrees that Washington's enforcement of the MRB rules could exacerbate the problem of CMV drivers parking at unsafe locations. The shortage of safe, authorized parking spaces for CMVs and the negative safety implication of enforcing the MRB rules is well-documented in FMCSA's 2018 decision preempting California's MRB

[13] NTSB Safety Recommendation H–94–005 may be viewed at *https://www.ntsb.gov/safety/safety-recs/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=H-94-005.* Safety Recommendation H–94–006 may be viewed at *https://www.ntsb.gov/safety/safety-recs/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=H-94-006.*

[14] NTSB Safety Recommendation H–95–005 may be viewed at *https://www.ntsb.gov/safety/safety-recs/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=H-95-005.*

[15] NTSB Safety Recommendation H–99–019 may be viewed at *https://www.ntsb.gov/safety/safety-recs/_layouts/ntsb.recsearch/Recommendation.aspx?Rec=H-99-019.*

rules for drivers of property carrying CMVs. See 83 FR 67476–77. Among the parking studies cited by the Agency in the 2018 decision was a 2016 survey of drivers by the Washington State Department of Transportation (WSDOT) showing that more than 60 percent of drivers reported that at least three times per week they drive while fatigued because they are unable to find adequate parking when they need to rest. WSDOT Truck Parking Survey (Aug. 2016).[16] WSDOT conducted the survey during the development of a more comprehensive Truck Parking Study, also published in 2016.[17] WSDOT's Truck Parking Study cited the Federal HOS rules and Washington's MRB rules as factors that drive a higher demand for truck parking.[18] See WSDOT Truck Parking Study at 13, 17–20. While WSDOT recognized that ''long-haul drivers largely have different parking needs than short-haul drivers,'' the Study included local delivery parking among the types of truck parking considered. See id. at 4, 9. The Study found that, ''The truck parking shortage in Washington is likely getting worse, with demand increasing and supply potentially decreasing,'' and that highway exit and entrance ramps are the third most used parking option for truck drivers. Id. at 6. WSDOT's Truck Parking Study demonstrates that Washington's MRB rules contribute to the demand for the State's inadequate truck parking.

Noting that there are 47 rest areas in Washington, the Department of Labor and Industries argued, ''Washington has not seen that the timing of rest breaks cause problems with drivers finding places to park.'' The Department of Labor and Industries further contended that the Agency should consider that an employer may seek a variance from the MRB rules ''to allow for alternative scheduling of breaks.'' The Teamsters argued that while ''parking is a serious issue faced by some, mainly [over-the-road] drivers'' it does not pose a problem for many other drivers. The Teamsters continued:

> The fact that there may be a shortage of truck parking does not excuse a motor carrier or driver from complying with either federal or state laws. Meal and rest break protections should not be thrown out for every driver in Washington state because a small segment of WTAs members claim they have issues with truck parking.

The Agency is not persuaded by the Department of Labor and Industries' arguments. As described above, the WSDOT Truck Parking Study showed that the truck parking shortage in Washington State is worsening, and it cited Washington's MRB rules as one of the factors contributing to demand for truck parking. The Agency is also unpersuaded by the Department's argument that employers may seek a variance to deal with the parking problem. As explained above, the Department of Labor and Industries would determine if the employer met the burden of showing that ''good cause'' exists for a variance. The Teamsters' argument that the parking shortage poses a problem only for certain over-the-road drivers is also unavailing. WSDOT's Truck Parking Study included local delivery parking in evaluating truck parking supply and demand factors. The Agency believes that, due to the shortage of truck parking in Washington, the increase in required stops to comply with the MRB Rules will exacerbate the problem of truck drivers parking at unsafe locations—such as ramps and shoulders—where they present a serious hazard to other highway users.

V. Washington's MRB Rules Are Incompatible With the Federal HOS Rules for Property-Carrying CMVs

The Agency has determined that Washington's MRB rules are ''additional to or more stringent than a regulation prescribed by the Secretary under section 31136''; therefore, they must be preempted if the Agency also determines that the MRB rules are ''incompatible with the regulation prescribed by the Secretary.'' 49 U.S.C. 31141(c)(4)(B).

The Agency's 2018 decision, which applied the regulatory definition for ''compatibility'' that was in effect at that time, 49 CFR 355.5 (2018),[19] determined that California's MRB rules are incompatible with the HOS rules. Citing that decision, WTA argued that Washington's MRB rules are similarly incompatible. WTA contended that the fact that Washington's MRB rules ''require more breaks than the federal rules, with narrower constraints as to timing, means that they are neither identical to nor have the same effect as the FMCSRs'' and thus they are incompatible. WTA continued, ''Washington's rules 'significantly reduce the flexibilities the Agency built into the Federal HOS rules, and they graft onto the Federal HOS rules additional required rest breaks that the Agency did not see fit to include.''' (Internal alterations omitted).

On June 24, 2020, FMCSA published a final rule that amended the regulatory definition for ''compatible'' as that term is applied to a State law or regulation on CMV safety that is in addition to or more stringent than the FMCSRs. See 85 FR 37785 (Jun. 24, 2020). Under the revised definition, codified at 49 CFR 350.105, ''compatible'' means State laws, regulations, standards, and orders on CMV safety that ''if in addition to or more stringent than the FMCSRs, have a safety benefit, *do not unreasonably frustrate the Federal goal of uniformity,* and do not cause an unreasonable burden on interstate commerce when enforced.'' (Emphasis added). The final rule explained that the Agency amended the definition of ''compatibility'' ''to align with and incorporate the standard in 49 U.S.C. 31141(c) regarding when a State may enforce a law, regulation, standard, or order on CMV safety that is in addition to or more stringent than the FMCSRs.'' 85 FR 37791. Thus, FMCSA must decide whether Washington's MRB rules unreasonably frustrate the Federal goal of uniformity and therefore are incompatible with the Federal HOS rules for property-carrying CMV drivers.

The Agency agrees with WTA and finds that Washington's MRB rules, as applied to drivers of property-carrying CMVs, are incompatible with the Federal HOS rules because they unreasonably frustrate the Federal goal of uniformity. As described above, Washington's generally applicable MRB rules require employers to provide property-carrying CMV drivers with meal and rest breaks of specified duration at specific intervals. In contrast, the HOS rules which are tailored specifically to the CMV industry, provide drivers flexibility in deciding when to take the required 30-minute break from driving. Short-haul drivers are not required to take a rest period under the HOS rules; however, other provisions of the FMCSRs prohibit all drivers from operating a CMV when too fatigued to do so safely. Congress's clear intent for the 1984 Act was to

[16] The WSDOT Truck Parking Survey is available in the docket for this preemption matter and may also be downloaded at *http://www.wsdot.wa.gov/NR/rdonlyres/D2A7680F-ED90-47D9-AD13-4965D6D6BD84/114207/TruckParkingSurvey2016_web2.pdf.*

[17] The WSDOT Truck Parking Study is available in the docket for this preemption matter and may also be downloaded at *https://www.wsdot.wa.gov/Freight/truckparking.htm.*

[18] The WSDOT Truck Parking Study states that drivers not engaging in interstate commerce are required to follow only Washington's MRB rules; however, even drivers operating wholly within the State of Washington may be operating in ''interstate commerce'' as defined in the FMCSRs and thus subject to both the Washington MRB rules and the HOS rules. *See* 49 CFR 390.5T (definition of ''interstate commerce'').

[19] Under 49 CFR 355.5, in effect in 2018, ''Compatible or Compatibility'' meant that State laws and regulations applicable to interstate commerce were ''identical to the FMCSRs and the HMRs'' or had ''the same effect as the FMCSRs. . . .'' See also 49 CFR 350.105 (2018).

minimize disuniformity in the national safety regulatory regime. See Public Law 98–554, title II § 202, 203 (''The Congress finds that . . . improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations.''); S. Rep. No. 98–424, at 14 (''It is the Committee's intention that there be as much uniformity as practicable whenever a federal standard and a state requirement cover the same subject matter.''); see also id. at 15 (''In adopting this section, the Committee does not intend that States with innovative safety requirements that are not identical to the national norm be discouraged from seeking better ways to protect their citizens, so long as a strong safety need exists that outweighs this goal of uniformity.'') Washington's MRB rules frustrate Congress's goal of uniformity because they abrogate the flexibility that the Agency allows under the HOS rules. This fact renders Washington's MRB rules incompatible.[20]

The Department of Labor and Industries argued that Washington's MRB rules are not incompatible with the HOS rules because it is possible for drivers to comply with both the MRB and HOS rules. This argument is unpersuasive. The Agency's compatibility determination is different from ''conflict preemption'' under the Supremacy Clause, where conflict arises when it is impossible to comply with both the State and Federal regulations. The express preemption provision in section 31141 does not require such a stringent test. In any event, Washington's MRB rules actively undermine Congress's goal of uniformity, as well as FMCSA's affirmative policy objectives by abrogating the flexibility that the Agency built into the HOS rules. That would be sufficient to support a finding of incompatibility even under the conflict preemption test urged by the Department of Labor and Industries.[21]

FMCSA determines that Washington's MRB rules, as applied to drivers of property-carrying CMVs, are incompatible with the Federal HOS rules.

VI. Enforcement of Washington's MRB Rules Would Cause an Unreasonable Burden on Interstate Commerce

Washington's MRB rules may not be enforced if the Agency decides that enforcing them ''would cause an unreasonable burden on interstate commerce.'' 49 U.S.C. 31141(c)(4)(C). Section 31141 does not prohibit enforcement of a State requirement that places an incidental burden on interstate commerce, only burdens that are unreasonable.

A. Decreased Productivity, Administrative Burden, and Costs

WTA argued that, ''Washington's break rules represent an unreasonable burden on interstate commerce for much the same reasons FMCSA recently concluded California's do.'' In this regard, WTA contended that the MRB rules decrease each driver's available duty hours ''by requiring additional off-duty time, and additional 'dead time' associated with extra trips off the highway to find places to take breaks that do not coincide with otherwise scheduled stops.'' WTA further asserted that ''compliance with Washington's break rules further burdens interstate commerce by imposing the same kinds of administrative burdens the Agency noted were imposed by California law. . . .''

Uline also described the decreased productivity that results from complying with Washington's MRB rules. In this regard, Uline stated, ''Unnecessary burdens, like forcing drivers to comply with both federal and state laws which require more breaks, slows down operations and restricts drivers' productivity.'' Uline continued, ''If our drivers are tired, we want them to take a break. If our drivers are not tired and it has not been 8 hours, we should not force them to stop driving and try to find a parking spot just to [comply with] Washington law.''

In addition to decreased productivity resulting from complying with Washington's MRB rules, some commenters also provided information about the associated administrative burden and costs. Oak Harbor Freight Lines explained that complying with the MRB rules adds time to the drivers' workday and stated, ''Washington's rules add a substantial burden to delivery of freight.'' The Propane Gas Associations stated:

> [C]ompliance with Washington Meal and Rest Break rules cause a decrease in transportation movement and, potentially, a decrease in the number of end-users served in a given work period. Thus, end-users may suffer delays in the deliveries. To overcome potential delays to end-users, employers may seek to hire additional drivers along with significant additional expenses for more commercial vehicles, equipment, training, etc. These are considerable capital investments strictly to maintain timely deliveries to current end-users in order to comply with the Washington rules.

C.R. England explained, ''Compliance with the MRB rules requires a reworking of freight lanes and transit times, in addition to increased non-driver personnel time and resources in order to evaluate the impact of the requirements, rework freight lanes and transit times, and ensure compliance.'' The National Industrial Transportation League commented that the increased administrative burden and costs associated with complying with Washington's MRB rules impact not only carriers but also shippers and receivers. In this regard, the League stated, ''shippers and receivers . . . are forced to juggle their own workforce and production planning as drivers must stop work to meet the arbitrarily mandated breaks as required by the Washington rule.''

The Agency agrees with WTA that complying with Washington's MRB rules unreasonably burdens interstate commerce. It is indisputable that Washington's MRB rules, like California's, decrease each driver's available duty hours as compared to the Federal HOS rules. The Agency acknowledges that even without Washington's MRB rules, many drivers would sometimes take breaks beyond those required by the HOS rules. It is nevertheless clear that Washington's MRB rules require drivers to take more breaks than they otherwise would, and may require those breaks to occur at times they otherwise would not occur. In addition, the comments demonstrate that complying with Washington's MRB rules also imposes significant administrative burdens.

The Department of Labor and Industries disputed that complying with the MRB rules is an unreasonable burden on interstate commerce. In this

[20] The Associations for Justice argued that FMCSA's 2018 decision preempting California's MRB rules for drivers of property carrying CMVs erroneously applied the regulatory definition for ''compatible,'' in effect in 2018 and further contended that the Agency should not apply that compatibility standard to this preemption determination. As explained above, the Agency applies the recently amended definition of ''compatible;'' therefore, this argument is moot.

[21] The Agency notes that under Washington's MRB rules, a 10-minute rest period ''means to stop work duties, exertions, or activities for personal rest and relaxation.'' Department of Labor and Industries, Administrative Policy ES.C.6.1 at paragraph 10. This is an area of potential conflict with the attendance and surveillance requirements for drivers of CMVs transporting Division 1.1, 1.2, or 1.3 explosives. See 49 CFR 397.5. Such a vehicle ''must be attended at all times by its driver or a qualified representative of the motor carrier that operates it.'' Id. The Federal HOS requirement for drivers to take a 30-minute break from driving provides an exception for drivers of CMVs carrying Division 1.1, 1.2, or 1.3 explosives to allow them to count on-duty time spent attending the CMV as required by section 397.5 but doing no other on-duty work, toward the break. See 49 CFR 395.1(q).

regard, the Department of Labor and Industries cited Washington's annual Labor and Economic Report, which showed that the ''transportation, warehousing, utilities'' industry experienced more than 2 percent annual growth in employment and ranking it third on the list of private sector industries. See Wash. State Emp't Security Dep't, *2018 Labor and Market Economic Report,* at 17.[22] The Department of Labor and Industries argued, ''It is simply incorrect to posit that requiring employers to continue to follow longstanding break laws will cause economic breakdown.'' The Department of Labor and Industries mischaracterizes FMCSA's conclusion. The Agency does not find that Washington's MRB rules will ''cause economic breakdown;'' rather, FMCSA finds that the MRB rules unreasonably burden interstate commerce. Moreover, it is not appropriate for the Department of Labor and Industries to rely on the employment growth in the transportation, warehousing, and utilities sector to argue that enforcing Washington's MRB rules does not unreasonably burden interstate commerce. While FMCSA believes that Washington's employment growth is commendable, it is not evidence that Washington's MRB rules do not unreasonably burden commerce among the States.

Citing the Agency's 2018 decision applying the standard set forth in *Pike* v. *Bruce Church, Inc.,* 397 U.S. 137 (1970), the Department of Labor and Industries also contended that ''The standard to determine an unreasonable burden is taken from the dormant Commerce Clause case law: Whether there is an unreasonable burden is whether the burden imposed is clearly excessive in relation to the putative local benefits derived from the State law.'' The Department of Labor and Industries quoted *Exxon Corp.* v. *Governor of Maryland,* 437 U.S. 117, 128 (1978), to argue further that, ''Under this test, to have a burden on interstate commerce, the state regulation must substantially burden the 'the flow of interstate goods.' Operational challenges do not stop the free flow of interstate goods.'' Citing *Nat'l Ass'n of Optometrists & Opticians* v. *Harris,* 682 F.3d 1144, 1152 (9th Cir. 2012), the Department of Labor and Industries stated, ''Operational challenges do not stop the free flow of interstate goods. Nor does loss of profit or market share.'' The Agency disagrees that the standard for determining if a State law unreasonably burdens interstate commerce under section 31141 is taken from dormant Commerce Clause case law and finds it inappropriate to rely on *Exxon Corp.* v. *Governor of Maryland* and *Nat'l Ass'n of Optometrists & Opticians* v. *Harris.* In *Exxon Corp.,* the Supreme Court considered whether a Maryland statute that, among other things, prohibited producers or refiners of petroleum products from operating retail service stations within the State, violated the Commerce Clause. Similarly, in *Nat'l Ass'n of Optometrists & Opticians,* the U.S. Court of Appeals for the Ninth Circuit considered whether California laws prohibiting opticians and optical companies from offering prescription eyewear at the same location in which eye examinations were provided, and from advertising that eyewear and eye examinations were available in the same location, violated the dormant Commerce Clause. FMCSA acknowledges that it suggested in the 2018 decision preempting California's MRB rules for property-carriers that the test for determining whether a State law unreasonably burdens interstate commerce under section 31141 is the same as or similar to the test for determining whether a State law violates the dormant Commerce Clause. See 83 FR 67478. Upon further consideration, however, FMCSA has since concluded that nothing in the text of section 31141 or elsewhere suggests that only unconstitutional State laws can cause an unreasonable burden on interstate commerce. See 86 FR 3479–80. Congress chose not to preempt the field governing CMV safety, but it also sought to create a regulatory regime with considerable uniformity. It tasked the Secretary with ensuring that State laws that disrupt an otherwise uniform Federal scheme do not pose an undue burden on interstate commerce, but nothing suggests that Congress was concerned only with burdens of constitutional dimension. In any event, even if FMCSA could find an unreasonable burden on interstate commerce only by finding that the burdens on commerce are clearly excessive in relation to putative local benefits, that standard would easily be met here. As discussed above, there is no evidence that Washington's MRB rules provide a safety benefit beyond the benefits already provided by the Federal HOS rules. The significant burdens identified by WTA and the commenters thus are clearly excessive. Based on the foregoing, FMCSA concludes that the MRB rules cause an unreasonable burden on interstate commerce.

B. Cumulative Effect of the MRB Rules and Other States' Similar Laws

Section 31141 does not limit the Agency to looking only to the State whose rules are the subject of a preemption determination. FMCSA ''may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.'' 49 U.S.C. 31141(c)(5). Citing the Agency's 2018 decision, WTA argued that, like California's MRB rules, Washington's rules contribute to a patchwork of differing State meal and rest break rules that constitute an unreasonable burden on interstate commerce. Several commenters also described the burden resulting from differing State meal and rest break laws. Oak Harbor Freight Lines explained that the company operates terminals in different States and employs drivers who may live in one State and have their home terminal in another. The carrier explained, ''Attempting to decipher which meal-and-rest break rules applies to each of those drivers is a challenge only a lawyer could love, and none of our terminal managers or local supervisors are attorneys.'' Hoovestol stated, ''The varying meal and rest break rules from state to state have harmed our ability to reliably set rates, operate safely, and subjected us to opportunistic efforts to extract significant legal settlements.'' The carrier continued, ''Individual state rules work to the detriment of the level of safety provided by the federal HOS rules by forcing multiple breaks at arbitrary intervals when they are not needed.'' The National Industrial Transportation League commented, ''[A]llowing different commercial driver break rules in various States would exacerbate confusion among shippers, drivers and carriers, create unnecessary complexity, and undermine compliance. A patchwork quilt of meal and rest break rules would translate into substantial additional decreases in efficiency and productivity.''

The Agency agrees. To date, 20 States in addition to Washington regulate, in varying degrees, meal and rest break requirements, as the National Conference of State Legislatures and the Associations for Justice have pointed out.[23] However, these laws are not

[22] The 2018 Labor and Market Economic Report is available for download at *https://esd.wa.gov/labormarketinfo/annual-report.*

[23] According to the National Conference of State Legislatures and the Associations for Justice, the following States have meal and rest break laws: California, Colorado, Connecticut, Delaware, Illinois, Kentucky, Maine, Maryland,

Continued

consistent. Oregon, for example, requires employers to provide a 30-minute break to employees who work 6 hours or more. See Or. Admin. R. 839–020–0050(2). No meal period is required if the shift is less than 6 hours; if the shift is less than 7 hours, the meal period must commence between 2 and 5 hours from the beginning of the shift; and if the shift is longer than seven hours, the meal period must begin between 3 and 6 hours from the beginning of the shift. *Id.* Nevada, by contrast, requires employers to provide a 30-minute break to employees who work a continuous 8 hours at any point during that period. See Nev. Rev. Stat. Ann. § 608.019. And, as described above, Washington's MRB rules require that employers provide a 30-minute meal break for every 5 hours worked, which must commence between 2 and 5 hours from the beginning of the shift. See WAC 296–126–092. In preempting California's MRB rules under section 31141, the Agency determined that the diversity of State regulation of required meal and rest breaks for CMV drivers has resulted in a patchwork of requirements. See 83 FR 67479–80. The Agency finds that the same holds true for Washington's MRB rules. As described by the commenters, this diversity of State regulation has significantly decreased productivity and increased administrative burdens and costs.

The Department of Labor and Industries contended that Washington's MRB rules do not contribute to the multiplicity of varying State meal and rest break laws. In this regard, it argues that ''Washington's break laws do not apply just because someone drives a truck through Washington.'' Citing *Bostain* v. *Food Exp., Inc.,* 153 P.3d 846 (Wash. 2007), the Department of Labor and Industries further asserted, ''The break laws apply only to Washington employers of Washington-based employees.'' The Teamsters argued that drivers pass through an assortment of State or local regulations throughout their workday, including varying speed limits, tolling facilities, and enforcement zones for distracted driving and DUI; yet those rules do not constitute an unreasonable burden on interstate commerce. The Teamsters also argued that, ''Truck size and weight restrictions are different on state and local roads than on the federal highway system. . . . Yet no one is calling for the preemption of state size and weight rules.'' The Associations for Justice argued, ''The trucking and bus industries have engaged in a strategy of targeting specific state laws one at a time for FMCSA preemption.''

The Agency finds the Department of Labor and Industries' argument on the narrow application of Washington's rules unavailing. It is immaterial whether Washington's MRB rules apply only to those drivers based in Washington. The fact remains that the disparity in State regulation has resulted in a multiplicity of requirements that are burdensome to apply. It may be difficult to determine whether a particular driver is ''based in Washington,'' and other States' rules may purport to regulate even those drivers that Washington deems ''Washington-based.'' The Agency is also unpersuaded by the Teamsters' traffic regulation analogy. The 1984 Act explicitly prohibits the Agency from ''prescrib[ing] traffic safety regulations or preempt[ing] state traffic regulations'' such as those described. 49 U.S.C. 31147(a). In addition, issues surrounding State tolling are well outside the scope of the Agency's statutory authority, and CMV size and weight restrictions on portions of the Federal-aid highway system are within the purview of FHWA. See 23 U.S.C. 127, 145; 49 U.S.C. 31111; 49 CFR 1.85. Therefore, the extent to which the ''assortment of state or local regulations'' the International Brotherhood of Teamsters cite unreasonably burden interstate commerce, if at all, as compared to the MRB Rules is not relevant to the Agency's determination. The Agency also rejects the Associations for Justice's argument. Nothing in section 31141 prohibits a petitioner from seeking a preemption determination concerning the laws of one State, even where other States have similar laws.

Having concluded that Washington's MRB rules unreasonably burden interstate commerce, the Agency further determines that the cumulative effect of other States' similar laws would increase the burden.

Preemption Decision

As described above, FMCSA concludes that: (1) Washington's MRB rules are State laws or regulations ''on commercial motor vehicle safety,'' to the extent they apply to drivers of property-carrying CMVs subject to FMCSA's HOS rules; (2) Washington's MRB rules are additional to or more stringent than FMCSA's HOS rules; (3) Washington's MRB rules have no safety benefit; (4) Washington's MRB rules are incompatible with FMCSA's HOS rules; and (5) enforcement of Washington's MRB rules would cause an unreasonable burden on interstate commerce. Accordingly, FMCSA grants WTA's petition for preemption and determines that Washington's MRB rules are preempted pursuant to 49 U.S.C. 31141. Effective the date of this decision, Washington may no longer enforce the MRB rules with respect to drivers of property-carrying CMVs subject to FMCSA's HOS rules.

James W. Deck,

Deputy Administrator.

[FR Doc. 2020–25155 Filed 11–16–20; 8:45 am]

BILLING CODE 4910–EX–P

Massachusetts, Minnesota, Nebraska, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, Tennessee, Vermont, Washington, and West Virginia.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2020–0232]

Agency Information Collection Activities: Renewed Approval of Information Collection

AGENCY: Office of the Secretary (OST), DOT.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments on our intention to request Office of Management and Budget (OMB) approval for an information collection in accordance with the requirements of the Paperwork Reduction Act of 1995. The collection is necessary for administration of the ''Discretionary Grants for Nationally Significant Freight and Highway Projects (FASTLANE/INFRA) Program''. FASTLANE/INFRA grants support surface transportation infrastructure projects that have a significant local or regional impact.

DATES: Written comments should be submitted by January 19, 2021.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

• *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W–12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The telephone number is 202–366–9329.

Instructions: To ensure proper docketing of your comment, please include the agency name and docket number DOT–OST–2020–0232 at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For further information regarding this notice, please contact the Office of the Secretary via email at *INFRAgrants@dot.gov,* or call Paul Baumer at (202) 366–1092.

SUPPLEMENTARY INFORMATION: New Collection. OMB number will be issued after the collection is approved.

Title: Discretionary Grants for Nationally Significant Freight and Highway Projects (FASTLANE/INFRA) Program.

Form Numbers: None.

Type of Review: New Information Collection Request (ICR).

Background: The Office of the Secretary (OST) within the Department of Transportation (DOT) provides financial assistance to State and local Governments, including U.S. territories, tribal Governments, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local Governments through the Nationally Significant Freight and Highway Projects Program, which was established in the Fixing American's Surface Transportation Act of 2015 (''FAST ACT''), Public Law 1105. These discretionary grants were previously referred to by the DOT as ''Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies'', or ''FASTLANE'' Discretionary Grants, and are now referred to as ''Infrastructure for Rebuilding America'' or ''INFRA'' Discretionary Grants. The Office of the Secretary of Transportation (''OST'') is referring to these grants as ''FASTLANE'' or ''INFRA'' Discretionary Grants, depending on the year of award. The purpose of each program is to advance projects that will have a significant impact on the Nation, metropolitan area or a region.

This notice seeks comments on the proposed information collection, which will collect information necessary to support the ongoing oversight and administration of previous awards, the evaluation and selection of new applications, and the funding agreement negotiation stage for new awards.

The reporting requirements for the program is as follows:

To be considered to receive a FASTLANE/INFRA grant, a project sponsor must submit an application to DOT containing a project narrative, as detailed in the Notice of Funding Opportunity. The project narrative should include the information necessary for the Department to determine that the project satisfies eligibility requirements as warranted by law.

Following the announcement of a funding award, the recipient and DOT will negotiate and sign a funding agreement. In the agreement, the recipient must describe the project that DOT agreed to fund, which is the project that was described in the FASTLANE/INFRA application or a reduced-scope version of that project. The agreement also includes a project schedule and budget.

During the project monitoring stage, grantees will submit reports on the financial condition of the project and the project's progress. Grantees will submit progress and monitoring reports to the Government on a quarterly basis until completion of the project. The progress reports will include an SF–425, Federal Financial Report, and other information determined by the administering DOT Operating Administration. This information will be used to monitor grantees' use of Federal funds, ensuring accountability and financial transparency in the FASTLANE/INFRA program.

For the purposes of estimating the information collection burden below for new applicants and awardees, the Department is assuming that for each year 2021–2023, the Department will review approximately 200 applications in Year 1, negotiate 20 funding agreements in Year 2, and begin quarterly project monitoring for 20 projects in Year 3. For a new applicant in 2021, their burden will be 100 hours in 2020, 4 hours in 2022, and 20 hours in 2023. See Table 1 below:

TABLE 1

	Year 1 (2021)		Year 2 (2022)		Year 3 (2023)		
Respondent	Hours	Frequency	Hours	Frequency	Hours	Frequency	Total
2021 Applicant (200)	100	1					20000
2021 Awardee (20)			4	1			80
2021 Recipient (20)					5	4	400
2022 Applicant (200)	100	1					20000
2022 Awardee (20)			4	1			80
2022 Recipient (20)							
2023 Applicant (200)	100	1					20000
2023 Awardee (20)							
2023 Recipient (20)							

This Notice is separately estimating the information collection burden for projects awarded from 2016–2020. Approximately 60 of these projects are in the project monitoring phase in Year 1, while 40 projects are still negotiating funding agreements. In Year 2, approximately 30 of these projects will begin project monitoring, while approximately 20 projects will cease reporting once their projects are completed. In Year 3, 10 projects will begin project monitoring while 20 projects will cease reporting. The individual burden for a project awarded from 2016–2020 will depend on when they were selected, when they completed negotiation of their funding agreement, and when their project reaches completion. See Table 2 below:

	Year 1			Year 2			Year 3			
Respondent	Number	Hrs	Freq	Number	Hrs	Freq	Number	Hrs	Freq	Total
2016–2020 Awardee	40	4	1	10	4	1	0	4	1	200
2016–2020 Recipient	60	5	4	70	5	4	60	5	4	3800
2016–2020 Project Closed	0	0	0	20	0	0	40	0	0	

The Department's estimated burden for this information collection is as follows:

New Applications:

Expected Number of Respondents: Approximately 200 per year.

Frequency: Once.

Estimated Average Burden per Response: 100 hours for each new Application;

For Funding Agreements:

Expected Number of Respondents: Approximately 30 in Year 1 and 2, 20 in Year 3.

Frequency: Once.

Estimated Average Burden per Response: 4 hours for each new Funding Agreement.

For Project Monitoring:

Expected Number of Respondents: Estimated 60 in Year 1, 70 in Year 2, 80 in Year 3.

Frequency: Quarterly.

Estimated Average Burden per Response: 5 hours for each request for Quarterly Progress and Monitoring Report;

Estimated Total 3-year Burden on Respondents: 64,560 hours. (New Applicants [60,000 hrs], New Awardees/Recipients [560 hrs] + Prior Awardees/Recipients [4000 hrs]).

The following is detailed information and instructions regarding the specific reporting requirements for each report identified above:

Application Stage

To be considered to receive a FASTLANE or INFRA grant, a project sponsor must submit an application to DOT containing a project narrative, as detailed in the Notice of Funding Opportunity. The project narrative should include the information necessary for the Department to determine that the project satisfies eligibility requirements.

Applications must be submitted through *www.Grants.gov.* Instructions for submitting applications can be found at *https://www.transportation.gov/buildamerica/infragrants.* The application must include the Standard Form 424 (Application for Federal Assistance), Standard Form 424C (Budget Information for Construction Programs), cover page, and the Project Narrative.

The application should include a table of contents, maps, and graphics, as appropriate, to make the information easier to review. The Department recommends that the application be prepared with standard formatting preferences (*i.e.,* a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative may not exceed 25 pages in length, excluding cover pages and table of contents. The only substantive portions that may exceed the 25-page limit are documents supporting assertions or conclusions made in the 25-page project narrative. If possible, website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each supporting document supports. At the applicant's discretion, relevant materials provided previously to a modal administration in support of a different USDOT financial assistance program may be referenced and described as unchanged.

OST estimates that it takes approximately 100 person-hours to compile an application package for a FASTLANE/INFRA application. Since OST expects to receive 200 applications per funding round, the total hours required are estimated to be 20,000 hours (100 hours × 200 applications = 20,000 hours) on a one-time basis, per funding round.

Funding Agreement Stage

DOT enters a funding agreement with each recipient. In the agreement, the recipient describes the project that DOT agreed to fund, which is typically the project that was described in the FASTLANE/INFRA application or a reduced-scope version of that project. The agreement also includes the project schedule and budget.

OST estimates that it takes approximately 4 person-hours to respond to provide the information necessary for funding agreements. Based on previous rounds of FASTLANE/INFRA awards, OST estimates that there will likely be 20 agreements negotiated per additional funding round. The total hours required are estimated to be 40 (4 hours × 40 agreements = 40 hours) on a one-time basis, per funding round.

Project Monitoring Stage

OST requires each recipient to submit quarterly reports during the project to ensure the proper and timely expenditure of Federal funds under the grant.

The requirements comply with 2 CFR part 200 and are restated in the funding agreement. During the project monitoring stage, the grantee will complete Quarterly Progress Reports to allow DOT to monitor the project budget and schedule.

OST estimates that it takes approximately 5 person-hours to develop and submit a quarterly progress report. OST expects approximately 20 projects to be awarded per funding round, while grants awarded in prior years will reach completion during the year and would no longer need to submit these reports. OST expects recipients and awardees from 2016–2020 will require 3800 hours to submit project monitoring reports while new recipients and awardees will require 560 hours from 2021–2023.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on November 12, 2020.

John Augustine,

Director of the Office of Infrastructure Finance and Innovation, Office of the Under Secretary for Transportation Policy.

[FR Doc. 2020–25321 Filed 11–16–20; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket Number RITA–2008–0002]

Agency Information Collection Activity; Notice To Continue To Collect: Confidential Close Call Transit Data for the Washington Metropolitan Area Transit Authority (WMATA)

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology

(OST–R), U.S. Department of Transportation.

ACTION: Notice to continue to collect confidential close call transit data.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the Bureau of Transportation Statistics (BTS) to request the Office of Management and Budget (OMB) to reinstate previously approved OMB Number 2139–0010 for the following information collection: Confidential Close Call Transit Data for the Washington Metropolitan Area Transit Authority (WMATA or the Authority), which includes but is not limited to the collection of data from Rail, Bus, Information Technology, and Command Center personnel. This data collection effort supports a multi-year program focused on improving the Authority, in its entirety by collecting and analyzing data and information on close calls and other unsafe occurrences within WMATA. The program is co-sponsored by WMATA and labor leadership including: The President/Business Agent of the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2. The Close Call program is designed to identify safety issues and propose preventive actions based on voluntary reports of a close call submitted confidentially to BTS, an Agency within the U.S. Department of Transportation. This information collection is necessary for systematically analyzing data to identify root causes of potentially unsafe events.

DATES: Written comments should be submitted by January 15, 2021.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically. Docket Number: DOT–OST–2017–0043.
- *Mail:* Docket Services, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Identify all transmissions with ''Docket Number RITA–2008–0002'' at the beginning of each page of the document.

Instructions: All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The Docket Management Facility is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket Number RITA–2008–0002.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all comments received, including any personal information, will be posted and will be publicly viewable, without change, at *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may review the Privacy Act Statement at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:
Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation, Office of Safety Data and Analysis, RTS–31, E36–302, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions: Under this data collection, the confidentiality of the information submitted to BTS is protected under the BTS confidentiality statute (49 U.S.C. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018 (Pub. L: 115–435 Foundations for Evidence-Based Policymaking Act of 2018, Title III). In accordance with these confidentiality statutes, only statistical (aggregated) and non-identifying data will be made publicly available by BTS through its reports. BTS will not release to WMATA or any other public or private entity any information that might reveal the identity of individuals who have submitted a report.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval to continue the following BTS information collection activity:

Title: Confidential Close Call Transit Data.

OMB Control Number: TBD.

Type of Review: Continue to Collect.

Respondents: WMATA employees.

*Number of Potential Responses:*150 (per annum).

Estimated Time per Response: 60 minutes.

Frequency: Intermittent for 3 years. Reports are submitted when there is a qualifying event.

*Total Annual Burden:*150 hours.

Abstract: Collecting safety data on the nation's transportation system is an important component of BTS's mission and responsibility to the transportation community and is authorized in BTS statute (49 U.S.C. Sec. 6302). BTS and WMATA share a common interest in promoting safety based on accurate information. To that end, WMATA and the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2 have supported the Confidential Close Call Program at WMATA as a means of fostering an environment of ongoing advancements in their safety culture.

A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge of a close call presents an opportunity to address unsafe work conditions and encourage a culture of safety in the workplace. It is estimated that the time to complete a close call report and participate in a brief confidential interview will be no than 60 minutes for a maximum total burden of 150 hours (150 reports*60 minutes/60 = 150 hours). Reports are submitted when there is a qualifying event, *i.e.,* when a close call occurs within any office of the Authority.

II. Background

WMATA deployed the Close Call program in April 2013, and in May 2016 the program expanded to include bus employees. The Confidential Close Call Program is a Cooperative Agreement between BTS and WMATA management, the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2. This program provides a confidential platform to facilitate the voluntary reporting of close call events without fear of discipline. Collecting data on the nation's transportation system is an important component of BTS' mission and responsibility to the transportation community as stated in its authorizing statute (49 U.S.C. Sec. 6302). BTS and WMATA/ATU, IBT Local 922 and OPEIU Local 2, share a common interest in promoting rail transit and bus safety using timely, accurate, and relevant data. WMATA/ATU, IBT Local 922 and OPEIU Local 2, is sponsoring the Confidential Close Call Program for Transit Rail and Bus System to improve transit rail and bus safety by studying the effectiveness of its own systems through the data and information collected from reported close call events.

Any situation or circumstance that has the potential for safety consequences, but did not result in an adverse safety event is defined as a close call. Knowledge about a close call presents an opportunity to address unsafe work conditions and practices, prevent accidents, contribute to policy making decisions and improve overall safety in the workplace.

BTS collects close call reports submitted by WMATA employees, conducts employee interviews, develops and maintains an analytical database containing reported data and other pertinent information, provides statistical analysis to WMATA, and protects the confidentiality of these data through its own statute (49 U.S.C. Sec. 6302) and CIPSEA. Only statistical and non-sensitive information will be made available through publications and reports.

Voluntary reporting of close calls to a confidential system provides a tool to identify and correct weaknesses within WMATA and prevents accidents. Close Call reporting fosters a voluntary, cooperative, non-punitive environment to communicate safety concerns for the greater good. Through the analysis of the data that is reported, WMATA receives information about factors that contribute to unsafe events, which becomes the catalyst to develop new training programs and identify root causes of adverse events. The database also provides researchers with valuable information regarding precursors to safety risks and contributes to research and development of intervention programs aimed at averting accidents and fatalities.

Employees involved in reporting a close call incident are asked to fill out a report and participate in a brief, confidential interview. Employees submit the report electronically to BTS. Participants will be asked to provide information such as: (1) Name and contact information; (2) time and location of the event; (3) a short description of the event; (4) contributing factors to the close call; and (5) any other information that might be useful in determining a root cause of such event.

III. Request for Public Comment

BTS requests comments on any aspects of this information collection request, including: (1) The accuracy of the estimated burden of 150 hours detailed in Section I; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the information collected, including additional use of automated collection techniques or other forms of information technology.

Demetra V. Collia,

Office of Safety Data and Analysis, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

[FR Doc. 2020–25275 Filed 11–16–20; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Forms 945, 945–A, 945–X and TD 8672

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 945 Annual Return of Withheld Federal Income Tax, Form 945–A Annual Record of Federal Tax Liability, Form 945–X Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund and TD 8672 Reporting of Non-payroll Withheld Tax Liabilities.

DATES: Written comments should be received on or before January 19, 2021, to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Adams, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the forms and instructions should be directed to Sara Covington, (737) 800 –6149, or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Return of Withheld Federal Income Tax.

OMB Number: 1545–1430.

Form Number: 945.

Abstract: Form 945 is used to report income tax withholding on non payroll payments including backup withholding and withholding on pensions, annuities, IRAs, military retirement and gambling winnings.

Form Number: 945–A.

Abstract: Form 945–A is used by employers who deposit non-payroll income tax withheld (such as from pensions and gambling) on a semiweekly schedule, or whose tax liability on any day is $100,000 or more, use Form 945–A with Form 945 or CT–1 to report their tax liability.

Form Number: 945–X.

Abstract: Form 945–X is used to correct errors made on Form 945, Annual Return of Withheld Federal Income Tax.

TD: 8672.

Abstract: This regulation relates to the reporting of non-payroll withheld income taxes under section 6011 of the Internal Revenue Code. The regulations require a person to file Form 945, Annual Return of Withheld Federal Income Tax, only for a calendar year in which the person is required to withhold Federal income tax from non-payroll payments.

Current Actions: There are no changes being made to the forms or regulations approved under this collection. However, changes to the estimated number of filers (220,851 to 59,318), will result in a total burden decrease from (1,509,590, to 411,278).

Type of Review: Extension of a current OMB approval. Affected Public: Business, or other for-profit organizations, individuals, or households, not-for-profit institutions, farms, and, Federal, state, local, or tribal governments.

Estimated Number of Respondents: 59,318.

Estimated Time per Respondent: 6 hrs., 56 min.

Estimated Total Annual Burden Hours: 411,278.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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 shall have 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.

Approved: November 12, 2020.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2020–25339 Filed 11–16–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Department of the Treasury.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department is publishing its modified Privacy Act systems of record.

DATES: Submit comments on or before December 17, 2020.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at *http://www.regulations.gov.* Comments can also be sent to the Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Attention: Revisions to Privacy Act Systems of Records. All comments received, including attachments and other supporting documents, are part of the public record and subject to public disclosure. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For general questions and for privacy issues please contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records (202–622–5710), Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552 and the Office of Management and Budget (OMB) Circular No. A–130, the Department of the Treasury has completed a review of Treasury .015—General Information Technology Access Account Records Privacy Act system of records notice to identify minor changes that will more accurately describe the record. Minor changes throughout the document are editorial in nature and consist principally of changes to system locations, system manager addresses, and revisions to titles. The notice was last published in its entirety on November 7, 2016, at 81 FR 78266.

The categories of records have been updated to include such information as driver's license numbers, photographs, and universally unique identifier (UUID). Finally, the routine uses have been updated to include the breach response routine uses (M) and (N) published at 85 FR 36460 in accordance with OMB M–17–12 for the disclosure of information necessary to respond to a breach either of Treasury's PII or, appropriate, to assist another agency in its response to a breach.

The system enables Treasury to maintain: Account information required for approved access to information technology; contractor-provided identity proofing, authentication, and group affiliation verification in support of Treasury Bureaus and Departmental Offices; lists of individuals who are appropriate organizational points of contact; and lists of individuals who are emergency points of contact. In addition, the system will enable Treasury to collect records allowing individuals access to specific meetings and programs where supplemental information is required and, where appropriate, to facilitate collaboration by allowing individuals in the same operational program to share information.

Treasury has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and OMB, pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016.

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury .015—General Information Technology Access Account Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The records are located at Main Treasury and in other Treasury bureaus and offices, both in Washington, DC and at field locations as follows:

(1) Departmental Offices: 1500 Pennsylvania Ave. NW, Washington, DC 20220;

(2) Alcohol and Tobacco Tax and Trade Bureau: 1310 G St. NW, Washington, DC 20220.

(3) Office of the Comptroller of the Currency: Constitution Center, 400 Seventh St. SW, Washington, DC 20024;

(4) Fiscal Service: Liberty Center Building, 401 14th St. SW, Washington, DC 20227;

(5) Internal Revenue Service: 1111 Constitution Ave. NW, Washington, DC 20224;

(6) United States Mint: 801 Ninth St. NW, Washington, DC 20220;

(7) Bureau of Engraving and Printing: Eastern Currency Facility, 14th and C Streets SW, Washington, DC 20228 and Western Currency Facility, 9000 Blue Mound Rd., Fort Worth, TX 76131;

(8) Financial Crimes Enforcement Network: Vienna, VA 22183;

(9) Special Inspector General for the Troubled Asset Relief Program (SIGTARP): 1801 L St. NW, Washington, DC 20220;

(10) Office of Inspector General: 740 15th St. NW, Washington, DC 20220; and

(11) Office of the Treasury Inspector General for Tax Administration: 1125 15th St. NW, Suite 700A, Washington, DC 20005.

SYSTEM MANAGER(S):

DASIT/CIO, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; E.O. 9397, as amended by E.O. 13487; and 44 U.S.C. 3534.

PURPOSE(S) OF THE SYSTEM:

This system will allow Treasury to collect a discrete set of personally identifiable information to allow authorized individuals (including members of the public) access to, or interact with, Treasury information technology resources, and allow Treasury to track use of its information technology resources. The system enables Treasury to maintain: Account information required for approved access to information technology; lists of individuals who are appropriate organizational points of contact; and lists of individuals who are emergency points of contact. The system will also enable Treasury to provide individuals access to certain meetings and programs where additional information is required and, where appropriate, facilitate collaboration by allowing individuals in the same operational program to share information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- All persons who are authorized to access Treasury information technology resources (either directly or via contractor-provided validation services), including employees, contractors, grantees, fiscal agents, financial agents, interns, detailees, members of the public, and any lawfully designated representative of the above as well as representatives of federal, state, territorial, tribal, local, international, or foreign government agencies or entities, in furtherance of the Treasury mission.
- Individuals who serve on Treasury boards and committees;
- Individuals who provide personal information to Treasury or a Treasury contractor to facilitate access to Treasury information technology resources;
- Industry points-of-contact providing business contact information for conducting business with government agencies;
- Industry points-of-contact emergency contact information in case of an injury or medical notification;
- Individuals who voluntarily join a Treasury-owned and operated web portal for collaboration purposes; and
- Individuals who request access but are denied, or who have had their access to Treasury information systems revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Driver's License Numbers;
- Photographs;
- Universally Unique Identifier (UUID) or other assigned identifier;
- Social Security number;
- Business name;
- Job title;
- Business contact information;
- Personal contact information;
- Pager numbers;
- Others phone numbers or contact information provided by individuals while on travel or otherwise away from the office or home;
- Citizenship;
- Level of access;
- Home addresses;
- Business addresses;
- Personal and business electronic mail addresses of senders and recipients;
- Justification for access to Treasury computers, networks, or systems;
- Verification of training requirements or other prerequisite requirements for access to Treasury computers, networks, or systems;
- Records on the authentication of a request for access to a Treasury IT resource, including names, phone numbers of other contacts, and positions or business/organizational affiliations and titles of individuals who can verify an individual's need for access to a Treasury IT resource and validate their identity before access is granted.
- Records on access to Treasury computers and networks including user IDs and passwords;
- Registration numbers or IDs associated with Treasury information technology resources;
- Date and time of access to Treasury IT resources;
- Tax returns and tax return information;
- Logs of activity when accessing and using Treasury information technology resources;
- Internet Protocol address of visitors to Treasury websites (a unique number identifying the computer from which a member of the public or others access Treasury IT resources); and
- Logs of individuals' internet activity while using Treasury IT resources.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from affected individuals, organizations, and facilities; public source data; other government agencies; and information already in other Treasury records systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure of tax returns and tax return information may be made only as allowed by 26 U.S.C. 6103. In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a (b)(3), as follows:

A. To the Department of Justice (including United States Attorneys' Offices) or other federal agencies conducting litigation or in proceedings before any court or adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. Treasury or any component thereof;
2. Any employee of Treasury in his/her official capacity;
3. Any employee of Treasury in his/her individual capacity where the Department of Justice or Treasury has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. Treasury suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The disclosure made to such agencies, entities, and persons as is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, fiscal agent, financial agents, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for Treasury, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Treasury officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To sponsors, employers, contractors, facility operators, grantees, experts, fiscal agents, financial agents, and consultants in connection with establishing an access account for an individual or maintaining appropriate points of contact and when necessary to accomplish a Treasury mission function or objective related to this system of records.

I. To other individuals in the same operational program supported by an information technology resource, where appropriate notice to the individual has been made that his or her contact information will be shared with other members of the same operational program in order to facilitate collaboration.

J. To federal agencies such as the Office of Personnel Management, the Merit Systems Protection Board, the Office of Management and Budget, the Federal Labor Relations Authority, the Government Accountability Office, and the Equal Employment Opportunity Commission in the fulfillment of these agencies' official duties.

K. To international, federal, state, local, tribal, or private entities for the purpose of the regular exchange of business contact information in order to facilitate collaboration for official business.

L. To the news media and the public, with the approval of the Senior Agency Official for Privacy, or her designee, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of Treasury or is necessary to demonstrate the accountability of Treasury's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

M. To appropriate agencies, entities, and persons when (1) the Department of the Treasury and/or Treasury bureau suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury and/or Treasury bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury and/or Treasury bureau(s) (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's and/or Treasury bureau's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

N. To another Federal agency or Federal entity, when the Department of the Treasury and/or Treasury bureau determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are on paper and/or in digital or other electronic form. Digital and other electronic images are stored on a storage area network in a secured environment. Records, whether paper or electronic, may be stored at the Treasury Headquarters or at the bureau or office level.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an identification number assigned by computer, by facility, by business affiliation, email address, or by the name of the individual, or other employee data fields previously identified in this System of Records Notice.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are securely retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 24, section 6, ''User Identification, Profiles, Authorizations, and Password Files.'' Inactive records will be destroyed or deleted 6 years after the user account is terminated or password is altered, or when no longer needed for investigative or security purposes, whichever is later.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules, and policies, including Treasury Directive 85–01, Department of the Treasury Information Technology (IT) Security Program. Further, Treasury .015—General Information Technology Access Account Records system of records security protocols will meet multiple National Institute of Standards and Technology security standards from authentication to certification and authorization. Records in the Treasury .015—General Information Technology Access Account Records system of records will be maintained in a secure, password protected electronic system that will utilize security hardware and software to include: Multiple firewalls, active intruder detection, and role-based access controls. Additional safeguards will vary by component and program. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a ''need to know,'' using locks, and password protection identification features. Treasury file areas are locked after normal duty hours and the facilities are protected by security personnel who monitor access to and egress from Treasury facilities.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing, in accordance with Treasury's Privacy Act regulations (located at 31 CFR 1.26), to the Freedom of Information Act (FOIA) and Transparency Liaison, whose contact information can be found at *http://www.treasury.gov/FOIA/Pages/index.aspx* under ''FOIA Requester Service Centers and FOIA Liaison.'' If an individual believes more than one bureau maintains Privacy Act records concerning him or her, the individual may submit the request to the Office of Privacy, Transparency, and Records, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220.

No specific form is required, but a request must be written and:

• Be signed and either notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;

• State that the request is made pursuant to the FOIA and/or Privacy Act disclosure regulations;

• Include information that will enable the processing office to determine the fee category of the user;

• Addressed to the bureau that maintains the record (in order for a request to be properly received by the Department, the request must be received in the appropriate bureau's disclosure office);

• Reasonably describe the records;

• Give the address where the determination letter is to be sent;

• State whether or not the requester wishes to inspect the records or have a copy made without first inspecting them; and

• Include a firm agreement from the requester to pay fees for search, duplication, or review, as appropriate. In the absence of a firm agreement to pay, the requester may submit a request for a waiver or reduction of fees, along with justification of how such a waiver request meets the criteria for a waiver or reduction of fees found in the FOIA statute at 5 U.S.C. 552(a)(4)(A)(iii).

You may also submit your request online at *https://rdgw.treasury.gov/foia/pages/gofoia.aspx* and call 1–202–622–0930 with questions.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Notice of this system of records was last published in full in the **Federal Register** on November 7, 2016 (81 FR 78266) as the Department of the Treasury .015—General Information Technology Access Account Records

[FR Doc. 2020–25298 Filed 11–16–20; 8:45 am]

BILLING CODE 4810–25–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Event

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public event.

SUMMARY: Notice is hereby given of the following open public event of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on "the national security implications of the economic relationship between the United States and the People's Republic of China." Pursuant to this mandate, the Commission will hold a virtual public release of its 2020 Annual Report to Congress in Washington, DC, on December 1, 2020.

DATES: The release is scheduled for Tuesday, December 1, 2020 at 10:30 a.m.

ADDRESSES: This release will be held online. Members of the public will be able to view a live webcast via the Commission's website at *www.uscc.gov.* Please check the Commission's website for possible changes to the event schedule and instructions on how to submit questions or participate in the question and answer session. Reservations are not required to attend.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the event should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov. Reservations are not required to attend.*

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham at 202–624–1496, or via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Topics To Be Discussed: The Commission's 2020 Annual Report to Congress addresses key findings and recommendations for Congressional action based upon the Commission's hearings, research, and review of the areas designated by Congress in its mandate, including focused work this year on: China's view of strategic competition with the United States; China's promotion of alternative global norms and standards; China's strategic aims in Africa; vulnerabilities in China's financial system and risks for the United States; U.S.-China links in healthcare and biotechnology; China's growing power projection and expeditionary capabilities; Taiwan; Hong Kong; and a review of economics, trade, security, political, and foreign affairs developments in 2020.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: November 12, 2020.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2020–25347 Filed 11–16–20; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Matching Program

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a new matching program.

SUMMARY: This re-established computer matching agreement (CMA) sets forth the terms, conditions, and safeguards under which the Internal Revenue Service (IRS) will disclose return information, relating to unearned income, to the Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA) for the Disclosure of Information to Federal, State and Local Agencies (DIFSLA). The purpose of this CMA is to make available to VBA certain return information needed to determine eligibility for, and amount of benefits for, VBA applicants and beneficiaries of needs-based benefits, and to adjust income-dependent benefit payments, as prescribed by law. Currently, the most cost effective and efficient way to verify annual income of applicants, and recipients of these benefits, is through a computer match.

DATES: Comments on this matching notice must be received no later than 30 days after date of publication in the **Federal Register**. If no public comments are received during the period allowed for comment, the re-established agreement will become effective January 1, 2021 provided it is a minimum of 30 days after the publication date. If VA receives public comments, VA shall review the substance of the comments to determine whether or not VA needs to take other actions. The CMA will be effective 30 days after the publication date even, if public comments are received. This matching program will be valid for 18 months from the effective date of this notice.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to VBA DIFSLA Matching Agreement. Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Victor D. Hall, Program Analyst, Pension and Fiduciary Service (21P), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (202) 461–8394.

SUPPLEMENTARY INFORMATION: CMA between VA and IRS DIFSLA, expires December 31, 2020. VBA has a legal obligation to reduce the amount of pension and of parents' dependency and indemnity compensation by the amount of annual income received by the VBA beneficiary. VA will use this information to verify the income information submitted by beneficiaries in VA's needs-based benefit programs and adjust VA benefit payments as prescribed by law. By comparing the information received through the matching program between VBA and IRS, VBA will be able to timely and accurately adjust benefit amounts. The match information will help VBA minimize overpayments and deter fraud and abuse. The legal authority to conduct this match is 38 U.S.C. 5106, which requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for benefits, or verifying other information with respect to payment of benefits. The VA records involved in the match are in ''Compensation, Pension, Education, and Vocational and Rehabilitation and Employment Records—VA (58 VA 21/22/28),'' a system of records which was first published at 41 FR 9294 (March 3, 1976), amended and republished in its entirety at 77 FR 42593 (July 19, 2012). The IRS records consist of information from the system records identified as will extract return information with respect to unearned income of the VBA applicant or beneficiary and (when applicable) of such individual's spouse from the Information Return Master File (IRMF), Treasury/IRS 22.061, at 80 FR 54081– 082 (September 8, 2015). In accordance with the Privacy Act, 5 U.S.C. 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget. This notice is provided in accordance with the provisions of Privacy Act of 1974 as amended by Public Law 100–503.

PARTICIPATING AGENCIES:

The Internal Revenue Service (IRS).

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

The Privacy Act, 5 U.S.C. 552a, and 38 U.S.C. 6103 authorize VA to enter into this CMA with IRS.

PURPOSE(S):

To re-establish a CMA with IRS to provide VBA with certain return information needed to determine eligibility for and amount of benefits for VBA applicants and beneficiaries of needs-based benefits and to adjust income-dependent benefit payments as prescribed by law.

CATEGORIES OF INDIVIDUALS:

Veterans and beneficiaries who apply for VA income benefits.

CATEGORIES OF RECORDS:

VBA will furnish the IRS with records in accordance with the current IRS Publication 3373, DIFSLA Handbook. The requests from VBA will include: The Social Security Number (SSN) and name Control (first four characters of the surname) for each individual for whom unearned income information is requested. IRS will provide a response record for each individual identified by VBA. The total number of records will be equal to or greater than the number of records submitted by VBA. In some instances, an individual may have more than one record on file. When there is a match of individual SSN and name control, IRS will disclose the following to VBA: Payee account number; payee name and mailing address; payee TIN; payer name and address; payer TIN; and income type and amount.

SYSTEM(S) OF RECORDS:

VBA records involved in this match are in ''VA Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58 VA 21/22/28), a system of records that was first published at 41 FR 9294 (March 3, 1976), amended and republished in its entirety at 77 FR 42593 (July 19, 2012). IRS will extract return information with respect to unearned income of the VBA applicant or beneficiary and (when applicable) of such individual's spouse from the Information Return Master File (IRMF), Treasury/IRS 22.061, as published at 80 FR 54081–082 (September 8,2015).

SIGNING AUTHORITY

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Joseph S. Stenaka, Executive Director for Information Security Operations and Chief Privacy Officer, approved this document on October 20, 2020 for publication.

Dated: November 12, 2020.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2020–25333 Filed 11–16–20; 8:45 am]

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FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Part 64

Call Authentication Trust Anchor; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 17–97; FCC 20–136; FRS 17172]

Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts rules implementing the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), promoting the deployment of caller ID authentication technology, and combatting the practice of illegal caller ID spoofing. In doing so, the Second Report and Order adopts rules governing intermediate providers and caller ID authentication in non-IP networks, implementing the exceptions and extensions established by the TRACED Act, and prohibiting line-item charges for caller ID authentication.

DATES: Effective December 17, 2020, except for instruction 10 (§ 64.6306) which is effective November 17, 2020 and instruction 6 (§ 64.6303(b)), instruction 9 (§ 64.6305(b) and (c)), and instruction 11 (§ 64.6306(e)) which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date of these instructions.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Mason Shefa, Competition Policy Division, Wireline Competition Bureau, at *Mason.Shefa@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* in WC Docket Nos. 17–97, FCC 20–136, adopted on September 29, 2020, and released on October 1, 2020. The full text of this document is available for public inspection on the Commission's website at: *https://docs.fcc.gov/public/attachments/FCC-20-136A1.pdf.*

The Commission received approval from the Office of Management and Budget (OMB) on November 2, 2020, for a period of six months, of the information collection requirements relating to the voluntary implementation exemption certification rules contained in § 64.6306, which shall be effective upon publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(1). The OMB Control Number is 3060–1278. The Commission publishes this document as an announcement of the effective date of the rules. The total number of respondents and total annual responses are 817, the total annual burden hours are 2,451 and no costs are associated with this information collection. At a later time, the Commission will seek OMB approval of §§ 64.6303(b), 64.6305(b), and 64.6306(e) and the information collection requirements contained therein.

I. Introduction

1. Protecting Americans from the dangers of unwanted and illegal robocalls is our top consumer protection priority. More than just an annoyance, these calls are a tool for scammers to take advantage of unsuspecting Americans. Bad actors often ''spoof'' or falsify caller ID information and deceive call recipients into believing they are trustworthy. Even in the midst of the COVID–19 pandemic, bad actors have continued their attempts to use illegal spoofing to target American consumers, once again illustrating the pervasiveness of this problem.

2. As part of our multi-pronged approach to combat this vexing issue, we have made it a priority to stop the practice of illegal caller ID spoofing. For instance, we have issued hundreds of millions of dollars in fines for violations of our Truth in Caller ID rules. We recently proposed a forfeiture of $225 million—the largest in the Commission's history—for a company that made approximately one billion spoofed robocalls, and we proposed two forfeiture actions of almost $13 million and $10 million apiece against other entities for apparent spoofing violations. We have expanded our Truth in Caller ID rules to reach foreign calls and text messages. Pursuant to the TRACED Act, we have selected a consortium to conduct private-led traceback efforts of suspected illegal robocalls, which is particularly useful in instances where the caller ID information transmitted with a call has been maliciously spoofed. We have clarified and bolstered our call blocking rules to give voice service providers new latitude to block calls, including spoofed calls.

3. One key part of our broad efforts to thwart illegal caller ID spoofing has been our work to promote implementation of the STIR/SHAKEN caller ID authentication framework. The STIR/SHAKEN framework allows voice service providers to verify that the caller ID information transmitted with a particular call matches the caller's number, while protecting consumer privacy and promoting the ability to complete lawful calls. Widespread implementation of STIR/SHAKEN will reduce the effectiveness of illegal spoofing, allow law enforcement to identify bad actors more easily, and help voice service providers identify calls with illegally spoofed caller ID information before those calls reach their subscribers. We have worked over the course of multiple years to promote caller ID authentication, and in 2019 Congress amplified our efforts by passing the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act, which directs the Commission to take numerous steps to promote and require STIR/SHAKEN implementation. In March of this year, building on the foundation laid by our prior work and by Congress, we adopted rules requiring voice service providers to implement the STIR/SHAKEN call authentication technology in the internet protocol (IP) portions of their phone networks by June 30, 2021 (85 FR 22029, April 21, 2020).

4. In this document, we continue our work to promote the deployment of caller ID authentication technology and to implement the TRACED Act. After consideration of the record, we adopt rules implementing many of the proposals we made in the *First Caller ID Authentication Report and Order and Further Notice of Proposed Rulemaking (FNPRM)* (85 FR 22029, April 21, 2020 and 85 FR 22099, April 21, 2020). Among other things, we adopt rules governing intermediate providers and caller ID authentication in non-IP networks, we implement the exceptions and extensions established by the TRACED Act, and we prohibit line-item charges for caller ID authentication.

II. Background

5. As the telecommunications industry has advanced and expanded into IP-based telephony, costs have decreased as competition increased, benefitting consumers greatly. These benefits, however, have eroded the chains of trust that previously bound voice service providers together. Partly due to the rise of the Voice over internet Protocol (VoIP) software, the telephony industry no longer consists only of a limited number of carriers that all trusted each other to provide accurate caller ID information. Because there are now a multitude of voice service providers and entities originating and transiting calls, bad actors can more easily take advantage of these weakened chains of trust to target consumers with illegally spoofed calls.

6. Recognizing this vulnerability, technologists from the internet Engineering Task Force (IETF) and the Alliance for Telecommunications

Industry Solutions (ATIS) developed standards to allow the authentication and verification of caller ID information for calls carried over IP networks using the Session Initiation Protocol (SIP). Since voice service providers could no longer count on the multitude of entities in each call path to accurately pass the caller ID information, the goal was to create a system that allowed the identification information to safely and securely travel with the call itself. The result is the STIR/SHAKEN call authentication framework.

7. The framework is comprised of several different standards and protocols. The Secure Telephony Identity Revisited (STIR) working group, formed by the IETF, has produced several protocols for authenticating caller ID information. ATIS, together with the SIP Forum, produced the Signature-based Handling of Asserted information using toKENs (SHAKEN) specification, which standardizes how the protocols produced by STIR are implemented across the industry using digital ''certificates.'' At a high-level, the STIR/SHAKEN framework consists of two components: (1) The technical process of authenticating and verifying caller ID information; and (2) the certificate governance process that maintains trust in the caller ID authentication information transmitted along with a call.

8. *Technology.* The STIR/SHAKEN technical authentication and verification processes rely on public key cryptography to securely transmit the information that the originating voice service provider knows about the identity of the caller and its relationship to the phone number it is using throughout the entire length of the call path, allowing the terminating voice service provider to verify the information on the other end. In this Report and Order, we use the term ''caller'' to broadly refer to the person or entity originating a voice call. We recognize that for the purpose of industry standards or other technical documents, this relationship may be described using more exact language suited to the specific technical scenarios described. The encrypted caller ID information is contained within a unique header to the message used to initiate a SIP call (the SIP INVITE message), called an ''Identity'' header. While there is no technical mechanism within the STIR/SHAKEN framework that ensures this Identity header travels the entire length of the call path unaltered, the unbroken transmission of an unaltered Identity header from the originating voice service provider, through each intermediate provider, to the terminating voice service provider is critical to creating the end-to-end chain of trust that allows a terminating provider to know it has received accurate caller ID information.

9. Because providers transmit the Identity header in a SIP INVITE and because SIP is IP-based, STIR/SHAKEN only operates in the IP portions of a provider's network. If a call originates on a non-IP network, that voice service provider cannot authenticate the caller ID information; if it terminates on a non-IP network, that voice service provider cannot verify the caller ID authentication information. And if a call is routed at any point over an interconnection point or intermediate provider network that does not support the transmission of SIP calls, the Identity header will be lost. While standards bodies are currently working on non-IP call authentication solutions, and some vendors are developing potential non-IP solutions, there is yet to be an industry consensus on the path forward.

10. In the STIR/SHAKEN framework, the provider adding the Identity header to the SIP INVITE can use three different levels of attestation to signify what it knows about the identity of the calling party. The highest level of attestation is called full or A-level attestation. A provider assigns an A-level attestation when it is the entry point of the call onto the IP network, it can confirm the identity of the subscriber making the call, and the subscriber is using its associated telephone number. The method or process a provider uses to determine the legitimacy of the caller's use of a telephone number is specific to each provider. As a result, a provider's reputation is tied to the rigor of its evaluation process. The middle level of attestation is called partial or B-level attestation. A provider uses a B-level attestation to indicate that it is the entry point of the call onto the IP network and can confirm the identity of the subscriber but not the telephone number. The lowest level of attestation is called gateway or C-level attestation. A provider uses a C-level attestation when it is the point of entry to the IP network for a call that originated elsewhere but has no relationship with the initiator of a call, such as when a provider is acting as an international gateway. A downstream provider can make use of a C-level attestation to trace a call back to an interconnecting service provider or the call's entry point into the IP network. The STIR/SHAKEN standards envision these various attestation levels as information that can facilitate traceback and to enhance the spam identification solutions that terminating voice service providers enable for their customers.

11. *Governance.* The STIR/SHAKEN framework relies on digital ''certificates'' to ensure trust. The voice service provider adding the Identity header includes its assigned certificate which says, in essence, that the voice service provider is the entity it claims to be and that it has the right to authenticate the caller ID information. To maintain trust and accountability in the voice service providers that vouch for the caller ID information, a neutral governance system issues the certificates. The STIR/SHAKEN governance model requires several roles in order to operate: (1) A Governance Authority, which defines the policies and procedures for which entities can issue or acquire certificates; (2) a Policy Administrator, which applies the rules set by the Governance Authority, confirms that certification authorities are authorized to issue certificates, and confirms that voice service providers are authorized to request and receive certificates; (3) Certification Authorities, which issue the certificates used to authenticate and verify calls; and (4) the voice service providers themselves, which, as call initiators, select an approved certification authority from which to request a certificate, and which, as call recipients, check with certification authorities to ensure that the certificates they receive were issued by the correct certification authority. Voice service providers use the digital certificates to indicate that they are trusted members of the ecosystem and their assertions to a calling party's identity should be accepted.

12. Under the current Governance Authority rules, a voice service provider must meet certain requirements to receive a certificate. Specifically, a voice service provider must have a current FCC Form 499A on file with the Commission, have been assigned an Operating Company Number (OCN), and have direct access to telephone numbers from the North American Numbering Plan Administrator (NANPA) and the National Pooling Administrator. The Governance Authority reviews this policy ''at least on a quarterly basis,'' or as needed.

13. *Commission Action to Promote STIR/SHAKEN.* In 2017, the Commission released a *Notice of Inquiry* into STIR/SHAKEN, launching a broad examination of how to expedite its development and implementation. The Commission directed its expert advisory committee on numbering, the North American Numbering Council (NANC), to recommend ''criteria by which a

[Governance Authority] should be selected'' and ''a reasonable timeline or set of milestones for adoption and deployment'' of STIR/SHAKEN. In its May 2018 report, the NANC made a number of recommendations regarding establishing and organizing a governance system and promoting STIR/SHAKEN implementation, which Chairman Pai then accepted. In November 2018, Chairman Pai sent letters to 14 major voice service providers urging them to implement a robust caller ID authentication framework by the end of 2019, asking providers for specific details on their progress and plans. In June 2019, the Commission adopted a *Declaratory Ruling and Third Further Notice of Proposed Rulemaking* (84 FR 29387, June 24, 2019, and 84 FR 29478, June 24, 2019) that proposed and sought comment on mandating implementation of STIR/SHAKEN in the event that major voice service providers did not voluntarily implement the framework by the end of 2019. Commission staff closely tracked the implementation progress of major voice service providers. In December 2019, Congress enacted the TRACED Act, which contains numerous provisions directed at addressing robocalls, including through implementation of STIR/SHAKEN. Among other provisions regarding caller ID authentication, the TRACED Act directed the Commission to require, no later than 18 months from enactment, all voice service providers to implement STIR/SHAKEN in the IP portions of their networks and implement an effective caller ID authentication framework in the non-IP portions of their networks.

14. In March of this year, we released the *First Caller ID Authentication Report and Order and FNPRM* in which we adopted rules requiring voice service providers to implement the STIR/SHAKEN caller ID authentication framework in the IP portions of their networks by June 30, 2021. We also proposed and sought comment on requirements to strengthen STIR/SHAKEN to implement the TRACED Act. First, we proposed to extend the STIR/SHAKEN implementation mandate to intermediate providers and require them to both pass authenticated caller ID information unaltered and to authenticate unauthenticated calls they receive. Second, turning to TRACED Act implementation, we proposed to grant an extension for compliance with the implementation mandate for certain categories of voice service providers, specifically small voice service providers and voice service providers that materially rely on non-IP networks. Third, we proposed to require voice service providers using non-IP technology, which cannot support STIR/SHAKEN, to either (i) upgrade their networks to IP to enable STIR/SHAKEN implementation or (ii) work to develop non-IP caller ID authentication technology. Fourth, we proposed to implement a process, as directed by the TRACED Act, pursuant to which voice service providers may become exempt from the STIR/SHAKEN implementation mandate if we determine that they have achieved certain implementation benchmarks. Fifth, we proposed to prohibit voice service providers from imposing additional line item charges on consumer and small business subscribers for caller ID authentication. Sixth, we sought comment on how to address consumer confusion or competition issues related to call labeling. We are continuing to monitor when and how terminating voice service providers label calls based on STIR/SHAKEN information and will not act on this matter at this time. Finally, we sought comment, as directed by the TRACED Act, on whether and how to modify our policies regarding access to numbering resources to help reduce illegal robocallers' access. We are continuing to review the record regarding access to numbering resources and will not act on this matter at this time.

15. *Implementation Progress.* As reported previously, major voice service providers fell into one of three categories regarding their implementation progress by the end of 2019: (1) Voice service providers that upgraded their networks to support STIR/SHAKEN and began exchanging authenticated traffic with other voice service providers; (2) voice service providers that upgraded their networks to support STIR/SHAKEN but had not yet begun exchanging authenticated traffic with other voice service providers; and (3) voice service providers that had achieved limited, if any, progress towards upgrading their networks to support STIR/SHAKEN. Since the end of 2019, several major voice service providers have announced further progress in STIR/SHAKEN implementation. In February 2020, T-Mobile announced that it began exchanging authenticated traffic with Sprint, and in March 2020, Bandwidth announced that it has begun exchanging authenticated traffic with T-Mobile. In addition to the 14 major voice service providers discussed in detail in the *First Caller ID Authentication Report and Order and FNPRM,* other voice service providers and intermediate providers have made progress toward STIR/SHAKEN implementation as well. The Governance Authority reports that 34 voice service providers have been approved to participate in the STIR/SHAKEN framework through the governance system; 9 providers have completed the testing process and are finalizing their approval; and 52 providers have begun registration and are in some stage of the testing process.

III. Second Report and Order

16. In this document, we take the next steps to promote the widespread deployment of caller ID authentication technology and implement the TRACED Act. In the Report and Order, we first address the definitions and scope of several terms used in the TRACED Act. Next, we adopt rules on caller ID authentication in non-IP networks. We assess the burdens and barriers to implementation faced by various categories of voice service providers and adopt extensions to the STIR/SHAKEN mandate based on our assessment. We also establish the required robocall mitigation program that voice service providers with an extension must implement and elaborate on the annual reevaluation process for extensions required by the TRACED Act. We then adopt rules implementing the exemption mechanism established by the TRACED Act for voice service providers that meet certain criteria regarding early STIR/SHAKEN implementation. We prohibit voice service providers from imposing additional line item charges for call authentication technology. Finally, to avoid gaps in a call path that could lead to the loss of caller ID authentication information, we expand our STIR/SHAKEN implementation mandate to encompass intermediate providers.

A. TRACED Act Definitions and Scope

17. In the *First Caller ID Authentication Report and Order and FNPRM,* we adopted definitions of several terms used in the TRACED Act. Specifically, we adopted definitions of ''STIR/SHAKEN authentication framework'' and ''voice service'' that closely align with the statutory language enacted by Congress. To provide an opportunity for further refinement of the definitions we adopted, we sought comment in the *FNPRM* on whether to alter or add to them. We also proposed in the *FNPRM* to interpret ''providers of voice service'' on a call-by-call basis rather than a provider-by-provider basis in order to best effectuate Congressional direction. In other words, we proposed

evaluating whether a specific entity is a voice service provider (*i.e.,* ''provider of voice service'') within the meaning of the TRACED Act on the basis of the entity's role with respect to a particular call, rather than based on the entity's characteristics as a whole. In this document, we reaffirm our definitions of ''STIR/SHAKEN authentication framework'' and ''voice service,'' and adopt a rule codifying our proposed interpretation of ''providers of voice service.''

18. *Definition of* ''*STIR/SHAKEN Authentication Framework.*'' The definition of ''STIR/SHAKEN authentication framework'' that we adopted in the *First Caller ID Authentication Report and Order and FNPRM* closely tracks the language Congress used in the TRACED Act. In the Report and Order, we defined ''STIR/SHAKEN authentication framework'' as ''the secure telephone identity revisited and signature-based handling of asserted information using tokens standards.'' We did not receive any comments in the record seeking clarification, so we reaffirm the definition we adopted previously.

19. *Definition of* ''*Voice Service.*'' We next reaffirm the definition of ''voice service'' that we adopted in the *First Caller ID Authentication Report and Order and FNPRM.* Specifically, we defined ''voice service'' as a service ''that is interconnected with the public switched telephone network and that furnishes voice communications to an end user,'' and which includes ''without limitation, any service that enables real-time, two-way voice communications, including any service that requires [IP]-compatible customer premises equipment . . . and permits out-bound calling, whether or not the service is one-way or two-way voice over [IP].'' The definition we adopted is identical to the language Congress included in the TRACED Act. We explained in the *First Caller ID Authentication Report and Order and FNPRM* that, based on the definition of ''voice service'' we adopted, our STIR/SHAKEN rules apply to ''all types of voice service providers—wireline, wireless, and Voice over internet Protocol (VoIP) providers,'' including both two-way and one-way interconnected VoIP providers. And we clarified that voice service providers which lack control over the network infrastructure necessary to implement STIR/SHAKEN are not subject to our implementation requirements. Commenters that address the issues nearly unanimously support our definition and interpretation of ''voice service,'' though several commenters seek further clarification. Noble Systems argues that the Commission should interpret our definition of ''voice service'' broadly to encompass intermediate providers. We maintain our belief that the statutory language of the TRACED Act forecloses this interpretation by specifying that ''voice service'' means a service that ''furnishes voice communications to an end user.''

20. First, NCTA and CenturyLink advocate for us to interpret our rules to apply to ''over-the-top (OTT) service that possess technical control over the origination of calls on their platforms.'' No commenter opposed these requests. We reiterate our belief that for STIR/SHAKEN to be successful, every service provider capable of implementing the framework must participate. We therefore conclude that to the extent a provider of OTT service provides ''voice service,'' and has control of the relevant network infrastructure to implement STIR/SHAKEN, it is subject to our rules.

21. NCTA further encourages us to revise the current definition of ''interconnected VoIP'' found in § 9.3 of our rules in order to ''harmonize'' it with our caller ID authentication regulations. Section 9.3 generally limits ''interconnected VoIP service'' to *two-way* interconnected VoIP and only includes one-way VoIP as ''interconnected VoIP'' in the context of the Commission's 911 obligations. We understand the definition of ''voice service'' that Congress adopted in the TRACED Act to encompass both two-way and one-way interconnected VoIP. Because we rely on the statutory term ''voice service'' and because the meaning of that term is not limited by the definition of ''interconnected VoIP'' in § 9.3 of our rules, we see no reason to revisit of the definition of interconnected VoIP in § 9.3 in this proceeding.

22. Second, Microsoft argues that the definition of ''voice service'' should be read to exclude inbound-only VoIP service. Microsoft argues that this service is outside the scope of the STIR/SHAKEN standards, and that the reference to service that ''permits out-bound calling'' in the TRACED Act definition precludes application of our requirement to inbound-only VoIP service. We disagree. We understand the TRACED Act—which defines ''voice service'' to mean ''*any service* that is interconnected with the public switched telephone network and that furnishes voice communications to an end user'' and includes, ''*without limitation,* any service that enables real-time, two-way voice communications, including any service that . . . permits out-bound calling''—to establish a broad concept of voice service. We read the phrase ''without limitation'' as indicating that the subsequent phrase ''permits out-bound calling'' is not a limitation on the initial, general definition of ''voice service,'' which encompasses in-bound VoIP. Similarly, in the context of our Truth in Caller ID rules, we interpreted the term ''interconnected'' as used in a substantially similar definition of ''voice service'' in the RAY BAUM's Act to include any service that allows voice communications either to or from the public switched telephone network (PSTN), regardless of whether inbound and outbound communications are both enabled within the same service. Because our STIR/SHAKEN rules impose obligations on both the originating and terminating side of a call, we believe that this broad reading of ''interconnected'' is also appropriate here. Further, reaching in-bound VoIP advances the purposes of the TRACED Act and widespread caller ID authentication. Our rules, consistent with the ATIS standards, require a voice service provider terminating a call with authenticated caller ID information to verify that information according to the STIR/SHAKEN framework. We thus reject Microsoft's argument that reaching in-bound VoIP is unnecessary because the standards comprising STIR/SHAKEN do not assign actions to be taken when terminating a call.

23. *Definition of* ''*Providers of Voice Service*''*—Call-by-Call Basis.* Congress directed many of the TRACED Act caller ID authentication requirements to ''providers of voice service.'' We proposed in the *First Caller ID Authentication Report and Order and FNPRM* to interpret ''providers of voice service'' on a call-by-call—rather than entity-by-entity—basis. Under this interpretation, a provider of voice service is not subject to TRACED Act requirements for all services simply because some of its services fall under the definition of ''voice service.'' Instead, only those services that meet the TRACED Act definition of ''voice service'' are subject to TRACED Act obligations. We adopt our proposal. Both commenters that addressed the issue support our proposal. We find that the call-by-call approach best fits the TRACED Act's structure because it gives meaning to Congress's inclusion of a definition for ''voice service'' and because it best comports with the TRACED Act's allocation of duties on the basis of call technology, *e.g.,* differentiating duties between calls over IP and non-IP networks.

B. Caller ID Authentication in Non-IP Networks

24. The TRACED Act directs us, not later than June 30, 2021, to require voice service providers to take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of their networks. Given the large proportion of TDM-based networks still in use, we expect a significant number of calls to be outside the STIR/SHAKEN authentication framework in the near term. In light of this, it is critically important that we take strong action to address the issue of caller ID authentication in non-IP networks. To that end, we interpret the TRACED Act's requirement that a voice service provider take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of its network as being satisfied only if the voice service provider is actively working to implement a caller ID authentication framework on those portions of its network. A voice service provider satisfies this obligation by either (1) completely upgrading its non-IP networks to IP and implementing the STIR/SHAKEN authentication framework on its entire network, or (2) working to develop a non-IP authentication solution. We adopt rules accordingly, and find that this approach best balances our goal of promoting the IP transition while simultaneously encouraging the development of a non-IP authentication solution for the benefit of those networks that cannot be speedily or easily transitioned. By adopting rules that are not overly burdensome, we leave voice service providers free to prioritize transitioning to IP, and we strongly encourage voice service providers to take advantage of this opportunity to do so.

25. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed that a voice service provider satisfies the ''reasonable measures'' requirement under section 4(b)(1)(B) of the TRACED Act if it is able to provide us, upon request, with documented proof that it is participating, either on its own or through a representative, as a member of a working group, industry standards group, or consortium that is working to develop a non-IP solution, or actively testing such a solution. We explained that this proposal was consistent with our proposed approach to assessing whether a voice service provider is making ''reasonable efforts'' to develop a caller ID authentication protocol in the context of determining whether to limit or terminate an extension of compliance granted under section 4(b)(5)(B) for non-IP networks. We adopt a new rule reflecting this proposal and clarify its specific requirements.

26. Under our rule, a voice service provider satisfies its obligations if it participates through a third-party representative, such as a trade association of which it is a member or vendor. While our proposal did not include mention of trade associations or vendors, we agree with CCA that it would be best to broaden the scope of this requirement by including such representatives within the bounds of our requirement. Some industry groups have already established working groups dedicated to examining potential non-IP call authentication technologies. Allowing for such representatives will reduce the burden of this obligation on individual voice service providers and minimize the potential negative impact of broad and inexpert participation identified in the record, while ensuring that all voice service providers remain invested in developing a solution for non-IP caller ID authentication. A wider range of efforts will encourage a greater number of industry partnerships, increasing resource and information sharing and speeding the development of a non-IP solution.

27. We expect the benefits of this approach to be numerous, and the costs to voice service providers comparatively small. While some commenters provided estimates of the cost of replacing their non-IP networks, none provided estimates of the cost of working to develop a caller ID authentication solution for non-IP networks. Given that our firm but flexible approach permits voice service providers to satisfy this obligation by participating either on their own or through a representative, as members of a working group or consortium that is working to develop or actively testing a non-IP solution, we expect that any related compliance costs will be quite limited. By comparison, the benefits of voice service providers either upgrading their non-IP networks to IP to support STIR/SHAKEN or working to develop a caller ID authentication solution for non-IP networks will be considerable, not only in the less tangible benefits they will have for consumers by reducing the waste and frustration resulting from illegal robocalls, but in terms of actual monetary savings. Indeed, as we found in the *First Caller ID Authentication Report and Order and FNPRM,* the monetary benefits of STIR/SHAKEN are likely to be in the billions of dollars. The greater the number of voice service providers that implement an effective caller ID authentication framework—either by upgrading their non-IP networks to IP and implementing STIR/SHAKEN, or by developing and implementing an effective non-IP solution—the more effective these frameworks will be in combatting illegal robocalls, and the more of the expected benefits will be realized. Thus, the rules we adopt in this document will help achieve these savings while simultaneously minimizing the cost of compliance.

28. We disagree with ATIS's contention that we should not adopt rules governing non-IP caller ID authentication until the joint ATIS/SIP Forum IP–NNI Task Force concludes its work investigating the viability of non-IP caller ID authentication frameworks. Given that this task force is precisely the kind expressly contemplated, and indeed, mandated, by our order in this document, we see no reason to delay these rules. Indeed, the Task Force's existence is confirmation that we have construed the ''reasonable measures'' standard in a manner that appropriately dovetails with current industry efforts to develop a non-IP solution. Further, the rules we adopt in this document are required by Congressional direction to mandate voice service providers to take ''reasonable measures'' to implement a non-internet Protocol no later than June 30, 2021; we have no discretion to wait until a given task force has concluded its work to adopt rules.

29. Although CTIA argues that requiring voice service providers to participate in industry standards groups committed to developing or actively testing a non-IP solution ''may not improve the development'' of such solutions, and would in fact ''divert resources from STIR/SHAKEN deployment and other robocalls mitigation efforts,'' it offers no alternative interpretation of the ''reasonable measures'' standard mandated by Congress in the TRACED Act. We must impose a meaningful mandate to fulfill Congress's direction to require ''reasonable measures to implement'' a non-IP caller ID authentication solution. Requiring voice service providers that choose not to upgrade their non-IP networks to IP to contribute to groups and organizations that are working to test or develop a non-IP solution strikes a balance between promoting caller ID authentication solutions for TDM networks, as required by the TRACED Act, and leaving resources free to invest in IP networks. By allowing participation through a working group, consortium, or trade association, we allow voice service providers to efficiently pool their expertise and

resources with the goal of not replicating one another's efforts and more efficiently developing a non-IP solution. We therefore are not convinced by CTIA's arguments that the requirement we adopt will unduly stunt STIR/SHAKEN deployment or that voice service providers will have ''few resources left to dedicate to industry standards groups.''

30. We are likewise unconvinced by TransNexus's conclusory claim that participating in a working group would not constitute a ''reasonable effort'' to implement an effective caller ID authentication framework on non-IP networks. Contributing to an industry-led body dedicated to pooling expertise and resources in the hopes of developing and/or testing non-IP solutions is a reasonable and efficient strategy for encouraging the creation and deployment of such solutions.

31. *Out-of-Band STIR.* We decline to mandate out-of-band STIR for non-IP networks. Out-of-band STIR is a proposed non-IP solution whereby caller ID authentication information is sent across the internet, *out-of-band* from the call path. Commenters have widely divergent views as to the viability of out-of-band STIR as a method of effective caller ID authentication in non-IP networks. While a handful advocate for the implementation of out-of-band STIR as the best method of ensuring effective call authentication in non-IP networks, with Neustar even claiming that this solution should be widely available in advance of the June 30, 2021 implementation deadline, many others contend that out-of-band STIR is not yet a viable solution. Comcast claims that out-of-band STIR is an untested, time-consuming, and costly solution that would require the re-creation of multiple network functions in parallel to IP networks. Given the undeniably sharp divide between commenters and the absence of sufficient testing and implementation to demonstrate the viability of out-of-band STIR as an industrywide solution, we find that it is not possible to conclude, based on the record before us, that out-of-band STIR is an effective non-IP solution. We find that significant industry consensus is an important predicate to deeming a non-IP solution ''effective,'' given that cross-network exchange of authenticated caller ID information is a central component to caller ID authentication. Thus, we cannot at this time mandate adoption of out-of-band STIR by voice service providers in the non-IP portions of their networks. At the same time, we observe that opponents of this technology have offered no meaningful alternative solutions. To those that would oppose this possible solution without mention of an alternative, we take this opportunity to note that standards work requires both constructive input and compromise on the part of all parties and stakeholders.

32. *Effective Non-IP Caller ID Authentication Framework.* As we explain in the context of the extension of the implementation deadline for certain non-IP networks, we will continue to evaluate whether an effective non-IP caller ID authentication framework emerges from the ongoing work that we require. Consistent with that section, we will consider a non-IP caller ID authentication framework to be effective only if it is: (1) Fully developed and finalized by industry standards; and (2) reasonably available such that the underlying equipment and software necessary to implement such protocol is available on the commercial market. An effective framework would exist when the fundamental aspects of the protocol are standardized and implementable by industry and the equipment and software necessary for implementation is commercially available. If and when we identify an effective framework, we expect to revisit our ''reasonable measures'' requirement and shift it from focusing on development to focusing on implementation. We encourage voice service providers and others to put forward a framework they view as effective for our consideration. We also will continue to monitor progress in developing a non-IP authentication solution and may revisit our approach to the TRACED Act's ''reasonable measures'' requirement if we find that industry has failed to make sufficient progress in either transitioning to IP or developing a consensus non-IP authentication solution. We stand ready to pursue additional steps to ensure more fulsome caller ID authentication in non-IP networks, including by revisiting our non-prescriptive development-based approach if needed.

33. *Legal Authority.* We find authority for these rules under section 4(b)(1)(B) of the TRACED Act. That section expressly directs us to obligate voice service providers to take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of their networks and is a clear source of authority for these non-IP obligations.

34. We also conclude that section 251(e) of the Communications Act of 1934, as amended (the Act), provides additional independent authority to adopt these rules. Section 251(e) provides us ''exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that pertain to the United States.'' Pursuant to this provision, we retain ''authority to set policy with respect to all facets of numbering administration in the United States.'' Our exclusive jurisdiction over numbering policy enables us to act flexibly and expeditiously with regard to important numbering matters. When bad actors unlawfully falsify or spoof the caller ID that appears on a subscriber's phone, they are using numbering resources to advance an illegal scheme. Mandating that voice service providers take ''reasonable measures'' to deploy an effective caller ID authentication framework in the non-IP portions of their networks will help to prevent the fraudulent exploitation of NANP resources by permitting those providers and their subscribers to identify when caller ID information has been spoofed. Section 251(e) thus grants us authority to mandate that voice service providers take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of their networks in order to prevent the fraudulent exploitation of numbering resources. Moreover, as the Commission has previously found, section 251(e) extends to ''the use of . . . unallocated and unused numbers''; it thus gives us authority to mandate that voice service providers implement an effective caller ID authentication framework to address the spoofing of unallocated and unused numbers.

35. Finally, we find authority under the Truth in Caller ID Act. Congress charged us with prescribing regulations to implement that Act, which made unlawful the spoofing of caller ID information ''in connection with any voice service or text messaging service . . . with the intent to defraud, cause harm, or wrongfully obtain anything of value.'' Given the constantly evolving tactics by malicious callers to use spoofed caller ID information to commit fraud, we find that the rules we adopt in this document are necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from scammers and bad actors. Thus, section 227(e) provides additional independent authority for these rules.

C. Extension of Implementation Deadline

36. The TRACED Act includes two provisions for extension of the June 30, 2021 implementation date for caller ID authentication frameworks. First, the TRACED Act states that we ''may, upon a public finding of undue hardship,

delay required compliance'' with the June 30, 2021 date for caller ID authentication framework implementation for a ''reasonable period of time.'' Second, we ''shall grant a delay of required compliance'' with the June 30, 2021 implementation date ''to the extent that . . . a provider or class of providers of voice services, or type of voice calls, materially relies on a non-[IP] network for the provision of such service or calls'' ''until a call authentication protocol has been developed for calls developed over non-[IP] networks and is reasonably available.''

37. Under either extension provision, an extension may be provider-specific or apply to a ''class of providers of voice service, or type of voice calls.'' We must annually reevaluate any granted extension for compliance. When granting an extension of the implementation deadline under either provision, we must require impacted voice service providers to ''implement an appropriate robocall mitigation program to prevent unlawful robocalls from originating on the network of the provider.''

38. Based on these directives and for the reasons discussed below, we grant the following extensions from implementation of caller ID authentication: (1) A two-year extension to small, including small rural, voice service providers; (2) an extension to voice service providers that cannot obtain a certificate due to the Governance Authority's token access policy until such provider is able to obtain a certificate; (3) a one-year extension to services scheduled for section 214 discontinuance; and (4) as required by the TRACED Act, an extension for the parts of a voice service provider's network that rely on technology that cannot initiate, maintain, and terminate SIP calls until a solution for such calls is reasonably available. If at any point after receiving an extension a voice service provider no longer meets the extension criteria set for in this *Second Report and Order,* the extension will terminate. Upon termination of an extension, a voice service provider will be required to comply with our STIR/SHAKEN implementation mandate immediately. We further direct the Wireline Competition Bureau (Bureau) to reevaluate extensions annually, and we require any voice service provider that receives an extension to implement and certify that it has implemented a robocall mitigation program by June 30, 2021.

1. Assessment of Burdens and Barriers to Implementation and Extensions for Undue Hardship

39. The TRACED Act grants us the discretion to extend a voice service provider's obligation to comply with the June 30, 2021 caller ID authentication implementation mandate upon a public finding of undue hardship. It states that the extension may be ''for a reasonable period of time . . . as necessary . . . to address the identified burdens and barriers.'' In connection with our determination of whether to grant an extension, the TRACED Act specifically directs us, not later than December 30, 2020 ''and as appropriate thereafter,'' to assess any burdens and barriers to implementation of caller ID authentication technology by (1) voice service providers that use time-division multiplexing network technology (TDM), a non-IP network technology; (2) small voice service providers; and (3) rural voice service providers. It further directs us to assess burdens and barriers created by the ''inability to purchase or upgrade equipment to support the call authentication frameworks . . . or lack of availability of such equipment.'' The TRACED Act does not require us to grant undue hardship extensions to the categories of entities for which we must evaluate burdens and barriers to implementation, nor does it limit us to granting undue hardship extensions to entities within the categories for evaluation that it identifies. Based upon our review of the record, including our evaluation of burdens and barriers to implementation by certain categories of entities as directed by the TRACED Act, we grant extensions to: (1) Small, including small rural, voice service providers; (2) voice service providers that cannot obtain the certificate necessary for STIR/SHAKEN; and (3) services subject to a discontinuance application. We decline to grant requested extensions for non-IP services, for larger rural voice service providers, due to equipment unavailability, for enterprise calls, for intra-network calls, or due to compatibility issues.

40. *Extension for Small Voice Service Providers.* The TRACED Act specifically directs us to evaluate whether to grant an extension based on undue hardship for small voice service providers. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed granting a one-year implementation extension due to undue hardship for small, including small rural, voice service providers. After reviewing the record, we grant a two-year extension for small voice service providers, which we define as those with 100,000 or fewer voice subscriber lines.

41. The record reflects that a barrier to STIR/SHAKEN implementation for small voice service providers is the substantial cost, despite resource constraints, to implement STIR/SHAKEN. For instance, according to CTIA, ''many small providers face financial and resource constraints that other providers do not'' as ''[s]mall providers are driving toward the mandate deadline, but with fewer employees and smaller budgets, they may require more time to transition to STIR/SHAKEN.'' Small voice service providers must also balance limited resources and expenses with other required technology transitions. Most recently, commenters explain that the COVID–19 pandemic has monopolized substantial available resources, increasing the burden on small voice service providers.

42. Relatedly, the record demonstrates that equipment availability issues specifically impact small voice service providers. Such providers rely on third-party vendor solutions, particularly software solutions, to implement STIR/SHAKEN, and these solutions may be prohibitively expensive for some small voice service providers. For instance, WISPA asserts that ''[s]ome vendor's minimum fees could exceed a small provider's entire voice revenues.'' WTA agrees that the upfront expenses ''could cause a budget shortage for small providers that have a limited, set multi-year budget that is already dedicated to new deployments, staff, etc.'' Further, ACA Connects expresses concern over a lack of transparency regarding the costs and relative advantages of available vendor solutions as its smaller voice service provider members, with limited budgets, must carefully apportion funds for STIR/SHAKEN deployment. Indeed, small voice service providers report they have ''been quoted annual rates from different vendors that range from the low five figures to the low six figures, not including any upfront costs to install the solution,'' with no explanation for the rate disparity. The record reflects that as medium and large voice service providers start to widely deploy STIR/SHAKEN, new and improved solutions will emerge, increasing competition among vendors and decreasing costs. In addition, multiple commenters contend that small voice service providers are unable ''to procure ready-to-install solutions'' from a variety of vendors ''on the same timeframe as the nation's largest voice service providers.'' According to NTCA, its members ''are typically 'at the mercy' of vendors that respond to the larger

operator community muc[h] faster, likely based on the latter's market share and buying power.'' As a result, timing and availability of these vendor solutions may be out of the control and reach of small voice service providers. Further, commenters contend that these vendor solutions remain at an early stage of development and ''far from 'ready to install' solutions.''

43. We are convinced by this record that an extension is appropriate for small voice service providers. The record largely supports our proposal for an implementation extension for small voice service providers, and we agree with these commenters that an extension is warranted to allow small providers sufficient time to address challenges such as equipment cost and availability. For instance, according to ACA Connects, NTCA, WISPA, and WTA, vendor costs may be prohibitively expensive for small voice service providers and could result in budget shortages. Additional time will allow voice service providers confronted with budget shortages to spread costs over a longer time horizon. Further, small voice service providers claim vendor solutions are still in nascent stages of development, and an extension will allow vendors that work with small voice service providers more time to develop solutions and offer those solutions at a lower cost as the market matures. Some small voice service providers also describe the inability to exchange traffic at non-IP interconnection points as a barrier to the exchange of calls with authenticated caller ID information after implementation of STIR/SHAKEN. In addition, to the extent that it uses TDM technology, a small voice service provider must contend with the associated technical and resource constraints to implementation. We address these issues separately.

44. Transaction Network Services and AT&T contend that we should not grant a blanket extension for small voice service providers. These commenters claim that such an extension would be overinclusive because not all small voice service providers face identical hardships, and allege that illegal robocalls may originate from these providers. We disagree. The overwhelming record support persuades us that small voice service providers, as a class, face undue hardship, and supports the need for a blanket implementation extension for such providers to give them the necessary time to implement STIR/SHAKEN. The TRACED Act also identifies small voice service providers as a class for which the Commission should assess burdens and barriers to implementation. Further, as ACA Connects contends, granting extensions on a case-by-case basis for small voice service providers would ''inundate the Commission with extension requests from a multitude of small providers, many of them presenting evidence of the same or similar implementation burdens'' and ''consume funds that would be better spent working towards implementation of STIR/SHAKEN.'' We do not find that this extension will unduly undermine the effectiveness of STIR/SHAKEN. As small voice service providers account for only a small percentage of voice subscribers, an extension covering these providers will account for the unique burdens they face while ensuring that many subscribers benefit from STIR/SHAKEN. Further, the prevalence of STIR/SHAKEN will encourage small voice service providers that can afford to do so to implement the framework as soon as possible to provide the protections it offers to their subscribers. And small voice service providers—like all providers subject to an extension—are obligated to implement a robocall mitigation program to combat the origination of illegal robocalls during the course of the extension.

45. We conclude that the extension we grant should run for two years, subject to possible extension pursuant to the evaluation discussed below. Multiple commenters advocated for an extension longer than one year. For instance, WISPA and Atheral contend that small voice service providers require an extension of at least two years beyond the implementation deadline to ''budget for and absorb the cost of needed upgrades'' and to ''allow for the development of vendor solutions and reduction in cost to more affordable levels as volume scales.'' We expect this extension for small voice service providers will drive down implementation costs by allowing these providers to benefit from a more mature market for equipment and software solutions necessary to implement STIR/SHAKEN. Small voice service providers have also filed estimates of the cost of implementing STIR/SHAKEN on their networks. The additional implementation time will allow these providers to spread the cost of implementation across a longer time horizon. We find that an implementation deadline of two-years allows for sufficient time—but no more than necessary—for small voice service providers to meet the challenges of implementing STIR/SHAKEN on their networks. Our guiding principle in setting this deadline is to achieve ubiquitous STIR/SHAKEN implementation to combat the scourge of illegal caller ID spoofing as quickly as possible. This extension should also ease the additional burdens placed on small voice service providers by the COVID–19 pandemic, which has consumed significant resources.

46. We decline at this time NTCA's requests to tie an implementation extension until June 30, 2023 to ''the vendor community delivering solutions in 2020,'' and to grant additional implementation time for small voice service providers ''unable to obtain vendor solutions by the end of 2020.'' NTCA contends that the two-year extension may be insufficient to resolve the issues presented by the lack of IP interconnection if vendor solutions are not available to small voice service providers by the end of 2020. We separately address the issue of non-IP interconnection. In the interest of promoting ubiquitous STIR/SHAKEN implementation, we decline at this time to grant a longer extension for small voice service providers that may face continued implementation challenges in the future. We find that a longer extension would discourage the swift development of effective vendor solutions and slow the deployment of STIR/SHAKEN to the detriment of consumers. We also find that a longer extension would unnecessarily rely on speculation about marketplace realities several years from now. The Bureau may grant a further extension if it determines such an extension is appropriate in its annual reevaluation.

47. Finally, we establish that, as proposed in the *First Caller ID Authentication Report and Order and FNPRM,* a provider is a ''small provider[] of voice service'' for purposes of this extension if it has 100,000 or fewer voice subscriber lines (counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of a provider's affiliates). In the *First Rural Call Completion Order* (78 FR 76218, Dec. 17, 2013), the Commission determined that the 100,000-subscriber-line threshold ensured that many subscribers would continue to benefit from our rules while also limiting the burden on smaller voice service providers. Similarly, we find that, in the caller ID authentication context, limiting the implementation extension for small voice service providers to those that have 100,000 or fewer voice subscriber lines balances the needs of these providers and the importance of widespread and effective STIR/SHAKEN implementation. We received

support in the record for this definition of ''small providers of voice service.''

48. We decline at this time USTelecom's post-circulation request to exclude voice service providers within the 100,000-subscriber-line threshold that ''originate a disproportionate amount of traffic relative to their subscriber base, namely voice service providers that serve enterprises and other heavy callers through their IP networks.'' While we see value in the policy goals that underlie USTelecom's request, implementing its suggestion would require a difficult line-drawing exercise. USTelecom did not offer any support for its proposed criteria to identify parties that originate a disproportionate amount of traffic, nor are we able to identify criteria in the limited time available in which we have confidence. We are open to revisiting this issue should we determine that the extension creates an unreasonable risk of unsigned calls from a specific subset of small voice service providers.

49. *Extension for Voice Service Providers That Cannot Obtain a Certificate.* In the *First Caller ID Authentication Report and Order,* we acknowledged the concerns raised by Cloud Communications Alliance regarding whether all voice service providers are able to obtain the certificates used for the intercarrier exchange of authenticated caller ID information under the Governance Authority's current policies. And in the *FNPRM,* we asked whether we should grant an implementation extension for any other voice service providers or classes of voice service providers, or types of calls. In response, commenters advocated for an extension for voice service providers that cannot obtain a certificate because they are ineligible to file FCC Form 499A, obtain an Operating Company Number, or obtain direct access to telephone numbers—each of which is a prerequisite to obtaining a certificate under current Governance Authority policy.

50. Because it is impossible for a service provider to participate in STIR/SHAKEN without access to the required certificate and because some voice service providers are unable to obtain a certificate at this time, we determine that a limited extension is necessary. Multiple commenters contend that the Governance Authority's policy excludes voice service providers that lease numbers rather than obtain them directly from NANPA. In particular, one-way VoIP voice service providers have no means to obtain direct access to numbers, so they cannot obtain the certificate necessary to comply with their duty to implement STIR/SHAKEN. Only carriers and interconnected VoIP providers may obtain direct access to telephone numbers. Therefore, we grant an extension to voice service providers that cannot obtain a certificate due to the token access policy. We grant this extension until it is feasible for a provider to participate in STIR/SHAKEN due either to the possibility of compliance with the Governance Authority policy or a change in the Governance Authority policy. We recognize that a voice service provider may not be able to immediately come into compliance with its caller ID authentication obligations after it becomes eligible to receive a certificate, and we will not consider a voice service provider that diligently pursues a certificate once it is able to receive one in violation of our rules. PACE also requests that we determine whether a voice service provider subject to this extension may comply with our caller ID authentication requirements ''by relying on a 3rd party service provider.'' In the absence of a more complete record to guide our decision, we decline to accept this request at this time. We expect the extension we establish will decrease costs by relieving such providers from the obligation to upgrade their networks until they can meaningfully participate in STIR/SHAKEN. We recognize that industry has made progress on resolving the gap between Governance Authority certificate access policies and the scope of duties we have established pursuant to the TRACED Act, and we continue to urge speedy resolution of these issues. We decline Noble Systems' request for us to direct the Governance Authority to ''revisit its policies that were defined prior to passage of the TRACED Act'' and ''revisit the makeup of the [Governance Authority] membership in light of the broad scope of ''voice service'' in the TRACED Act.'' In the *First Caller ID Authentication Report and Order and FNPRM,* we declined to intervene in or impose new regulations on the STIR/SHAKEN governance structure and maintain that position. We reiterate that because the Governance Authority is made up of a variety of stakeholders representing many perspectives, we have no reason to believe it will not operate on a neutral basis.

51. *Extension for Services Scheduled for Section 214 Discontinuance.* In the *First Caller ID Authentication Report and Order and FNPRM,* we also sought comment on whether to consider any additional categories of extensions. In response to AT&T's request, we grant a one-year extension based on undue hardship to cover services for which a provider has filed a pending section 214 discontinuance application on or before the June 30, 2021, STIR/SHAKEN implementation deadline. Verizon and CenturyLink advocate for removing discontinuance obligations that ''require [voice service] providers to obtain permission prior to replacing TDM voice services with VoIP'' to ''help make network transitions to IP more straightforward and efficient.'' We decline to grant this request as it is outside the scope of the current proceeding. This extension will allow voice service providers time to either complete the discontinuance process and ''avoid incurring unnecessary expense and burden to implement STIR/SHAKEN'' for services ''that are scheduled to sunset,'' or to implement STIR/SHAKEN for any such services that are not discontinued. We agree with AT&T that voice service provider resources ''are better spent upgrading networks that will have the potential to reap the full benefits of the IP transition and STIR/SHAKEN.'' We expect that this extension will decrease costs by obviating the need to upgrade components of a voice service provider's network that will be sunset. We underscore that a one-year extension means that voice service providers have until June 30, 2022, to either discontinue the legacy service or implement STIR/SHAKEN if the service has not actually been discontinued, unless the provider obtains a waiver of this requirement for good cause shown. If we determine that a voice service provider filed a discontinuance application in bad faith to receive this extension, we will terminate the extension and take appropriate action.

52. *Voice Service Providers That Use TDM—An Extension Would Be Superfluous.* The TRACED Act specifically directs us to evaluate whether to grant an extension to voice service providers that use TDM network technology. The record reflects that a major barrier to implementation of a caller ID authentication framework for voice service providers that use TDM technology is the lack of a standardized caller ID authentication framework for non-IP networks. Because the STIR/SHAKEN framework is an IP-only solution, these voice service providers must expend substantial resources upgrading network software and hardware to be IP compatible in order to implement the only currently available standardized caller ID authentication solution. According to commenters, voice service providers that use TDM networks also face

availability and cost issues regarding necessary equipment to upgrade the software and hardware to convert their networks to IP. Further, small or rural voice service providers that use TDM technology may have fewer resources and require additional time for transitioning their networks to IP technology. Multiple commenters agree that ''[e]ven if a [voice service provider] has upgraded its own network to all-IP technology, if that [voice service provider] exchanges substantial traffic through legacy TDM tandems, such tandems will similarly present obstacles to STIR/SHAKEN deployment.''

53. Although we proposed in the *First Caller ID Authentication Report and Order and FNPRM* to grant the same extension to voice service providers that use TDM technology under the undue hardship standard that we grant to providers that materially rely on non-IP technology, we conclude that a separate and identical extension is redundant and creates administrative duplication. We want to avoid granting two separate extensions, with associated filing and review requirements, that serve identical purposes. Because the TRACED Act includes a required extension for voice service providers that ''materially rel[y]'' on non-IP technology, we decline to grant a separate extension to voice service providers that use TDM technology under the undue hardship standard. This extension (1) applies to those parts of a voice service provider's network that materially rely on technology that cannot initiate, maintain, and terminate SIP calls; (2) lasts ''until a call authentication protocol has been developed for calls delivered over non-[IP] networks and is reasonably available''; and (3) may be terminated if the Commission determines that a voice service provider ''is not making reasonable efforts to develop the call authentication protocol'' for non-IP networks. Although AT&T contends that ''an extension for TDM networks is independently warranted,'' it does not explain its position. In fact, AT&T concedes that ''the extension outcomes are the same.'' We find the non-IP extension sufficiently addresses AT&T's concern that there is not yet a STIR/SHAKEN-equivalent solution for TDM networks. To the extent there is any lack of clarity, we confirm that TDM networks are included in the non-IP extension established below, and subject to its terms.

54. *Rural Voice Service Providers—A Separate Extension Is Unnecessary.* The TRACED Act specifically directs us to evaluate whether to grant an extension based on undue hardship to rural voice service providers. The record reflects that the burdens and barriers to STIR/SHAKEN implementation for rural voice service providers are often encompassed by those for small voice service providers or voice service providers that use non-IP network technology because these voice service providers also tend to be rural. To the extent rural voice service providers rely on non-IP technology, which is incompatible with STIR/SHAKEN, they encounter the burdens already described for such providers. Similarly, the rural voice service providers that describe specific burdens to implementation—such as availability of vendor solutions that may be prohibitively expensive with few reasonable alternatives—are small voice service providers. Although CTIA generally states that there are potential financial and resource constraints for larger rural voice service providers, it does not identify any specific implementation challenges faced by these providers. Indeed, at least one larger rural voice service provider, TDS Communications, a Wisconsin-based voice service provider that serves nearly 900 rural, suburban, and metropolitan communities throughout the United States, has begun to invest in STIR/SHAKEN deployment.

55. In the *First Caller ID Authentication Report and Order and FNPRM,* we sought comment on our proposed view that it would be unnecessary to grant a separate implementation extension for rural voice service providers as the challenges faced by these providers are already addressed by the small voice service provider extension and the extension for voice service providers that materially rely on a non-IP network. After review of the record, we adopt our proposal and decline to adopt a separate extension for rural providers. While we decline to grant an extension to this class of voice service providers, a voice service provider that believes that it faces an undue hardship may submit a filing that details its specific circumstances. The majority of commenters in the record did not differentiate rural voice service providers from those that are small and referred to them interchangeably. As noted above, the rural voice service providers that called for an extension are themselves small voice service providers. NCTA contends that a dedicated extension for rural providers is ''unnecessary'' because ''the vast majority of rural providers will qualify for the small provider extension'' or the extension for voice service providers that rely on non-IP networks. We agree with NCTA that ''there does not seem to be a strong basis for granting any form of relief'' to rural voice service providers that do not qualify as small voice service providers. Further, TDS reports that it had completed work in 2019 to evaluate, select, and lab test a vendor solution to allow it to integrate STIR/SHAKEN into the IP portions of its network. Because one large rural voice service provider has already invested in STIR/SHAKEN deployment to best serve its customers, we expect that other similarly situated rural voice service providers have also begun or would be capable of having begun the implementation process. We conclude that it would be improper to reach a blanket finding of undue hardship for rural voice service providers because (1) the record does not show that larger rural providers face undue hardship; and (2) our separate finding of undue hardship for small voice service providers relieves small rural voice service providers of the obligation to implement, such that they will no longer face undue hardship for the duration of the extension. Further, an extension for rural voice service providers would not only be unnecessary, but also harmful to the goal of widespread implementation.

56. We also decline the request by CTIA and USTelecom for an extension for vaguely-defined ''regional'' voice service providers that do not fall within our 100,000 or fewer voice subscriber line threshold. CTIA only generally describes potential financial and resource constraints for these voice service providers, and neither commenter sufficiently defines this class of providers or explains why we should grant an extension on the basis of undue hardship to providers with the resources that are necessary for serving a large number of subscribers. We similarly decline the request by Madison Telephone Networks for an extension until 2024 or 2025 for rural providers in high cost areas to ''relieve financial pressure.'' We decline to grant this extension as Madison Telephone Networks does not demonstrate why this is a unique class of providers requiring an extension of this length. Further, we expect the majority of these voice service providers are also small or materially rely on non-IP technology and therefore will be covered by either or both of those extensions. If a voice service provider in this category is not covered by an extension and requires additional time for STIR/SHAKEN implementation, it may file an individual petition requesting an extension, as discussed below.

57. *Equipment Availability—A Separate Extension Is Unnecessary.* In the *First Caller ID Authentication Report and Order and FNPRM,* we sought comment on Congress's direction to consider whether to grant a separate extension on the basis of ''the inability to purchase or upgrade equipment to support the call authentication frameworks under this section, or lack of availability of such equipment.'' We conclude that our extension for small voice service providers adequately addresses challenges with regard to obtaining necessary equipment and that a separate or additional extension is unnecessary. As discussed above, the record reflects that equipment availability specifically impacts small voice service providers. This is not a surprise, as it is likely that larger voice service providers have the resources and negotiating leverage to obtain the equipment they need much more quickly than small providers. Granting an extension solely for equipment unavailability may discourage larger voice service providers from putting forward sufficient effort to obtain necessary equipment. Further, no commenter has identified any specific equipment availability issue for large voice service providers—commenters merely speak in general terms. Granting an *ex ante* extension on this basis would introduce difficult line-drawing questions as to when equipment is ''unavailable'' for which the record does not suggest a solution and that are not necessary to resolve in light of the extension for small voice service providers. We note that under our rules any voice service provider—large or otherwise—that encounters a specific equipment availability issue may request a waiver of the deadline.

58. *Enterprise Calls—An Extension Would Be Counterproductive.* In the *First Caller ID Authentication Report and Order and FNPRM,* we sought comment on whether we should grant an extension for undue hardship for enterprise calls. We described the concerns of some commenters that the standards for attestation do not fully account for the situation where an enterprise subscriber places outbound calls through a voice service provider other than the voice service provider that assigned the telephone number. In such enterprise calling scenarios, commenters claimed, it would be difficult for an outbound call to receive A-level attestation because the outbound call ''will not pass through the authentication service of the [voice] service provider that controls th[e] numbering resource.'' To provide A-level attestation, the voice service provider must be able to confirm the identity of the subscriber making the call, and that the subscriber is using its associated telephone number. The record developed in response to our *Further Notice* reflects challenges for voice service providers to attest to enterprise calls with A-attestation in this and other circumstances, meaning that such calls would be authenticated with B- or C-level attestation. Based on these challenges, some commenters argue that we should grant an extension in compliance with the STIR/SHAKEN implementation mandate for enterprise calls so that these calls will not receive caller ID authentication until industry standards groups resolve the enterprise issue, rather than receiving a lower level of attestation in the interim. We agree with the record opposition, and we decline to grant an implementation extension to enterprise calling cases.

59. First, we agree with those commenters that argue that an implementation extension may discourage the swift development of technical solutions for enterprise calls. Although commenters offer different perspectives on the timing of a solution that would allow enterprise calls to receive A-level attestation, the record reflects that industry is ''working hard to achieve authentication with A-level attestation this year.'' It is our goal to encourage this work, rather than remove the beneficial incentive created by the STIR/SHAKEN mandate. We decline, however, to go so far as some commenters suggest and ''[r]equir[e] the prompt finalization of standards that will enable voice providers that originate enterprise calls to provide an A-level attestation.'' As industry stakeholders, standards bodies, and the Governance Authority are actively working to finalize standards and solutions to complex enterprise calling cases, we do not wish to intervene in the process. At the same time, we continue to encourage—and expect—industry to promptly resolve the outstanding challenges for complex enterprise use cases and business models, and we will closely monitor progress on this issue.

60. We are also not persuaded by claims that authenticating enterprise calls with B- or C-level attestation poses a major problem. These commenters contend that enterprise calls without an A-level attestation may be blocked, mislabeled as potentially fraudulent, or lead to illegal robocallers authenticating their own calls. However, they fail to explain how the alternative—an enterprise call without authenticated caller ID information—is preferable to one that receives B- or C-level attestation. Cloud Communications Alliance addresses this question, but states only that ''[i]t is difficult to answer this question in the abstract without knowing the call validation treatment of B or C level attestations.'' It adds that if voice service providers or the industry ''only value an 'A' level attestation when deciding call treatment, while wholly discounting a lower level of attestation, the ability to sign with a B or C level attestation will be of little benefit, perhaps apart from providing information for trace back purposes.'' Notably, NCTA reports that ''[i]n [its] members' experiences, partial ('B') attestation can be achieved more quickly than complete ('A') attestation for enterprise calls,'' and accordingly, partial attestation is ''a reasonable implementation approach in this context.'' Similarly, Hiya, an analytics company, commits that it ''currently has no plans—nor is it aware of any plans by other parties in the industry—to either block calls or label them as potentially fraudulent solely due to lack of 'full' or 'A' level attestation.'' It also asserts ''that voice service providers and analytics engines will not use attestation level as the sole determinant for reputation scoring of a caller,'' and instead, ''attestation information is one of the many data points that inform analytics-driven call labeling and call blocking.'' Vonage contends that attestation may provide a ''potentially'' ''dispositive data point,'' but fails to support this claim. Transaction Network Services also explains that ''STIR/SHAKEN attestations—'good' or 'bad'—will not have the effects that some commenters suggest'' as it ''endeavors to incorporate STIR/SHAKEN attestations *as one factor in its analysis*'' and ''does not recommended making call-blocking decisions based on the failure of STIR/SHAKEN authentication.'' Indeed, we have previously stated that ''a call-blocking program might block calls based on a combination of factors.'' In the *Third Call Blocking Report and Order* (85 FR 56530, September 14, 2020), we also explained that ''[i]f the terminating voice service provider has identified that calls with 'A' attestation previously originating from that number are nevertheless illegal or unwanted based on reasonable analytics, [it] may block those calls despite the attestation level.'' Even assuming that calls with B- or C-level attestation will be treated meaningfully worse than calls without authenticated caller ID information—a conclusion that, again, is not substantiated by the record—concerns over the treatment of calls authenticated

consistent with current STIR/SHAKEN standards does not amount to an undue hardship in the *implementation* of STIR/SHAKEN technology, which is the standard by which Congress directed us to evaluate undue hardship extension requests. In light of these conclusions and our and Congress's goal of ubiquitous STIR/SHAKEN implementation in IP networks, we will not grant an extension for enterprise calls.

61. *Intra-Network Calls—An Extension Would Be Counterproductive.* In the *First Caller ID Authentication Report and Order and FNPRM,* we established distinct authentication requirements for inter-network calls and for intra-network calls. In the case of inter-network calls, an originating voice service provider must ''authenticate caller [ID] information for all SIP calls it originates and that [it] will exchange with another voice service provider or intermediate provider.'' This duty applies only ''to the extent technically feasible.'' In the *First Caller ID Authentication Report and Order and FNPRM* we specifically recognized this fact, explaining that ''transmission of STIR/SHAKEN authentication information over a non-IP interconnection point is not technically feasible at this time.'' Because establishing trust between providers is not necessary for calls that transit a single network, we adopted a different obligation for intra-network calls that solely transit the network of the originating voice service provider. Specifically, in recognition of the fact that ''certain components of the STIR/SHAKEN framework . . . are not necessary for calls that a voice service provider originates and terminates on its own network,'' we concluded a voice service provider satisfies its intra-network authentication obligation so long as it authenticates and verifies ''in a manner consistent with the STIR/SHAKEN framework, such as by including origination and attestation information in the SIP INVITE used to establish the call.''

62. A number of commenters that exchange all traffic with other providers through non-IP interconnection points—and thus have no obligation under our rules to implement STIR/SHAKEN with respect to inter-network calls—seek an extension from the intra-network authentication requirement. These voice service providers seek such relief because compliance requires network upgrades, and they would prefer to delay investing in these necessary upgrades until they are able to participate in STIR/SHAKEN both within their own network and with regard to calls exchanged with other voice service providers, which require many of the same upgrades.

63. We decline to grant the requested extension because we do not find that it rises to the level of undue hardship. Commenters favoring an extension contend that requiring them to invest in compliance solely as to intra-network calls would require unreasonably burdensome network upgrades that, in their view, produce limited benefits. But these commenters fail to explain why implementation would be more burdensome for them than for other voice service providers. In fact, implementation maybe less costly because our standard for intra-network IP calls is only that they are authenticated ''in a manner consistent with the STIR/SHAKEN framework'' which does not require those upgrades necessary to enable cross-provider authentication and verification. The TRACED Act requires an assessment of burdens and barriers, not a cost-benefit analysis, and parties seeking an extension have failed to show that they face atypical burdens and barriers on the basis of the intra-network authentication requirement. We nonetheless note that the benefits of our intra-network requirement are greater than parties favoring an extension contend. As we have explained, STIR/SHAKEN implementation provides benefits to consumers even at the intra-network level. Specifically, implementing STIR/SHAKEN within a voice service provider's own network directly benefits consumers as it enables a voice service provider to authenticate all calls among its customers. To that end, we agree with commenters that while voice service providers work toward IP interconnection, ''[t]here is no reason to deny consumers'' the ''immediate benefits'' of authenticated caller ID information for calls on their voice service provider's own network. Further, the record reflects that many providers that face challenges regarding IP interconnection are small providers, to which we have granted a two-year extension in compliance with the STIR/SHAKEN mandate. Providers so situated will therefore have additional time to negotiate IP interconnection agreements before being subject to the intra-network mandates. Various commenters in the record argue that the Commission should more directly resolve the issue of non-IP interconnection. While we refrain from directly addressing the issue of non-IP interconnection in this Order, which focuses largely on completing TRACED Act implementation as to STIR/SHAKEN, we will continue to monitor the issue.

64. Further, granting such an extension would impede the progress of the IP transition and further delay STIR/SHAKEN implementation—contrary to our goal of ubiquitous deployment of caller ID authentication technology. Atheral and WISPA request that we establish a waiver process for providers with non-IP interconnection points that need to upgrade media gateways in order to exchange SIP calls. We decline to establish a unique process in this context, as these parties do not explain why our existing procedures are insufficient. Parties that wish to seek a waiver are free to do so pursuant to our existing procedures. We agree with Comcast that it is essential to ''encourage the IP transition by, among other things, adopting policies in this proceeding that induce providers to prioritize the implementation of IP-enabled call authentication through STIR/SHAKEN.'' Comcast proposes that we ''consider[ ] a provider's efforts to transition to . . . IP-to-IP voice interconnection[ ] when determining whether to grant or renew a limited extension.'' Because we do not grant an extension for the inability to exchange traffic at IP-enabled interconnection points, we see no need to adopt this suggestion. As AT&T observes, an extension for intra-network calls of providers that do not interconnect in IP would ''discourag[e] voice service providers from coming to a negotiated resolution and transitioning to IP'' at the interconnection point. By denying this extension, we ''increase the[ ] incentive to negotiate creative and commercially reasonable interconnection agreements'' to ensure that customers receive STIR/SHAKEN benefits.

65. *Provider-Specific Extensions.* We decline at this time to grant any extensions to individual voice service providers. We recognize, as INCOMPAS and CenturyLink suggest, that some providers may face specific circumstances in all or part of their IP networks that constitute undue hardship. The Commission will be in a better position to evaluate those requests, however, in response to specific petitions that establish in detail the basis for the requested extension, rather than through establishing a general principle in response to the vague and general concerns about technology or compatibility issues that INCOMPAS and CenturyLink set forth. A voice service provider that believes that it faces an undue hardship within the meaning of the TRACED Act may file in this docket an individual petition requesting an extension. We direct the

Bureau to seek comment on any such petitions and to issue an order determining whether to grant the voice service provider an extension. We expect any voice service provider seeking an extension to file its request by November 20, 2020, and we direct the Bureau to issue a decision no later than March 30, 2021. We find it appropriate to direct the Bureau to issue provider-specific extension determinations by March 30, 2021, so that the Bureau has adequate time to seek comment on and consider timely-filed petitions and petitioners have adequate time, before the June 30, 2021, implementation deadline, to act in response to the Bureau's determination. Although we expect voice service providers to file extension requests by November 20, 2020, we note that parties seeking additional extensions after this date are free to seek a waiver of our deadline under § 1.3 of the Commission's rules. This is consistent with the TRACED Act's mandate that the Commission consider the burdens and barriers to implementation "as appropriate" beyond the 12-month period specified in the Act. Of course, in determining whether it is "appropriate" to consider such late-filed requests, we expect that the Commission will not look favorably on requests that rely on facts that could have been presented to the Commission prior to November 20, 2020 with reasonable diligence. Given the importance of widespread STIR/SHAKEN implementation, to be granted an extension a voice service provider must demonstrate in detail the specific undue hardships, including financial and resource constraints, that it has experienced and explain why any challenges it faces meet the high standard of undue hardship to STIR/SHAKEN implementation within the timeline required by Congress.

2. Extension for Certain Non-Internet Protocol Networks

66. Section 4(b)(5)(B) of the TRACED Act directs that "the Commission shall grant a delay of required compliance . . . for any provider or class of providers of voice service, or type of voice calls, only to the extent that such a provider or class of providers of voice service, or type of voice calls, materially relies on a non-[IP] network for the provision of such service or calls . . . until a call authentication protocol has been developed for calls delivered over non-[IP] networks and is reasonably available." In implementing this provision, we impose the same obligations on voice service providers that receive the extension as we impose in the mandate requiring voice service providers to implement an effective caller ID authentication framework in the non-IP portions of their networks. We note that, along with the obligations we impose for recipients of the non-IP extension, such recipients are also subject to the robocall mitigation requirements shared by all other recipients of extensions. We find that doing so ensures that all voice service providers with non-IP network technology are subject to the same burdens and are working together to develop a non-IP solution as envisioned by the TRACED Act. We also find that such action most efficiently carries out the goals of protecting consumers from illegal robocalls on non-IP networks, and encourages a general transition to IP and the wider implementation of STIR/SHAKEN.

67. *Eligibility for This Extension.* Under the TRACED Act, we must grant an extension for voice service providers or types of voice calls that "materially rel[y] on a non-[IP] network." We interpret this provision to mean that those portions of a voice service provider's network that do not use SIP technology are eligible for an extension of the implementation deadline of June 30, 2021. The TRACED Act states that we shall grant this extension "under section 4(b)(5)(A)(ii)," which governs extensions granted upon a public finding of undue hardship. We interpret this clause to mean that undue hardship is presumed where a voice service provider materially relies on a non-IP network for the provision of such service or calls. We also interpret "until a call authentication protocol has been developed . . . and is reasonably available" to be a statutorily-defined "reasonable period of time" for the purposes of this extension. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed defining "non-[IP] network[s]" as those portions of a voice service provider's network that rely on technology that cannot initiate, maintain, and terminate SIP calls. We adopt our proposal because we believe this to be a straightforward implementation of Congress's direction in the TRACED Act, which also provides that extensions may be voice service provider-specific or apply to a class of voice service providers or type of voice calls. In determining whether a voice service provider or type of voice calls "materially relies" on such a non-SIP capable network, we proposed to interpret "material[ ]" to mean "important or having an important effect" and, consistent with our call-by-call interpretation of the TRACED Act, we proposed to read "reli[ance]" with reference to the particular portion of the network in question. We adopt these proposed interpretations, which received no opposition in the record, and we therefore consider reliance on a non-IP network as material if that portion of the network is incapable of using SIP. Comcast argues that we should refrain from "applying new regulatory mandates to the entire voice industry," and should instead "consider[ ] a provider's efforts to transition to IP . . . when determining whether to grant or renew a limited extension of the STIR/SHAKEN implementation deadlines." We decline to take this approach, as we believe the approach we take in this document—imposing a broad mandate and granting an extension where necessary—better comports with the TRACED Act's mandatory extension for providers that "materially rely" on non-IP technology. Put another way, if a SIP-incompatible portion of a voice service provider's network is used for the provision of voice service, that portion of the network is eligible for an extension of the implementation deadline. The record reflects support for this interpretation. After noting that our definition's scope is consistent with the concept of material reliance, AT&T suggests that we add to our definition of "non-[IP] network" "all 'TDM in the middle' services—that is, those utilizing TDM switching/transport as well as those exchanged over TDM interconnection points." We decline to do so because we are only obligated under the TRACED Act to provide extensions for originating and terminating voice service providers, and not intermediate providers. We also note that the rules we adopt in this document regarding intermediate providers only apply to networks which support SIP signaling. We acknowledge the concerns raised by AT&T and others regarding the prevalence of non-IP networks, and find that their prevalence only increases the importance of taking action to encourage widespread caller ID authentication across all networks while the IP transition is ongoing.

68. *Duration of Extension.* The TRACED Act directs that the non-IP extension shall end once "a call authentication protocol has been developed for calls delivered over non-[IP] networks and is reasonably available." We also note that the TRACED Act grants us the authority to limit or terminate any granted non-IP extension if we determine that a voice service provider "is not making

reasonable efforts to develop'' a caller ID authentication protocol for non-IP networks. As noted later, we interpret ''reasonable efforts'' to mean that a voice service provider is participating, either on its own, in concert with a vendor, or through a representative, as a member of a working group, industry standards group, consortium, or trade association that is working to develop a non-IP solution, or actively testing such a solution. In determining whether a caller ID authentication protocol meets this standard, we adopt the test proposed by Alaska Communications, with some modifications. Consistent with Alaska Communications' proposal, we conclude that a caller ID authentication protocol ''has been developed'' if we determine that the protocol is fully developed and finalized by industry standards. By ''fully developed'' and ''finalized'' we do not require that the protocol must have achieved a status whereby no future development or progress is possible. Under that interpretation, the STIR/SHAKEN framework itself would not meet this standard. Instead, our standard does not foreclose the possibility of further development and improvement, but would only determine a protocol has been developed if at least all fundamental aspects of the protocol which enable its effectiveness are standardized by industry, and the protocol is implementable by voice service providers. We agree with commenters that such a protocol must be standards-based and ready for implementation. Although some commenters advocate for mandating out-of-band STIR, we find that this solution is not yet standardized. We thus conclude that, at this time, no caller ID authentication protocols exist which have been developed and are reasonably available for calls delivered over non-IP networks. We also find that a caller ID authentication protocol is ''reasonably available'' if the underlying equipment and software necessary to implement such protocol is available on the commercial market. We decline to adopt Alaska Communications' requirement that the underlying equipment and software be ''widely available and affordable on the commercial market,'' because the terms ''widely'' and ''affordable,'' in the context of sophisticated businesses negotiating for specialized equipment and software, are too broad and indefinite to administer readily; and Alaska Communications does not provide enough further guidance on these terms to adopt them as part of a workable standard. We believe this approach is a workable and clear standard, and has support from the record. And as we have explained, we adopt the same standard for determining whether a caller ID authentication protocol is ''effective'' for purposes of our mandate on non-IP networks, ensuring a harmonious approach to our rules regarding non-IP caller ID authentication technology. Alaska Communications suggests that we adopt an additional requirement for determining whether a caller ID authentication protocol is ''reasonably available.'' Specifically, Alaska Communications suggests that the ''knowledge, training, and expertise necessary to operate the equipment and implement the standard [must be] sufficiently widespread among the small, rural, and other non-IP service providers'' in receipt of an extension in order for the standard to be ''reasonably available.'' We decline to adopt this requirement because doing so could create a perverse incentive for voice service providers to be willfully ignorant of newly developed protocols so as to prolong an extension. It also would require an unreasonably complicated inquiry into the knowledge and practices of numerous small voice service providers. We further find such a requirement to be unnecessary *ex ante* without a specific protocol and associated requirements in front of us.

69. As we explained in the context of the mandate on non-IP networks, we will continue to monitor industry progress towards the development of a non-IP caller ID authentication solution. If we find after providing notice and an opportunity for comment that a non-IP solution meets these criteria, we will both modify the non-IP implementation mandate and phase out the non-IP implementation extension to account for this new solution. Cooperative Telephone Company suggests that we grant a limited five-year extension of the June 30, 2021, deadline for implementing a caller ID authentication framework ''for those service providers currently using a TDM network that have less than 1,000 subscriber lines.'' Cooperative Telephone Company argues that such small and rural telephone companies have ''scarce resources'' which would not cover both the demands of their customers and new regulations for non-IP technology. We decline to do so given that such an extension would not be consistent with the timeframe that Congress established in the TRACED Act for the non-IP extension—which is to last until a non-IP solution becomes reasonably available—not for a fixed period of years. Alaska Communications suggests that we ''grant a permanent exemption for the few non-SS7-connected switches remaining'' because such switches are unique. We find adopting this proposal unnecessary at this time. In the absence of a developed solution, we are not yet in a position to determine whether any technical exceptions could be necessary and appropriate.

70. *Obligations of Voice Service Providers Receiving an Extension.* The TRACED Act provides that we should limit or terminate an extension of compliance if we determine in a future assessment that a voice service provider ''is not making reasonable efforts to develop the call authentication protocol'' for non-IP networks. To be consistent with our approach in mandating that voice service providers take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of their networks, we find that a voice service provider satisfies the ''reasonable efforts'' requirement under section 4(b)(5)(D) if it is able to provide the Commission, upon request, with documented proof that it is participating, either on its own, in concert with a vendor, or through a representative, as a member of a working group, industry standards group, consortium, or trade association that is working to develop a non-IP solution, or actively testing such a solution. We also conclude this requirement both promotes the IP transition and encourages the development of a non-IP authentication solution for the benefit of those networks that cannot be speedily or easily transitioned.

3. Reevaluating Granted Extensions

71. Section 4(b)(5)(F) of the TRACED Act requires us annually to reevaluate and revise as necessary any granted extension, and ''to issue a public notice with regard to whether such [extension] remains necessary, including why such [extension] remains necessary; and when the Commission expects to achieve the goal of full participation.'' As we proposed in our *First Caller ID Authentication Report and Order and FNPRM,* we direct the Bureau to reevaluate the extensions we have established annually, and to revise or extend them as necessary. We adopt this proposal because the Bureau is in the best position to undertake this fact-intensive and case-by-case evaluation, particularly in the context of evaluating extensions for undue hardship. Pursuant to the TRACED Act, we direct the Bureau to issue a Public Notice seeking comment to inform its annual

review and consider the comments it receives before issuing a Public Notice of its decision as to whether to revise or extend an extension. The record reflects support, and no opposition, for this reevaluation process.

72. *Scope of Bureau's Authority.* We permit the Bureau to decrease, but not to expand, the scope of entities that are entitled to a class-based extension based on its assessment of burdens and barriers to implementation. Specifically, if the Bureau concludes in its review that a class-based extension should be extended beyond the original end date set by the Commission, it may choose to do so for all or some recipients of the extension, as it deems appropriate, based on its assessment and after providing notice and an opportunity for comment. As suggested by ACA Connects, we clarify that the Bureau may not, however, terminate an extension for some or all recipients prior to the extension's originally set or newly extended end date.

73. *Assessment of Burdens and Barriers.* The TRACED Act directs the Commission to assess burdens and barriers to implementation by December 30, 2020, and ''as appropriate thereafter.'' We find it appropriate to reassess burdens and barriers to implementation by voice service providers that we granted an extension in conjunction with evaluating whether to maintain, modify, or terminate the extension. Accordingly, we direct the Bureau to assess burdens and barriers to implementation faced by those categories of voice service providers subject to an extension when it reviews those extensions on an annual basis or on petition. Coordinating an assessment of burdens and barriers to implementation with our extension reevaluations will inform the Bureau's decision to extend or revise any granted extensions. It will also provide a basis for the Bureau to revise the scope of entities that are entitled to an extension. We find that aligning the periodic reassessment of burdens and barriers to implementation with any review of extensions is the best reading of the relevant statutory language. We read ''appropriate'' in this section to tie the timing of our future assessments to our annual extension reevaluations. We received no comments in the record to our proposal in this regard.

4. Robocall Mitigation Program

74. Section 4(b)(5)(C)(i) of the TRACED Act directs us to require any voice service provider that has been granted an extension to implement, during the time of the extension, ''an appropriate robocall mitigation program to prevent unlawful robocalls from originating on the network of the provider.'' In the *First Caller ID Authentication Report and Order and FNPRM,* we sought comment on USTelecom's proposal to obligate voice service providers to file certifications describing their robocall mitigation programs in lieu of a prescriptive approach. In this Report and Order, we adopt this proposal and give voice service providers the flexibility to decide the specific contours of an effective robocall mitigation program that best suits the needs of their networks and customers. We additionally create a certification process and database to aid in enforcement efforts and prohibit intermediate providers and terminating voice service providers from accepting voice traffic from voice service providers not listed in the database. These steps will ensure that the only voice traffic to traverse voice networks in the U.S. is from those voice service providers that have either fully implemented STIR/SHAKEN on their entire networks or that have implemented a robocall mitigation program on those portions of their networks that are not STIR/SHAKEN-enabled.

75. *Providers Subject to the TRACED Act's Robocall Mitigation Program Requirement.* Based on the statutory text, we read the requirement to implement a robocall mitigation program to apply to all voice service providers that receive an extension on the basis of undue hardship or material reliance on a non-IP network. The TRACED Act states that extensions for material reliance on a non-IP network are ''[s]ubject to subparagraphs (C) through (F),'' and paragraph (C)(i) sets forth the robocall mitigation program requirement. The record reflects support for this approach. Securus argues that we should not impose a robocall mitigation program requirement on voice service providers—even voice service providers granted an extension—whose networks uniquely pose ''nearly zero'' risk of originating high volumes of illegal robocalls. We decline to adopt this suggestion because the TRACED Act obligates us to require ''any provider subject to such [extension to] implement an appropriate robocall mitigation program.'' Neustar recommends that we require ''all voice service providers [to] utilize robocall mitigation solutions, regardless of whether they implement STIR/SHAKEN in their networks,'' and ZipDX argues that providers which have implemented STIR/SHAKEN should institute robocall mitigation programs for any calls they authenticate with C-level attestation. ZipDX also argues that we should require voice service providers to document and share with the Commission information on how they assign the A-, B-, or C-level attestations. We decline to adopt such a reporting requirement at this time, as we have no reason to believe the existing mechanisms for policing use of attestation levels within the STIR/SHAKEN framework are insufficient. We decline to adopt these suggestions. We agree with commenters that under the TRACED Act robocall mitigation ''is intended to be an interim approach for addressing potential unlawful robocalls until the provider has implemented STIR/SHAKEN.'' Consistent with this view, in the case of voice service providers that have neither complied with the STIR/SHAKEN mandate by June 30, 2021, nor are subject to any extension, we expect such noncompliant voice service providers to implement robocall mitigation on the non-STIR/SHAKEN-enabled portions of their networks. Doing so does not free the provider from enforcement of its violation of our STIR/SHAKEN implementation mandate, but will protect consumers by ensuring that no portion of the voice network is left without an implementation of either caller ID authentication or a robocall mitigation program. While USTelecom argues we can find authority under other provisions of the Act, we need not reach that issue. First, regardless of whether we could rely on an alternative source of authority, we find it appropriate to defer to Congress's recent, specific guidance on the subject. Moreover, while USTelecom argues that such a requirement ''will provide benefits independent of call authentication solutions, including before and after full deployment of such solutions,'' we find such a requirement to be inappropriate at this juncture. We cannot yet know whether requiring voice service providers to expend additional resources on robocall mitigation even after STIR/SHAKEN implementation would be an efficient use of their resources, and we do not wish to place additional burdens on voice service providers already working to comply with the June 30, 2021, STIR/SHAKEN implementation deadline. We will revisit this conclusion if we determine that additional robocall mitigation efforts are necessary in addition to STIR/SHAKEN after the caller ID authentication technology is more widespread.

76. *Robocall Mitigation Program Requirements.* The TRACED Act directs us to require all voice service providers granted an extension—whether on the basis of undue hardship or material reliance on a non-IP network—to ''implement an appropriate robocall mitigation program to prevent unlawful robocalls from originating on the[ir] network[s].'' As suggested by USTelecom, we require voice service providers subject to an extension to ''take[] reasonable steps to avoid originating illegal robocall traffic.'' USTelecom outlines examples of such ''reasonable steps,'' which could include ''[a]nalyz[ing] high-volume voice network traffic to identify and monitor patterns consistent with robocall campaigns,'' ''[a]nalyz[ing] traffic for patterns indicative of fraudulent calls—for example, identifying short duration calls with low completion rates,'' and ''[t]ak[ing] reasonable steps to confirm the identity of new commercial VoIP customers by collecting information such as physical business location, contact person(s), state or country of incorporation, federal tax ID, and the general nature of the customer's business.'' We decline to opine at this time on whether such practices meet our sufficiency standard, so as to promote experimentation with a wide variety of practices by voice service providers in their robocall mitigation programs. In a different proceeding, we propose requiring voice service providers to respond to traceback requests, mitigate illegal traffic when notified of such traffic, and take affirmative, effective measures to prevent new and renewing customers from using their networks to originate illegal calls; we also seek comment on whether we should prescribe specific steps. As our action in this proceeding is concerned with implementing section 4(b)(5)(C) of the TRACED Act, we do not preclude the possibility of requiring all voice service providers to take affirmative, effective measures to prevent the origination of unlawful calls—whether specific or not—pursuant to different legal authority, such as section 201(b) of the Communications Act of 1934, as amended. With one exception noted below, we find that a non-prescriptive approach to robocall mitigation requirements gives voice service providers ''the flexibility to react to traffic trends they view on their own networks and react accordingly.'' This approach also allows voice service providers to innovate and ''draw from the growing diversity and sophistication of anti-robocall tools and approaches available.'' In a separate proceeding, we proposed requiring voice service providers to take affirmative, effective measures to prevent new and renewing customers from using their networks to originate illegal calls, and seek comment on whether we should prescribe specific steps. As our analysis here is concerned with implementing section 4(b)(5)(C) of the TRACED Act, we do not preclude the possibility of requiring all voice service providers to take affirmative, effective measures to prevent the origination of unlawful calls—whether specific or not—pursuant to different legal authority, such as section 201(b) of the Act.

77. We require voice service providers subject to an extension to document and publicly certify how they are complying with these requirements. We find that such a requirement will encourage voice service providers to ensure that they are taking ''reasonable steps.'' We have previously found that requiring self-evaluation is an effective means of promoting compliance with our rules. In the rural call completion context, the Commission adopted a rule requiring covered providers to monitor the rural call completion performance of the calls they pass on to intermediate providers, and take action to address poor performance. We concluded that such a monitoring rule ''will ensure better call completion to rural areas by covered providers, . . . reduce the necessity for enforcement action, and aid our enforcement efforts when needed.'' Such a requirement also enables us to evaluate a voice service provider's ''reasonable steps'' to determine whether they are sufficient. This public certification requirement will facilitate our ability to enforce a prohibition on intermediate providers and terminating voice service providers from accepting voice traffic from voice service providers with insufficient or ineffective robocall mitigation programs.

78. While we adopt a non-prescriptive approach to voice service providers' robocall mitigation programs, we find it necessary to articulate general standards, both to guide voice service providers in preparing their programs and to ensure that the statutory obligation to implement a robocall mitigation program is enforceable. We clarify that a robocall mitigation program is sufficient if it includes detailed practices that can reasonably be expected to significantly reduce the origination of illegal robocalls. This is not to say that a voice service provider may not engage in practices, as part of its robocall mitigation program, that are experimental or cutting edge, and whose effectiveness is not yet proven. Rather, we encourage industry experimentation and only require that robocall mitigation programs include proven practices alongside experimental ones. In addition, for its mitigation program to be sufficient, the voice service provider must comply with the practices it describes. We will also consider a mitigation program insufficient if a provider knowingly or through negligence serves as the originator for unlawful robocall campaigns. We decline to adopt ZipDX's proposal that a robocall mitigation program merely be ''effective'' because ZipDX provides no elaboration of how to define the term, and we think the more detailed requirement we adopt will be both clearer and more successful than a non-specific ''effective'' standard. At the same time, we agree with Verizon that ''different types of network providers should have different types of robocall mitigation programs,'' and we welcome voice service providers adopting approaches that are innovative, varied, and adapted to their networks.

79. The record also convinces us that participation in industry traceback efforts is of utmost importance in the absence of STIR/SHAKEN implementation. To that end, we require voice service providers, as part of their robocall mitigation programs, to commit to cooperating with the Commission, law enforcement, and the industry traceback consortium in investigating and stopping any illegal robocallers that it learns are using its service to originate calls. We underscore that this requirement does not supersede any existing legal processes. We also encourage law enforcement to make traceback requests through the industry traceback consortium. We find that this baseline requirement to participate in traceback efforts is a necessary aspect of any attempt to mitigate illegal robocalls, as it permits voice service providers and enforcement agencies to identify illegal robocallers and prevent them from further abusing the voice network. Without a means to identify and bring enforcement actions against the sources of illegal robocalls, such bad actors will continue their operations unchecked and emboldened. We underscore that this is a necessary, but not sufficient, component of a voice service provider's robocall mitigation program which, as we have explained, must include other steps to ensure that a provider is not the source of illegal robocalls.

80. We decline at this time to impose other more prescriptive requirements for robocall mitigation programs, such as mandating an analytics-based robocall mitigation program, as proposed by Transaction Network Services, or know-

your-customer policies, as suggested by Consumer Groups. While we acknowledge that such practices and policies may be effective aspects of a robocall mitigation program—and we encourage voice service providers to incorporate them into their own robocall mitigation programs—we decline specifically to mandate them, as we agree with commenters that argue that there is no one-size-fits-all robocall mitigation solution that accounts for the variety and scope of voice service provider networks. For example, a small voice service provider with few subscribers may not have a need to implement comprehensive analytics given its small size. Similarly, a voice service provider with limited means may choose a solution suited to its budget and business model. We also decline Neustar's suggestion that we ''ensure that providers implement robocall mitigation solutions for both originating and terminating calls.'' The TRACED Act's mandate plainly requires only robocall mitigation programs that ''prevent unlawful robocalls from *originating* on the network of the provider.''

81. *Deficient Robocall Mitigation Programs.* If we find that our non-prescriptive approach to robocall mitigation is not satisfactorily stemming the origination of illegal robocalls, we agree with NTCA and Verizon that we should be ready to impose more prescriptive obligations on any voice service provider whose robocall mitigation program has failed to prevent high volumes of illegal robocalls. We thus direct the Enforcement Bureau to prescribe more specific robocall mitigation obligations for any voice service provider it finds has implemented a deficient robocall mitigation program. Such robocall mitigation obligations would be chosen as appropriate to resolve the specific voice service provider's prior shortcomings. In such instances, the Enforcement Bureau will release an order explaining why a particular mitigation program is deficient and, among other things, prescribe the new obligations needed to rectify those deficiencies, including any milestones or deadlines. We find that action by the Enforcement Bureau is appropriate in responding to issues on a case-by-case basis. As part of the penalties it may impose, the Enforcement Bureau may de-list a voice service provider from the robocall mitigation database we establish. If we find that our non-prescriptive approach to robocall mitigation programs is falling short on a widespread basis, we will not hesitate to revisit the obligations we impose through rulemaking at the Commission level.

82. *Voice Service Provider Certification and Database.* To promote transparency and effective robocall mitigation, we require all voice service providers—not only those granted an extension—to file certifications with the Commission regarding their efforts to stem the origination of illegal robocalls on their networks. Specifically, as proposed by USTelecom, and with the support of all parties that commented on the issue in the record, we require all voice service providers to certify that their traffic is either ''signed with STIR/SHAKEN or . . . subject to a robocall mitigation program'' that includes ''tak[ing] reasonable steps to avoid originating illegal robocall traffic,'' and committing to cooperating with the Commission, law enforcement, and the industry traceback consortium in investigating and stopping any illegal robocallers that it learns are using its service to originate calls. For those voice service providers that certify that some or all of their traffic is ''subject to a robocall mitigation program,'' we require such voice service providers to detail in their certifications the specific ''reasonable steps'' that they have taken ''to avoid originating illegal robocall traffic.'' This requirement will promote transparency and accountability in light of our non-prescriptive approach to the robocall mitigation program requirements. While only voice service providers with an extension will be obligated to implement a robocall mitigation program, we impose the certification requirement on all voice service providers because doing so will help us and others to hold all voice service providers accountable for the voice traffic they originate, and give us and others a snapshot of the progress of STIR/SHAKEN implementation and the variety of robocall mitigation practices adopted by voice service providers.

83. Voice service providers must file certifications via a portal on the Commission's website that we will establish for this purpose. We will also establish a publicly accessible database in which we will list such certifications. Establishing a database will aid in monitoring compliance with our robocall mitigation requirement and facilitate enforcement action should such action be necessary. We direct the Bureau to establish this portal and database, provide appropriate filing instructions and training materials, and release a Public Notice when voice service providers may begin filing certifications. We direct the Bureau to release this Public Notice no earlier than March 30, 2021, and to establish a deadline for the filing of certifications no earlier than June 30, 2021. Verizon argues that we ''need not wait until 2021 to establish a registry with a certification requirement and issue rules imposing robocall mitigation obligations on all traffic originated by any service provider.'' We disagree and instead find it appropriate to harmonize this requirement—which is tied by statute to receiving an extension from the STIR/SHAKEN implementation mandate—to the date the STIR/SHAKEN mandate goes into effect. However, we agree with Verizon that ''consumers should get the benefits of the registration framework and the robocall mitigation rules this year,'' and encourage providers to take efforts toward robocall mitigation as soon as possible. We also direct the Bureau to issue guidance and a protective order regarding the treatment of any confidential and highly confidential information included in certifications. We do so to protect voice service providers that are worried that public disclosure of their robocall mitigation programs may give bad actors the information they need to undermine their programs, or necessitate disclosure of competitively sensitive information. If we find that a certification is deficient in some way, such as if the certification describes a robocall mitigation program that is ineffective, or if we find that a provider nonetheless knowingly or negligently originates illegal robocall campaigns, we may take enforcement action as appropriate. Enforcement actions may include, among others, removing a defective certification from the database after providing notice to the voice service provider and an opportunity to cure the filing, or requiring the voice service provider to submit to more specific robocall mitigation requirements, and/or imposition of a forfeiture.

84. We also require voice service providers filing certifications to provide the following identification information in the portal on the Commission's website:

(1) The voice service provider's business name(s) and primary address;

(2) other business names in use by the voice service provider;

(3) all business names previously used by the voice service provider;

(4) whether a voice service provider is a foreign voice service provider; and

(5) the name, title, department, business address, telephone number, and email address of a central point of contact within the company responsible for addressing robocall-mitigation-related issues.

85. This information will be made publicly available in the database, and reporting such information presents a minimal burden on voice service providers. We find that requiring a voice service provider to report contact information for the person responsible for addressing robocall-mitigation-related issues will facilitate inter-provider cooperation and enforcement actions should issues arise. We also require voice service providers to submit to the Commission via the appropriate portal any necessary updates to the information they filed in the certification process within 10 business days. This requirement will ensure that we and all voice service providers have up-to-date data without overburdening voice service providers with unnecessary filings.

86. *Obligations on Intermediate Providers and Terminating Voice Service Providers.* As suggested by multiple commenters, we prohibit intermediate providers and terminating voice service providers from accepting voice traffic directly from any voice service provider that does not appear in the database, including a foreign voice service provider that uses NANP resources that pertain to the United States to send voice traffic to residential or business subscribers in the United States. ZipDX suggests that we prohibit intermediate providers and terminating voice service providers from accepting voice traffic from foreign voice service providers using U.S. numbers unless the foreign voice service provider is listed in the robocall mitigation database and the domestic provider can provide an A-level attestation for the call. We decline to take this approach at this time as industry has not yet coalesced around an approach to A-level attestations for foreign-originated calls. Effective 90 days after the deadline for robocall mitigation program certifications set forth in the Bureau Public Notice establishing the robocall mitigation database and portal, intermediate providers and terminating voice service providers are subject to this prohibition. The record reflects support for this requirement.

87. We agree with Verizon that, ''by prohibiting downstream service providers from accepting traffic from providers that are not in [the database], the Commission can deny a service provider access to the regulated U.S. voice network if it determines that the service provider's STIR/SHAKEN or robocall mitigation practices are inadequate.'' In this way, we can police the voice traffic that voice service providers originate by removing or restoring a voice service provider's listing on the database, after providing notice of any certification defects and providing an opportunity to cure. Furthermore, as voice service providers monitor the database to ensure they remain compliant with our rules, they must necessarily review the listings of voice service providers with which they interconnect to ensure that such certifications are sufficient. In so doing, industry continually reviews itself to ensure compliance with our rules, amplifying the effectiveness of our own review. This rule will further encourage all voice service providers to implement meaningful and effective robocall mitigation programs on their networks during the period of extension from the STIR/SHAKEN mandate. In turn, this rule will help prevent illegal robocall traffic from reaching terminating voice service providers and their subscribers. To ease compliance with this obligation, we will import all listings from the Intermediate Provider Registry into the Robocall Mitigation Database on a rolling basis so that all registered intermediate providers are represented therein. Because intermediate providers that do not originate any traffic are not subject to our certification requirements, they would not otherwise be listed in the database. By affirmatively adding such providers we give intermediate and terminating voice service providers confidence that any provider not listed in the Robocall Mitigation Database is out of compliance with our rules, rather than leaving the potential for uncertainty about whether a provider is noncompliant or simply was not required to be included in the database because it does not originate traffic. A provider that serves as both an intermediate provider and originating voice service provider must file a certification with respect to the traffic for which it serves as an originating voice service provider, even if its listing has been imported from the Intermediate Provider Registry.

88. NTCA and ACA argue that we should require intermediate providers and terminating voice service providers to give notice to an originating voice service provider whose traffic they will block because it is not listed in the robocall mitigation database. NTCA argues that this will ''enable legitimate providers to cure honest mistakes on their part or 'glitches' in the database.'' We decline to adopt this suggestion as we find that the framework we adopt provides adequate notice to voice service providers of the need to file sufficient certifications, including a 90-day period between the deadline for certifications and the prohibition on intermediate and terminating voice service providers accepting traffic from originating voice service providers not in the database. Second, adopting this suggestion would place potentially costly obligations on *compliant* intermediate providers and terminating voice service providers to provide adequate notice to *noncompliant* originating voice service providers. Such compliant providers may be unable to provide notice for lack of having or being able to obtain a noncompliant provider's contact information—opening themselves up to potential enforcement action for lack of compliance. Lastly, we will give notice and an opportunity to cure to voice service providers whose certifications are deficient before we take enforcement action such as de-listing the provider from the database.

89. We decline to adopt to USTelecom's proposal that we require intermediate providers to file a certification to their compliance with this rule. We see no clear need to impose a burdensome belt-and-suspenders paperwork requirement on providers that are already subject to this obligation by rule. We similarly decline ZipDX's proposal that intermediate providers must ''[i]mplement[] a Robocall Mitigation Program applicable to calls [they do] not authenticate.'' This includes intermediate providers acting as domestic gateway providers for foreign-originated calls. Pursuant to the TRACED Act, robocall mitigation is meant to stem the *origination* of illegal robocalls, and ZipDX does not explain specifically how an intermediate provider could itself prevent the origination of illegal robocalls. We find the rule we establish—whereby intermediate providers are prohibited from accepting traffic from an originating voice service provider that has not certified to a robocall mitigation program—best leverages the role of intermediate providers to combat illegal robocalls within our greater robocall mitigation scheme.

90. *Foreign Voice Service Providers.* In the *First Caller ID Authentication Report and Order and FNPRM,* we sought comment on mechanisms to combat robocalls originating abroad. The record contains several comments expressing support for combating robocalls originating abroad by requiring foreign voice service providers that wish to appear in the database to follow the same requirements as domestic voice service providers, and we do so in this document. Thus, foreign voice service providers that use NANP numbers that pertain to the United States to send voice traffic to

residential and business subscribers in the United States must follow the same certification requirements as domestic voice service providers in order to be listed in the database. Because we prohibit domestic intermediate providers and terminating voice service providers from accepting traffic from foreign voice service providers that use NANP numbers that pertain to the United States and are not listed in the database, we create a strong incentive for such foreign voice service providers to file certifications. We note for the sake of clarity, however, that we do not *require* foreign voice service providers to file a certification; though intermediate providers and terminating voice service providers are prohibited from accepting traffic from foreign voice service providers who do not appear in the robocall mitigation database.

91. We find that this result will encourage foreign service providers to choose to institute robocall mitigation programs and file certifications to be listed in the database and thus have their traffic be accepted by domestic intermediate and terminating voice service providers. The measures we adopt in this document will also enable foreign voice service providers to continue using U.S. telephone numbers to send voice traffic to U.S. subscribers under the same certification procedures that will apply to U.S. voice service providers and thereby help prevent the fraudulent exploitation of NANP resources and reduce the volume of illegal voice traffic entering the United States. Ensuring that foreign voice service providers using U.S. telephone numbers comply with the certification requirements prior to being listed in the database is especially important in light of the prevalence of foreign-originated illegal robocalls aimed at U.S. consumers and the difficulty in eliminating such calls.

92. We find persuasive the argument by ZipDX that the definition in the initially circulated and publicly released draft Order, which defined ''foreign voice service provider'' as ''any entity that is authorized within a foreign country to provide international voice service,'' was unduly narrow and excluded non-U.S. providers that do not possess any authorization to provide service from being able to file certifications and be listed in the database. In response, we revise our rules to establish that an entity is a ''foreign voice service provider'' if such entity has the ability to originate voice service that terminates in a point outside a foreign country or terminate voice service that originates from points outside that foreign country. Specifically, we define ''foreign voice service provider'' to mean ''any entity providing voice service outside the United States that has the ability to originate voice service that terminates in a point outside that foreign country or terminate voice service that originates from points outside that foreign country.'' We find that this approach captures voice traffic originating from a broader range of foreign voice service providers than the one that initially appeared in the draft.

93. Under the rules we adopt, foreign voice service providers that use U.S. telephone numbers to send voice traffic to U.S. subscribers must file the same certification as U.S. voice service providers in order to be listed in the database. Specifically, to be listed in the database, these providers must certify either that they have implemented STIR/SHAKEN or comply with the robocall mitigation program requirements outlined above by ''tak[ing] reasonable steps to avoid originating illegal robocall traffic'' and committing to cooperating with the Commission, U.S. law enforcement, and the industry traceback consortium in investigating and stopping any illegal robocallers that it learns are using its service to originate calls. If we find that a voice service provider's certification is deficient or the provider fails to meet the standards of its certification, we will pursue enforcement including de-listing the provider from the database. We further note that, as discussed above, we require voice service providers—including foreign voice service providers that wish to be listed in the database—to submit to the Commission any necessary updates regarding any of the information they filed in the certification process within 10 business days.

94. Although USTelecom, following circulation and public release of a draft of this Order, has changed its position and now suggests seeking further comment on this approach, we nevertheless take action in this document given the crucial and urgent importance of protecting Americans from illegal and fraudulent foreign-originated robocalls. USTelecom, along with CTIA, suggest that our action in this document could result in unforeseen technical issues, or the blocking of legitimate calls. ZipDX disagrees with this suggestion, arguing that any impact that could arise would be minimal and could be promptly resolved. As our rules related to foreign-originated voice traffic that we take in this document will not begin to affect such voice traffic until June 2021, we are optimistic that voice service providers will have time to resolve any identified issues before the deadline. Should voice service providers identify concrete evidence of technical problems or likely blocking of legitimate calls, we encourage them to provide us such information so that we can consider whether to make any modifications to this rule.

5. Alternative Methodologies During an Extension

95. The TRACED Act directs us to ''identify, in consultation with small providers of voice service, and those in rural areas, alternative effective methodologies to protect consumers from unauthenticated calls during any'' extension from compliance with our STIR/SHAKEN implementation mandate. The TRACED Act does not specify that voice service providers may substitute such methods for the robocall mitigation program that it requires, and we read the TRACED Act as merely calling for us to identify additional options for voice service providers subject to extension that wish to better serve their customers and the public by going above and beyond their legal obligations. Given that caller ID authentication frameworks are not yet ubiquitous—and thus most calls that transit U.S. voice networks are unauthenticated—we understand Congress's concern in this provision to be about protecting consumers from unauthenticated, illegally spoofed robocalls. We therefore interpret a methodology to be ''effective'' if it is likely to substantially reduce the volume of illegal robocalls reaching subscribers. In our *Third Call Blocking Report and Order,* we adopted a safe harbor in our call blocking rules for voice service providers that use reasonable analytics that include caller ID authentication information to inform their call blocking services. We find that these types of call blocking services would likely reduce the volume of unauthenticated illegal robocalls reaching subscribers, and thus include them in this definition. We find that this definition tracks the overall purpose of the TRACED Act which is ''to reduce illegal and unwanted robocalls'' through various mechanisms. We sought comment in the *First Caller ID Authentication Report and Order and FNPRM* from small and rural voice service providers on such alternative effective methodologies. The record we received in response demonstrates that such alternative methodologies either already exist or are in development. To fulfill this obligation, we identify the following alternative effective methodologies recommended by small

and rural voice service providers, as well as other commenters:

• Innovative Systems reports that its landline call blocking service is ''fully developed and currently installed at 207 landline providers'' and, in the last nine years, ''has challenged over 19 million suspected spam calls and blocked another 12 million calls that were from phone numbers off the FCC's weekly robocall and telemarketing consumer complaint data reports.'' It states that ''greater consumer protection can be achieved by having this alternative methodology installed on all landlines using an opt-out strategy at no cost, versus a purchase to opt-in by the customer.''

• Neustar reports that its robocall mitigation service ''helps voice service providers block calls from illegal robocallers and helps end users identify robocalls . . . . [b]y combining authoritative data . . . with behavior insights.''

• Transaction Network Services reports that ''[c]all analytics have proven successful in identifying a large number of the problematic calls being transmitted today. . . . Reasonable call analytics are widely available from multiple vendors, many of which offer low-investment services that can be deployed in smaller networks at a reasonable cost.''

96. Additionally, the recent call blocking report released by the Consumer and Governmental Affairs Bureau identified various available effective methodologies for protecting subscribers from illegal calls, a sample of which is reproduced below:

Business name	Blocking/labeling services offered	Estimate on number of calls blocked or labeled	Default, opt-in, or opt-out
AT&T—Wireless.	Network-level blocking Call Protect or Call Protect Basic, free. Call Protect Plus.	Call Protect and Call Protect Plus, since 2016, blocked fraudulent calls or labeled suspicious calls; nearly 1.3 billion suspected fraud and over 3 billion other calls blocked or labeled.	Network-level blocking is default. Call Protect is opt-out, since 2019. Call Protect Plus is opt-in.
AT&T—VoIP	Network-level blocking Digital Phone Call Protect, free.	Blocked over 46 million and spam warnings for 36 million.	Network-level blocking is default. Digital Phone Call Protect is opt-in.
Call Control (third-party analytics company).	Software-based call blocking.	Blocked over one billion calls	N/A.
Comcast—Wireline.	Network-level blocking Anonymous Call Rejection, Selective Call Rejection, free. Customers can sign up for Nomorobo blocking service, free.	Over 158 million calls blocked in Dec. 2019. Anonymous Call Rejection blocked nearly 37 million calls in Dec. 2019. Selective Call Rejection blocked over five million calls in Dec. 2019.	Network-level blocking is default. Anonymous Call Rejection is opt-in, but will be offered opt-out; Selective Call Rejection is opt-in. Nomorobo is opt-in.
Cox	Edge Blocking, free Anonymous Call Rejection, Selective Call Rejection, free. Customers can sign up for Nomorobo blocking service, free.	14.6% of calls are blocked through one of these tools; Edge Blocking is 65% of the blocked calls and Anonymous Call Rejection is 29%t.	Edge Blocking is opt-out. Anonymous Call Rejection and Selective Call Rejection are opt-in.
First Orion (third-party analytics company).	Scam ID and Scam Block	Since 2017, identified over 22 billion scam calls	N/A.
Hiya (third-party analytics company).	Call blocking	Since 2016, blocked or labeled nearly 1.3 billion suspected fraud calls and over 3 billion other suspect calls.	N/A.
Nomorobo (third-party analytics company).	Call blocking	As of April 30, 2020, blocked over 1.6 billion robocalls	N/A.
T-Mobile	Scam ID, free Scam Block, free. Name ID, free for some plans.	Since 2017, identified over 21 billion scam calls and blocked over 5 billion of those calls.	Scam ID is opt-out for post-paid customers. Scam Block is opt-in.
Verizon—Wireless.	Network-level blocking Call Filter, free.	Since 2017, blocked hundreds of millions of calls	Network-level blocking is default. Call Filter is opt-out.
Verizon—Wireline.	Network-level blocking Spam Alert, free. VoIP customers can sign up for Nomorobo blocking service, free.	Since 2017, blocked hundreds of millions of calls	Network-level blocking is default. Spam Alert is default. Nomorobo is opt-in.

6. Legal Authority

97. The TRACED Act expressly directs us to grant extensions for compliance with the STIR/SHAKEN implementation mandate, require any voice service provider subject to such an extension to implement a robocall mitigation program to prevent unlawful robocalls from originating on its network, and place unique obligations on providers that receive an extension due to material reliance on non-IP network technology. The TRACED Act

thus provides a clear source of authority for the rules we adopt in this document.

98. We conclude that section 251(e) of the Act provides additional, independent authority to adopt the extensions and associated requirements. That section gives us exclusive jurisdiction over numbering policy and enables us to act flexibly and expeditiously with regard to important numbering matters. When bad actors unlawfully falsify or spoof the caller ID that appears on a subscriber's phone, they are using numbering resources to advance an illegal scheme. The extensions and associated requirements will help to prevent the fraudulent exploitation of NANP resources by permitting those providers and their subscribers to identify when caller ID information has been spoofed.

99. We conclude that section 251(e) gives us authority to prohibit intermediate providers and voice service providers from accepting traffic from both domestic and foreign voice service providers that do not appear in our newly established database. We emphasize that the rule we adopt in this document does not constitute the exercise of jurisdiction over foreign voice service providers. We acknowledge that this rule will have an indirect effect on foreign voice service providers by incentivizing them to certify to be listed in the database. An indirect effect on foreign voice service providers, however, ''does not militate against the validity of rules that only operate directly on voice service providers within the United States.'' As we concluded in the *First Caller ID Authentication Report and Order,* our exclusive jurisdiction over numbering policy provides authority to take action to prevent the fraudulent abuse of NANP resources. Illegally spoofed calls exploit numbering resources whenever they transit any portion of the voice network—including the networks of intermediate providers. Our action preventing such calls from entering an intermediate provider's or terminating voice service provider's network is designed to protect consumers from illegally spoofed calls, even while STIR/SHAKEN is not yet ubiquitous. Verizon agrees that section 251(e) gives us ample authority to ensure foreign VoIP providers ''submit to the proposed registration and certification regime by prohibiting regulated U.S. carriers from accepting their traffic if they do not.''

100. We additionally find authority in the Truth in Caller ID Act. We find that the rules we adopt in this document are necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from scammers and bad actors, and that section 227(e) provides additional independent authority for the rules we adopt in this document.

D. Voluntary STIR/SHAKEN Implementation Exemption

101. While the TRACED Act directs us to require each voice service provider to implement STIR/SHAKEN in its IP network, section 4(b)(2) of the TRACED Act frees a voice service provider from this requirement if we determine, by December 30, 2020, that ''such provider of voice service'': (A) ''in [IP] networks''—(i) ''has adopted the STIR/SHAKEN authentication framework for calls on the [IP] networks of the provider of voice service; (ii) has agreed voluntarily to participate with other providers of voice service in the STIR/SHAKEN authentication framework; (iii) has begun to implement the STIR/SHAKEN authentication framework; and (iv) will be capable of fully implementing the STIR/SHAKEN authentication framework'' not later than June 30, 2021; and (B) ''in non-[IP] networks''—(i) ''has taken reasonable measures to implement an effective call authentication framework; and (ii) will be capable of fully implementing an effective call authentication framework'' not later than June 30, 2021.

102. Below, we read section 4(b)(2) of the TRACED Act as creating two exemptions: one for IP calls and one for non-IP calls. To ensure that the exemption only applies where warranted and to provide parties with adequate guidance, we expand on each of the prongs that a voice service provider must meet to obtain an exemption, and adopt rules accordingly. We find that the best way to implement the TRACED Act's exemption provision in a timely manner is via a certification process and thus adopt rules requiring that a voice service provider that wishes to receive an exemption submit a certification that it meets the criteria for the exemptions that we have established pursuant to section 4(b)(2)(A), section 4(b)(2)(B), or both. To guard against the risk of gaps and improper claims of the exemption, we require voice service providers that receive an exemption to file a second certification after June 30, 2021, stating whether they, in fact, achieved the implementation goal to which they previously committed in their initial certification. Last, we find that the TRACED Act's exemption provision does not extend to intermediate providers. We adopt these rules pursuant to the authority expressly granted us by section 4(b)(2) of the TRACED Act.

1. Relationship of IP Networks and Non-IP Networks Provisions

103. As proposed in the *Further Notice of Proposed Rulemaking,* we read section 4(b)(2) of the TRACED Act as creating two exemptions: One for IP calls and one for non-IP calls. Thus, a voice service provider may seek the exemption for its ''IP networks'' if it meets all four criteria for all calls it originates or terminates in SIP, and a voice service provider may seek the exemption for its ''non-IP networks'' if it meets both the criteria for all non-SIP calls it originates or terminates. This approach is consistent with the views of the commenters that touched upon this issue in the record.

104. We find that this reading best implements Congress's policy and is consistent with principles of statutory construction when considering the statute as a whole. As AT&T observes, the structure of the TRACED Act ''recognizes that implementation of a caller ID authentication framework will differ for IP networks and non-IP networks.'' Given the presence of the word ''and'' between the IP and non-IP networks criteria, we recognize that the exemption could potentially be read as applying only if the voice service provider meets both the IP and non-IP networks criteria. Yet such a reading would render the exemption an empty set or nearly so because of the absence of an effective solution for non-IP caller ID authentication at present, such that few, if any, voice service providers will be able to claim that they will be capable of ''fully implementing'' an effective non-IP caller ID authentication framework by June 30, 2021. Our reading cabins the nullity risk more narrowly, thus better effectuating Congress's goal of creating a meaningful exemption.

105. Our approach also further encourages prompt deployment of STIR/SHAKEN. We understand the statutory exemption to both encourage and reward early progress in deployment. Therefore, by giving voice service providers a path to exemption solely for their IP networks—the only types of networks on which STIR/SHAKEN can effectively operate—our approach will effectuate Congress's intent to encourage faster progress in STIR/SHAKEN deployment. And by separating IP and non-IP calls in this way, we align our exemption process with the call-by-call vision of a caller ID authentication implementation mandate that subjects different parts of a voice service provider's network to different requirements.

2. Threshold for IP Networks Exemption

106. To ensure that the exemption only applies where warranted and to provide parties with adequate guidance, we expand on each of the four substantive prongs laid out in the TRACED Act that a voice service provider must meet to obtain an exemption.

107. *Prong (i)—Adoption of STIR/SHAKEN.* In the *Further Notice of Proposed Rulemaking,* we proposed to interpret the phrase ''has adopted the STIR/SHAKEN authentication framework for calls on the [IP] networks of the provider of voice service'' in prong (A)(i) to mean that the voice service provider has publicly committed, via a certification, to complete implementation of STIR/SHAKEN by June 30, 2021. In light of the comments in the record, we modify this proposal to require that the voice service provider has completed the network preparations necessary to deploy the STIR/SHAKEN protocols on its network, including, but not limited to, by participating in test beds and lab testing, or completing commensurate network adjustments to enable the authentication and validation of calls on its network consistent with the STIR/SHAKEN framework.

108. We agree with commenters that focusing on network preparations will provide significant concrete evidence that a voice service provider is taking the necessary steps in its STIR/SHAKEN implementation, and will thus offer confirmation that a provider has adopted the STIR/SHAKEN authentication framework. We further agree with AT&T that our original certification-based proposal would not provide specific measurable criteria by which to assess a provider's progress. Simply issuing a commitment will not do as much to ensure that voice service providers are actually doing so as will an obligation to undertake the network preparations necessary to operationalize the STIR/SHAKEN protocols on their networks. Taking the necessary first steps to participate in STIR/SHAKEN more affirmatively demonstrates a voice service provider's commitment and preparedness to implement an effective caller ID authentication framework than a general declaration of intent that may or may not be accompanied by concrete steps. We disagree with T-Mobile's unsupported contention that our previous proposal would be preferable. While a public commitment to complete implementation of STIR/SHAKEN by June 30, 2021 would be a welcome initial step, we conclude that the better approach is to require voice service providers to undertake the preparations necessary to implement this framework, rather than merely issuing a pledge to do so.

109. *Prong (ii)—Participation with Other Providers.* In the *Further Notice of Proposed Rulemaking,* we proposed to read the phrase ''has agreed voluntarily to participate with other providers of voice service in the STIR/SHAKEN authentication framework'' in prong (A)(ii) to require that the voice service provider has written, signed agreements with at least two other voice service providers to exchange calls with authenticated caller ID information. After reviewing the record, we revise this proposal to require that the voice service provider has demonstrated its voluntary agreement to participate with other voice service providers in the STIR/SHAKEN framework by completing formal registration (including payment) and testing with the Policy Administrator.

110. We agree with commenters that such an action would signal both a public and financial commitment to working with other voice service providers sufficient to confirm a provider's coordination efforts. Registering with the Policy Administrator is a necessary predicate to participation with other voice service providers in the STIR/SHAKEN framework, and was formulated by the industry to allow the exchange of authenticated traffic without requiring dedicated agreements between voice service providers. Completing formal registration and testing with the Policy Administrator thus signals both a voice service provider's technical readiness and willingness to participate with other providers in the STIR/SHAKEN framework. We further agree with AT&T, CTIA, and CCA that our initial proposal ignores certain market realities by assuming that every provider of voice services will require multiple agreements to exchange traffic destined to every point on the PSTN. Given that some voice service providers may not require two or more interconnection arrangements, let alone multiple agreements with other providers, to exchange their IP-based traffic, imposing a two-agreement requirement to demonstrate voluntary participation in the STIR/SHAKEN framework would be arbitrary and might even inject artificial inefficiencies into such arrangements. Our revised interpretation of prong (A)(ii) more closely aligns with the language and intended purpose of the statute, and better encourages STIR/SHAKEN implementation without introducing potential inefficiencies. Exchanging traffic using certificates assigned through the governance system is exactly the way STIR/SHAKEN is designed to work. Encouraging voice service providers to complete formal registration and testing with the Policy Administrator is thus the most appropriate and reasonable interpretation of the requirement in prong (A)(ii).

111. *Prong (iii)—Begun to Implement.* As proposed in the *Further Notice of Proposed Rulemaking,* we implement the phrase ''has begun to implement the STIR/SHAKEN authentication framework'' in prong (A)(iii) by requiring that the voice service provider has completed the necessary network upgrades to at least one network element (*e.g.,* a single switch or session border controller) to enable the authentication and verification of caller ID information consistent with the STIR/SHAKEN standards. This interpretation requires a voice service provider to make meaningful progress on implementation by the time of certification, while taking into account that voice service providers will have limited time between adoption of this Order and the December 30, 2020 deadline for exemption determinations. While CCA argues that our approach is unachievable and overly prescriptive, we disagree. To the contrary, our approach accounts for the abbreviated timeframe by giving voice service providers the flexibility to choose to complete upgrades on the network element which they can upgrade most efficiently.

112. In this case, we find USTelecom's suggestion that we require voice service providers to establish the capability to authenticate originated traffic and/or validate such traffic terminating on their networks to be excessively vague, and it is unclear how little or how much voice service providers would be required to do under such a rule. Depending on the voice service provider, simply ''establishing'' the capability to authenticate originated traffic and/or validate such traffic terminating on their networks could consist of fully implementing this capability or merely attaining this capability without actually deploying it in one's network. To the extent that USTelecom—which does not provide a rationale for its proposal—is concerned that the standard we adopt will be too easily met, we are confident that the opportunity to verify implementation of an effective authentication framework will help identify any voice service providers that fail to meet their STIR/

SHAKEN implementation commitments.

113. *Prong (iv)—Capable of Fully Implementing.* Last, and as proposed in the *Further Notice of Proposed Rulemaking,* we implement the obligation to ''be capable of fully implementing the STIR/SHAKEN authentication framework'' not later than June 30, 2021, in prong (A)(iv) so as to require that the voice service provider reasonably foresees that it will have completed all necessary network upgrades to its network infrastructure to be able to authenticate and verify caller ID information for all SIP calls exchanged with STIR/SHAKEN-enabled partners by June 30, 2021. After considering the arguments in the record, we agree with T-Mobile that our proposal is preferable to USTelecom's narrower alternative of requiring a certification that all consumer VoIP and VoLTE traffic originating or terminating on a voice service provider's network either is or will be capable of authentication and validation by June 30, 2021. This requirement falls short of our implementation mandate, which requires that *all* calls be subject to caller ID authentication and verification—not just consumer VoIP and VoLTE traffic—except for those subject to the narrow and time-limited extensions we adopt in this document. To grant an exemption for voice service providers that will be capable of anything short of full compliance would indefinitely leave out calls the TRACED Act and our rules thereunder require to be subject to caller ID authentication. Such an approach also is inconsistent with the statute, which requires ''full[] implementation[]'' by June 30, 2021, so it is appropriate for us to demand that a provider reasonably foresee that it will meet that standard, rather than set a bar that is more easily cleared at the twelve-month mark but that heightens the risk of a voice service provider ultimately falling short just six months later. While we understand AT&T's point that voice service providers with more complex, diverse networks will necessarily have more complicated and costly STIR/SHAKEN implementation requirements, we do not think that our proposal is ''overly rigid'' or ''ambiguous.'' Nor do we agree with CCA that it is ''overly prescriptive.'' Rather, we institute a clear requirement that voice service providers ''reasonably foresee'' that they will be able to meet the standard Congress established by the deadline that Congress established. This interpretation gives as much latitude to voice service providers as possible to achieve the desired benchmarks while still requiring some basis for the claim that a provider is ''capable of fully implementing the STIR/SHAKEN authentication framework.''

3. Threshold for Non-IP Networks Exemption

114. Under the TRACED Act, a voice service provider is excused from the requirement to take reasonable measures to implement an effective caller ID authentication framework in the non-IP portions of its network if the Commission finds that it: (1) Has taken reasonable measures to implement an effective caller ID authentication framework in the non-IP portions of its network; and (2) will be capable of fully implementing an effective caller ID authentication framework in the non-IP portions of its network not later than June 30, 2021. While we anticipate that in the non-IP context few if any voice service providers will seek to take advantage of this exemption because of the difficulties in ''fully implementing an effective caller ID authentication framework'' by June 30, 2021, we nevertheless adopt standards for determining whether a voice service provider has met both requirements necessary to receive an exemption under section 4(b)(2)(B) of the TRACED Act for the non-IP portions of its network, as required by the TRACED Act.

115. In the *Further Notice of Proposed Rulemaking,* we sought comment on section 4(b)(2)(B) and whether there was an ''acceptable interpretation of the 'fully implementing' prong that would make it more achievable for voice service providers to qualify for the exemption.'' We further sought comment on what constitutes an ''effective'' call authentication framework and ''reasonable measures'' for purposes of this section. We now find that a voice service provider satisfies the first prong—requiring reasonable measures to implement an effective caller ID authentication framework—if it can certify that it is working to develop a non-IP authentication solution. Because the statutory language is similar to that used to establish the non-IP mandate, we find it appropriate to harmonize our interpretation of these two provisions. Section 4(b)(1)(B) of the TRACED Act requires a voice service provider ''to take reasonable measures to implement an effective call authentication framework'' in the non-IP portions of its networks, while section 4(b)(2)(B)(i) requires that a voice service provider ''has taken reasonable measures to implement an effective call authentication framework'' in the non-IP portions of its network. While we recognize the difference in tenses between the two provisions—one refers to taking reasonable measures, while the other states that such measures must have already been taken—the remaining language is identical. Thus, we find that the two provisions are similar enough to implement the same standard in order to quantify what constitutes ''reasonable measures'' in both instances. Further, adopting a uniform approach allows us to avoid creating unnecessarily burdensome overlapping, but distinct, requirements. While we harmonize these provisions, we do not include the first method of compliance with our non-IP mandate, which a provider satisfies by completely upgrading its non-IP networks to IP and implementing the STIR/SHAKEN authentication framework. A provider that has completely upgraded its non-IP networks to IP would be subject to the exemption for IP networks, rather than the exemption for non-IP networks, and would be required to satisfy the requirements laid out for that exemption.

116. AT&T supports a proposal to require providers to participate in either standards development for a TDM call authentication framework or implement a robust robocall mitigation program as two options for satisfying the ''reasonable measures'' prong of this section. We agree as to the former suggestion, but we find the latter suggestion unduly overlaps with the distinct robocall mitigation program requirement under the statute.

117. We implement the provision in section 4(b)(2)(B)(ii) of the TRACED Act that voice service providers be ''capable of fully implementing an effective caller ID authentication framework in the non-IP portions of their networks not later than [June 30, 2021]'' by requiring that the voice service provider reasonably foresees that it will have completed all necessary network upgrades to its infrastructure to be able to authenticate and verify caller ID information for all non-IP calls originating or terminating on its network as provided by a standardized caller ID authentication framework for non-IP networks. This approach is consistent with our approach to the fourth prong of the IP network exemption, in which we construe ''fully implementing'' to mean that caller ID information is able to be authenticated and verified for *all* calls exchanged with technically-able partners. Further, it is consistent with our evaluation of when a non-IP caller ID authentication framework is ''reasonably available,'' and we consistently consider such a framework

to be ''effective'' only when it is standardized. We find that this approach gives as much latitude to voice service providers as possible to achieve the desired result within the prescribed timeframe while again requiring some basis for the claim—here, that the provider be ''capable of fully implementing an effective caller ID authentication framework.''

4. Compliance Certifications

118. As proposed in the *Further Notice of Proposed Rulemaking,* we find that the best way to implement the TRACED Act's exemption provision is via a certification process. Specifically, we require a voice service provider that seeks to receive an exemption to submit a certification that it meets the criteria for the IP networks exemption that we have established pursuant to section 4(b)(2)(A), the criteria for the non-IP networks exemption that we have established pursuant to section 4(b)(2)(B), or both, as appropriate for its network(s). Given the inherent and obvious difficulty of making individualized determinations of whether providers qualify for the IP networks exemption on such a truncated timeframe, we find that a certification process is necessary to allow us to meet Congress's deadline for completion of exemption determinations by December 30, 2020. This approach is unopposed, and both T-Mobile and AT&T support the use of a certification process ''as the appropriate vehicle for a voice service provider to assert its qualification for either or both of the statutory exemptions.''

119. Each voice service provider that seeks to qualify for either the section 4(b)(2)(A) or the section 4(b)(2)(B) exemption, or both, must have an officer of the voice service provider sign a compliance certificate stating under penalty of perjury that the officer has personal knowledge that the company meets each of the stated criteria. Such an attestation is necessary to ensure the accuracy of the underlying certification. We also require the voice service provider to submit an accompanying statement explaining, in detail, how the company meets each of the prongs of each applicable exemption so that the Commission can verify the accuracy of the certification.

120. As proposed in the *Further Notice of Proposed Rulemaking,* all certifications submitted pursuant to this requirement must be filed no later than December 1, 2020. All certifications and supporting statements must be filed electronically in WC Docket No. 20–68, Exemption from Caller ID Authentication Requirements, in the Commission's Electronic Comment Filing System (ECFS). We direct the Bureau to provide additional directions and filing information regarding the certifications—including issuing protective orders governing the submission and review of confidential and highly confidential information, where necessary—by November 9, 2020, or in the Public Notice announcing Office of Management and Budget approval of this process, whichever comes sooner. And we direct the Bureau to review the certifications and accompanying documents for completeness and to determine whether the certifying party has met the requirements we have established. We further direct the Bureau to issue a list of parties that have filed complete, valid compliance certifications and that will thus receive the exemption(s) on or before December 30, 2020.

121. Because of the limited time for review of certifications, we proposed in the *Further Notice of Proposed Rulemaking* that any voice service providers that file inadequate certifications would not receive an opportunity to cure and instead would be subject to the general duty we established to implement STIR/SHAKEN by June 30, 2021. We adopt this proposal here. We find this consequence to be reasonable and appropriate because the purpose of the certification is merely to determine which voice service providers would, in the absence of the STIR/SHAKEN obligation, nonetheless be able to implement STIR/SHAKEN in a timely manner. While we are sympathetic to AT&T's suggestion that we permit voice service providers a chance to cure and revise their certifications should they be found deficient, the extremely truncated timeline for review of certifications prevents us from allowing such options. Simply put, there is insufficient time to permit voice service providers to revise and resubmit certifications that the Bureau has deemed deficient and for the Bureau to review such resubmitted certifications prior to the statutory December 30, 2020 deadline for completion of exemption determinations. Voice service providers must do their best to demonstrate in their initial certifications that they have met all the statutory requirements necessary to qualify for an exemption. Moreover, as stated above, we find the inability of voice service providers to ''cure'' deficient certifications to be insignificant given the purpose of the certification.

122. *Implementation Verification.* The section 4(b)(2)(A) and (B) exemptions are, by their nature, based on a voice service provider's prediction of its future ability to implement STIR/SHAKEN by June 30, 2021. As we explained in the *Further Notice of Proposed Rulemaking,* we believe that Congress intended for us to verify, after the fact, that voice service providers claiming the exemption completed full implementation in accordance with their commitments. Such a review is consistent with the TRACED Act both because the broad structure of section 4 aims toward full implementation of caller ID authentication and because sections 4(b)(2)(A)(iv) and 4(b)(2)(B)(ii) each state that a voice service provider may receive the exemption only if it ''will'' be capable of ''fully'' implementing a caller ID authentication framework (STIR/SHAKEN or ''an effective call authentication framework,'' respectively). This approach is unopposed in the record, and T-Mobile correctly notes that without such verification, the voluntary exemption could be misused as a loophole by voice service providers, thereby diminishing the ultimate effectiveness of STIR/SHAKEN implementation, the success of which depends on the participation of a critical mass of voice service providers. To guard against the risk of gaps and abusive claims of the exemption, and as proposed in the *Further Notice of Proposed Rulemaking,* we therefore require voice service providers that receive an exemption to file a second certification after June 30, 2021, stating whether they, in fact, achieved the implementation goal to which they previously committed.

123. As proposed in the *Further Notice of Proposed Rulemaking,* the certification must be filed electronically in WC Docket No. 20–68, Exemption from Caller ID Authentication Requirements, in ECFS subject to the same allowance for confidentiality and requirements for sworn signatures and detailed support as the initial certifications. This process will not only help the Bureau to verify the accuracy of the certification, but will assist it in conducting its review while at the same time ensuring that any confidential or proprietary information included by filers remains safe from disclosure. We direct the Bureau to issue a Public Notice no later than three months after June 30, 2021, setting a specific deadline for the certifications and providing detailed filing requirements. We direct the Bureau to seek public comment on these certifications. Following review of the certifications, supporting materials, and responsive

comments, we direct the Bureau to issue a Public Notice, no later than four months after the date of filing of the certifications, identifying which voice service providers achieved the implementation goal to which they previously committed. As suggested in the record, we clarify that voice service providers that certified in December of 2020 that they have already fully implemented the necessary STIR/SHAKEN requirements, and for which the Bureau accepted the certification, need not file a second certification. This second filing is required only from those voice service providers that have not yet ''fully implemented'' STIR/SHAKEN by the time of their initial December 2020 certification, but have committed to doing so by June 30, 2021.

124. We disagree with T-Mobile's assertion that there is little value is seeking public comment on voice service providers' certifications. While T-Mobile is correct that a review of whether a voice service provider has conformed to the terms of its exemption declarations and implemented STIR/SHAKEN will require a technical analysis, we anticipate that the considered comments of market participants, technical and trade associations, and industry professionals can inform and enrich the Bureau's analysis of any such technical issues. Further, allowing comments is critical to maintaining a clear and transparent process. Moreover, to the extent that parties must submit confidential information, the Bureau will issue protective orders governing submission and review akin to those we have employed in numerous other contexts. There is thus no risk that any voice service provider will be obligated to publicly disclose ''sensitive network information'' as part of this certification and comment process.

125. As proposed in the *Further Notice of Proposed Rulemaking,* if a voice service provider cannot certify to full implementation upon the filing of the second certification but demonstrates to the Bureau that (1) it filed its initial certification in good faith—*i.e.,* with a reasonable expectation that it would be able to achieve full implementation as certified—and (2) made similarly good faith efforts to complete implementation, the consequence for such a shortcoming is the loss of the exemption and application of the general rule requiring full STIR/SHAKEN implementation, effective immediately upon release of the Bureau Public Notice identifying which voice service providers achieved the implementation goal to which they previously committed. We find that an immediate effective date is required to ensure that certain voice service providers do not receive an extension not granted to similarly situated voice service providers simply because they filed a certification they later failed to meet. If the Bureau finds that a voice service provider filed its initial certification in bad faith or failed to take good faith steps toward implementation, we will not only require that voice service provider to fully implement STIR/SHAKEN immediately, but will further direct the Bureau to refer the voice service provider to the Enforcement Bureau for possible enforcement action based on filing a false initial certification.

5. Voice Service Providers Eligible for Exemption

126. We proposed in the *Further Notice of Proposed Rulemaking* to interpret the TRACED Act's exemption process to apply only to voice service providers and to exclude intermediate providers. We adopt that approach here. No commenters addressed this issue in the record. In the TRACED Act, Congress directs the Commission to require ''provider[s] of voice service'' to implement STIR/SHAKEN in the IP portions of their networks. The exemption provisions in section 4(b)(2) of the TRACED Act similarly refer to ''provider[s] of voice service.'' Because the obligation on intermediate providers to implement the STIR/SHAKEN authentication framework is being adopted pursuant to our authority in the Truth in Caller ID Act and section 251(e), we do not believe that the exemption process, which is mandated under and governed by the TRACED Act, needs to apply to such intermediate providers. We do not find that there is a compelling policy argument in favor of extending the TRACED Act's exemption process to intermediate providers. The exemption process as laid out in the TRACED Act will not have long-term benefits to providers, since even those that qualify for the exemption must be capable of fully implementing either the STIR/SHAKEN authentication framework or an effective call authentication framework not later than June 30, 2021. Given this, we are disinclined to add further administrative and regulatory complication where not required by the TRACED Act.

E. Line Item Charges

127. We adopt our proposal in the *First Caller ID Authentication Report and Order and FNPRM* to prohibit voice service providers from imposing additional line item charges on consumer or small business subscribers for caller ID authentication. The record reflects support for this proposal, and we believe adopting it is a straightforward implementation of Congress's direction and authority in the TRACED Act to ''prohibit providers of voice service from adding any additional line item charges to consumer or small business customer subscribers for the effective call authentication technology.''

128. We are unconvinced by arguments opposed to the rule we adopt in this document. MT Networks argues that we should instead affirmatively permit voice service providers to list caller ID authentication ''as a billable feature on their line.'' Because MT Networks fails to explain how such an alternative course of action would be consistent with the text of the TRACED Act, we decline to adopt such a suggestion. Securus argues that the prohibition on line item charges should not apply to inmate calling service providers. We similarly decline to adopt such an exemption for these providers, as the TRACED Act's prohibition on line item charges extends to all ''providers of voice service,'' which includes inmate calling service providers.

129. Other commenters argue that we should go even further than the TRACED Act and prohibit voice service providers from recouping costs of caller ID authentication and other robocall mitigation solutions entirely. Some commenters argue that we should also prohibit charges for call blocking services. We decline to do so at this time because we do not address call blocking-related issues in this Report and Order. We decline to take such action because doing so would go beyond the directive in the TRACED Act, and because we recognize that implementation of caller ID authentication imposes cost on voice service providers. Additionally, the record shows that some voice service providers may not have enough resources simply to absorb the cost of implementing caller ID authentication. By not prohibiting cost recovery through alternate means, we promote the investment by all voice service providers in caller ID authentication solutions for their networks.

130. As proposed, we interpret ''consumer'' in this context to mean residential mass market subscribers, and adopt a rule consistent with this interpretation. We interpret ''consumer'' to refer to individual subscribers because we believe this interpretation will protect individuals from receiving line item charges on their bills. We

received no opposition in the record to our proposal. We also adopt our proposal to interpret ''small business'' to refer to business entities that meet the Small Business Administration definition of ''small business.'' We adopt this definition of ''small business'' because it reflects the judgment of the Small Business Administration, which has expertise in this area. We received no opposition in the record for this interpretation. We decline to adopt RadNet's proposal that we prohibit voice service providers ''from charging healthcare facilities and providers, regardless of size, for call authentication technology,'' because the TRACED Act establishes the classes of entities that Congress intended to protect from additional line item charges for caller ID authentication: Consumers and small business subscribers. Additionally, healthcare facilities that meet the standard for ''small business'' that we establish are covered by our rule, and so separate protection for such healthcare facilities would be redundant. Healthcare facilities that exceed the definition of ''small business'' are in a better position to negotiate billing arrangements with voice service providers than small businesses and residential mass market subscribers. Thus, providing them with the same protections would be unnecessary.

131. We also adopt our proposal to implement this section of the TRACED Act by prohibiting voice service providers from imposing a line item charge for the cost of upgrading network elements that are necessary to implement caller ID authentication, for any recurring costs associated with the authentication and verification of calls, or for any display of caller ID authentication information on their subscribers' phones. Caller ID authentication solutions work by allowing the originating voice service provider to authenticate the caller ID information transmitted with a call it originates, and the terminating provider to verify that the caller ID information transmitted with a call it receives is authentic and act on the information provided after verification. The record reflects that voice service providers must upgrade their existing network elements to enable caller ID authentication, and pay recurring maintenance and other operating fees in order to actively authenticate caller ID information. And, for caller ID authentication technology to be meaningful for subscribers, voice service providers may choose to display caller ID authentication information to their end users. We find that the prohibition as adopted covers the full scope of costs ''for'' providing caller ID authentication to consumer and small business subscribers.

132. CenturyLink argues that this is too expansive a reading of the TRACED Act's language. Instead, CenturyLink suggests that, to be more aligned with the language of the TRACED Act, we only prohibit line items for costs ''related to the basic signing of calls and verifying of Identity headers.'' We fail to see how costs associated with, for example, network upgrades that are necessary to implement caller ID authentication are not ''for'' such technology, and CenturyLink does not explain why we should read ''for'' in this context so narrowly. We also note that we do not prohibit cost recovery for such costs by alternative means.

F. Intermediate Providers

133. To further promote effective, network-wide caller ID authentication, we adopt the proposal from our *First Caller ID Authentication Report and Order and FNPRM* to extend our STIR/SHAKEN implementation mandate to intermediate providers. The STIR/SHAKEN framework enables an end-to-end system for authenticating the identity of the caller. For this system to work, the Identity header must travel the entire length of the call path—even when a call transits the networks of intermediate providers. Thus, intermediate providers play a crucial role in this system. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed imposing obligations on intermediate providers for calls they receive with authenticated and unauthenticated caller ID information. For calls with authenticated caller ID information that an intermediate provider receives and will exchange in SIP, we proposed requiring an intermediate provider to pass any Identity header associated with that call, unaltered, to the subsequent provider in the call path. And for calls an intermediate provider receives without authenticated caller ID information that it will exchange in SIP, we proposed requiring the intermediate provider to authenticate that call with ''gateway'' or ''C''-level attestation before passing it to the subsequent intermediate or voice service provider in the call path. With modifications, we adopt both of these proposals.

1. Authenticated Calls

134. We adopt our proposal to require intermediate providers to pass any Identity header that they receive to the terminating voice service provider or subsequent intermediate provider in the call path. This means, technically, that the intermediate provider must forward the Identity header downstream in the SIP INVITE. By placing this requirement on intermediate providers, we ensure that SIP calls can benefit from STIR/SHAKEN regardless of what provider transits the call. This proposal received wide support, and no opposition, in the record. INCOMPAS, which notes that it represents a number of entities that act as intermediate providers, agrees that ''[t]he success of STIR/SHAKEN ultimately depends on the broad participation of voice service providers, including, wherever technically feasible, intermediate providers.'' AT&T, Comcast, and Verizon also all confirm the importance of adopting this rule. AT&T notes that ''requiring intermediate providers to pass through Identity header information is necessary to ensure that calls retain authentication information across the entire call path.'' Comcast writes that ''[a]chieving truly nationwide call authentication requires the participation of all providers involved in transmitting voice calls, including intermediate providers.'' And Verizon emphasizes that regulatory action is necessary to ensure intermediate provider involvement in the system. We agree with these assertions.

135. Additionally, we further adopt our proposal to require intermediate providers to pass the Identity header *unaltered.* We find that this requirement is necessary to prevent a downstream provider from tampering with the Identity header and thus undermining the end-to-end chain of trust between the originating and terminating voice service providers. Commenters support this approach, with NCTA stating that it is necessary to ''maintain the integrity of the authentication information and reduce the potential for inadvertent error or intentional manipulation,'' and Hiya noting that ''having access to untampered identity headers will significantly aid analytics and, as a result, the detection of illegal robocalls.'' This requirement ensures that all SIP calls benefit from STIR/SHAKEN, increasing the effectiveness of STIR/SHAKEN in combating illegally spoofed robocalls and fraudulent robocall schemes. And although entities acting as intermediate providers will face implementation costs in order to forward unaltered Identity headers, they will not face the recurring costs necessary to authenticate and verify caller ID information. Moreover, we expect these one-time implementation costs to be far less than the benefits of

this intermediate provider requirement because the inclusion of intermediate providers is important to achieving the benefits discussed in the *First Caller ID Authentication Report and Order.* Requiring intermediate providers to pass the Identity headers that they receive to the subsequent intermediate provider in the call path or the terminating voice service provider is crucial to ensuring end-to-end caller ID authentication and unlocking these benefits for consumers and providers alike.

136. The record convinces us, however, to modify our proposal to allow an intermediate provider to strip the Identity header in two narrow circumstances: (1) For technical reasons where necessary to complete the call, and (2) for security reasons where an intermediate provider reasonably believes the Identity header presents a threat to its network security. Several commenters explain that these are legitimate reasons why an intermediate provider might need to strip the Identity header.

137. In identifying the limited technical reasons an intermediate provider may need to strip the Identity header, the industry standards group ATIS explains that it may be necessary to strip an Identity header for call completion in cases such as Government Emergency Telecommunications Service (GETS) call processing; INCOMPAS identifies instances where the Identity header may be too large to successfully transit the network; and we recognize it may be necessary to strip the Identity header before exchanging a call with a non-IP provider or at a non-IP interconnection point. We emphasize that the technical necessity exception is narrow and limited to circumstances that are necessary to complete the call. The technical necessity exception does not extend to failures or inadequacies in an intermediate provider's network. As the technology supporting STIR/SHAKEN advances and improves, it may be possible to transmit headers in circumstances where it previously was not. As such, we will continue to monitor the use of this exception and adjust its outer limits as needed. Commission staff will not hesitate to refer reports of intermediate providers abuse of this exception to the Enforcement Bureau.

138. Regarding the security exception, Verizon advocates that we allow intermediate providers to act should Identity headers become ''an attack vector used by bad actors.'' We agree and so do not prohibit an intermediate provider from stripping the Identity header when it reasonably believes the header presents an imminent threat to its network security. We do not, however, permit an intermediate provider to strip the header if it believes the Identity header has been tampered with or is fraudulent short of presenting an imminent security threat. This narrow exception does not empower the intermediate provider to make determinations on behalf of other providers in the call path or to interfere with the verification process defined in the SHAKEN standards. Instead, our goal is to permit an intermediate provider to act in the face of an imminent security threat to its network. We emphasize that intermediate providers must employ this exception sparingly, and the exception will not apply where an intermediate provider strips Identity headers routinely instead of maintaining reasonable network security. Furthermore, since no commenter identified a circumstance where an intermediate provider would need to alter the Identity header, we specify that intermediate providers may not alter Identity headers under any circumstance.

139. Relatedly, we prohibit an originating voice service provider from sending excessively large headers with the goal of evading STIR/SHAKEN compliance by forcing an intermediate provider to strip the header before exchanging the call with a subsequent downstream provider. We would consider such conduct a violation of our rule requiring an originating voice service provider to authenticate caller ID information for calls it originates and exchanges with another voice service provider or intermediate provider.

140. ACA Connects proposes that we prohibit intermediate providers from passing a call they have received in SIP to a downstream provider in TDM when there is a downstream IP option available. We decline to adopt this proposal because, at this early stage, we do not wish to interfere with call routing decisions for the sake of promoting STIR/SHAKEN. Providers must consider a variety of factors when routing calls, including cost and reliability, and we do not believe at this stage that preserving STIR/SHAKEN headers should swamp all other considerations. For the same reason, we decline to adopt USTelecom's suggestion to require gateway providers to pass international traffic only to downstream providers that have implemented STIR/SHAKEN. Finally, while we do not require intermediate providers to append duplicative Identity headers to calls that they transit, we decline to prohibit this practice at this stage of STIR/SHAKEN deployment across the voice network. AT&T contends that, if intermediate providers append duplicative Identity headers, it would add additional complexity and consume bandwidth for other providers. However, this issue received little attention in the record and, at this time, we have no reason to think it is a practice industry will adopt widely. We decline to be overly prescriptive at this early stage of deployment, and we will monitor this issue for any problems that develop.

2. Unauthenticated Calls

141. We also adopt a modified version of the proposed authentication requirement on intermediate providers for unauthenticated calls. Specifically, we require that an intermediate provider authenticate the caller ID information of a call that it receives with unauthenticated caller ID information that it will exchange with another intermediate provider or terminating voice service provider as a SIP call. However, a provider is relieved of this obligation if it (i) cooperatively participates with the industry traceback consortium and (ii) responds to all traceback requests it receives from the Commission, law enforcement, or the industry traceback consortium regarding calls for which it acts as an intermediate provider. Our final requirement differs from our proposed requirement in two ways. First, we do not require an intermediate provider to authenticate with a C-level or gateway attestation. Instead, if a provider chooses to authenticate the caller ID information of an unauthenticated call that it receives, we require only that a provider authenticate the caller ID information consistent with industry standards. And second, our modified requirement allows participation with the industry traceback consortium as an alternative option for compliance.

142. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed requiring intermediate providers to authenticate caller ID information for unauthenticated traffic that they receive with a C-level attestation, and tentatively concluded this requirement would improve traceback efforts and analytics. Some commenters—including major voice service providers that have reported substantial progress in STIR/SHAKEN implementation—endorse our reasoning that such a rule is in compliance with the industry standards, would enhance traceback capabilities, and would benefit call analytics. Neustar argues that intermediate providers should authenticate caller ID

information for calls that they transmit that lack such information because ''it allows the terminating voice service provider to more easily traceback otherwise unauthenticated calls, and provides additional information that can be used to facilitate innovation in the robocall analytics space.'' And T-Mobile explains that intermediate provider authentication would be useful to terminating voice service providers because ''[h]aving some information regarding this large subset of calls to enable traceback and strengthen analytics is preferable to having no information on which to make blocking and labeling decisions.'' T-Mobile further explains that even ''C-attested calls all contain an origination ID ('origid')'' which is ''a globally unique identifier that represents the originating point of the call, such as the telephone switch where the call started, or a trunk group, which can be useful in tracing back the origin of a call.'' And T-Mobile notes that ''[w]hile USTelecom's Industry Traceback Group ('ITG') can do its work without relying on origid, this does not obviate the need for origid, which would further advance ITG's goals.''

143. We modify our proposal to require attestation consistent with industry standards rather than specifically requiring C-level attestation because this approach better aligns with our goal of promoting implementation of the industry-defined caller ID authentication standards rather than interfering with their technical application. This modification brings our intermediate provider rules in line with the STIR/SHAKEN obligations we imposed on originating and terminating voice service providers. In the *First Caller ID Authentication Report and Order and FNPRM,* we explained that for compliance with our rules it would be sufficient to adhere to the three standards that comprise the foundation of the STIR/SHAKEN framework—ATIS–1000074, ATIS–1000080, and ATIS–1000084—and all documents referenced therein. Recognizing that industry standards are not static, we framed the most recent versions of these standards as the baseline requirements for compliance. We follow that approach here and establish that compliance with the most current version of these three standards as of September 30, 2020, including any errata as of that date or earlier, represents the minimum requirement for intermediate providers to satisfy our rules. We encourage innovation and improvement to the STIR/SHAKEN framework, so long as any changes or additions do not compromise the baseline call authentication functionality envisioned by ATIS–1000074, ATIS–1000080, and ATIS–1000084. An example of such an innovation is the recent technical report ATIS and the SIP Forum released providing guidelines for originating providers on the population of the SHAKEN attestation indicator and origination identifier.

144. Beyond harmonizing our requirements on intermediate providers and originating and terminating voice service providers, this modification responds to record interest in allowing, where possible, intermediate providers to authenticate caller ID information with a higher level of attestation than a C-level attestation. It is not our intent to preclude or interfere with efforts to accommodate this interest; only to ensure the caller ID information for such calls be authenticated. To that end, we agree with commenters that argue we should not require intermediate providers to authenticate calls with a specific level of attestation, and require instead that intermediate providers authenticate the caller ID information for unauthenticated calls consistent with industry standards as described above. This clarification allows for and encourages industry progress, and we look forward to seeing progress on the numerous proposals in the record to allow for more robust authentication of such calls. We decline to require any specific solution, as some commenters suggest, or to impose a specific timeline. We encourage interested parties to continue this work promptly, but the record does not include enough information on which to base a deadline, and industry standards bodies are better-suited to modify the standards they have created.

145. Although we establish this requirement, in response to arguments that our proposal was unduly burdensome in some cases, we allow for an intermediate provider to register and participate with the industry traceback consortium as an alternative means of complying with our rules. Several commenters claim that a requirement for intermediate providers to authenticate the caller ID information of all unauthenticated calls that they receive would cause bandwidth problems within provider networks. Several commenters also express concern that an attestation requirement would undermine the efficacy of STIR/SHAKEN by ''pollut[ing] the ecosystem'' with ''billions of useless attestations,'' causing customer harm and confusion. Further, some commenters contend that such a requirement would not lead to the benefits that we proposed would accrue. Other commenters in the record push back on these concerns, and because of the potential value of more ubiquitous authentication, we do not find that these concerns justify the elimination of this requirement entirely. We find that attestation of previously unauthenticated calls will provide significant benefits in facilitating analytics, blocking, and traceback by offering all parties in the call ecosystem more information, and we thus allow attestation of unauthenticated calls as one method for compliance. This conclusion is consistent with our analysis in the *First Caller ID Authentication Report and Order,* where we found that the benefits of requiring providers to authenticate calls will substantially outweigh the costs.

146. While we make this conclusion, we acknowledge record concerns about the cost of requiring intermediate provider authentication and thus offer an alternative method of compliance that we anticipate will be less burdensome and will nonetheless facilitate traceback of calls. Specifically, establish that an entity acting as an intermediate provider is relieved of the requirement to authenticate the caller ID information of unauthenticated calls it receives if it (i) cooperatively participates with the industry traceback consortium, and (ii) responds to all traceback requests it receives from the Commission, law enforcement, or the industry traceback consortium for calls for which it acts as an intermediate provider. We again underscore that this requirement does not supersede any existing legal processes, and we encourage law enforcement to make traceback requests through the industry traceback consortium.

147. Providing this option addresses intermediate provider concerns over the burden that an authentication requirement would place on their networks. It further allows for continued evaluation of the role intermediate providers play in authenticating the caller ID information of the unauthenticated calls that they receive amid the continued deployment of the STIR/SHAKEN framework. By ensuring that all calls which transit the voice network either receive some form of attestation or are carried by an intermediate provider that is registered with the industry traceback consortium, terminating voice service providers will have more data about a call that can be used to support traceback efforts and call analytics, and prevent future illegal robocalls—further increasing the net benefits offered by STIR/SHAKEN. Additionally, providing this option for

intermediate providers aligns with the robocall mitigation requirements we adopt in this document. By requiring intermediate providers and many originating voice service providers to engage in practices that promote traceback, we will ensure broad participation through the entire call path to determine the source of illegal robocalls. Although the obligation to either authenticate or participate in the industry traceback consortium with respect to unauthenticated calls will place costs on intermediate providers, we have no reason to believe that our additional mandate will fundamentally disturb our cost-benefit calculus for STIR/SHAKEN implementation. AT&T argues that ''[t]he initial estimates of the major providers' costs to implement STIR/SHAKEN grossly underestimate reality,'' and that STIR/SHAKEN implementation costs ''easily will exceed hundreds of millions of dollars.'' We are not convinced by this assertion as AT&T does not provide concrete evidence to support such claims, nor any explanation as to why initial estimates were inaccurate.

148. We find it unnecessary to adopt CTIA's suggestion to require intermediate providers serving as international gateways to register with the Commission. Under the rules we adopt, such providers are required either to authenticate the caller ID information of the foreign-originated calls that they receive and will transit on their networks or to register with the industry traceback consortium and participate in traceback efforts. Both options we adopt address call tracing more directly than a mere registration requirement, and we are reluctant to create multiple overlapping registration requirements for providers that choose the latter option. We can revisit CTIA's suggestion should the measures we adopt prove insufficient.

3. Limiting Intermediate Provider Requirements to IP Networks

149. In the *First Caller ID Authentication Report and Order and FNPRM,* we proposed limiting our caller ID authentication obligations on intermediate providers to IP calls. We adopt our proposal with modifications. First, we adopt this proposal for calls with authenticated caller ID information that an intermediate provider receives. In so doing, we limit the requirement that intermediate providers pass any received Identity header unaltered to IP calls, that is, calls that the intermediate provider receives in SIP and exchanges with a terminating provider or another intermediate provider in SIP. Commenters support limiting our rule to IP calls, and doing so harmonizes our rules for intermediate providers with our rules applying to originating and terminating voice service providers.

150. Second, we modify this proposal for calls with unauthenticated caller ID information that an intermediate provider receives. To the extent that an intermediate provider chooses to comply with the rules we adopt in this document by authenticating the caller ID information of the unauthenticated calls that it receives, as Comcast suggests, we clarify that this requirement applies to *all* unauthenticated calls an intermediate provider receives that it will exchange with a subsequent provider in SIP, regardless of whether the intermediate provider receives the call in SIP. In other words, if the intermediate provider chooses to authenticate the caller ID information of unauthenticated calls, the obligation applies if the intermediate provider transmits the call downstream in SIP. We make this modification in recognition of the fact that calls without authenticated caller ID information may have originated on non-IP networks or have been exchanged at non-IP interconnection points and thus do not have an existing Identity header. In those instances, the obligation to authenticate the caller ID information according to industry standards applies whether or not the call was received by the intermediate provider in SIP.

151. We decline to adopt Comcast's proposal that intermediate providers exchanging traffic in TDM install TDM-to-VoIP gateways. At this time, we believe that such a requirement would be unduly burdensome. Furthermore, it would go beyond both Congress's and our approach to addressing the issues around non-IP technology and caller ID authentication, which aim to strike a balance between encouraging the IP transition and the development of non-IP solutions for the benefit of those networks that cannot be speedily or easily transitioned. We will continue to monitor the development of technical solutions to the issue of TDM exchange and are prepared to return to this proposal if circumstances warrant.

4. Definition of Intermediate Provider

152. We adopt our proposal from the *First Caller ID Authentication Report and Order and FNPRM* to use the definition of ''intermediate provider'' found in § 64.1600(i) of our rules. This section provides that an ''intermediate provider'' is ''any entity that carries or processes traffic that traverses or will traverse the [PSTN] at any point insofar as that entity neither originates nor terminates that traffic.'' We further determine that as with our interpretation of ''providers of voice service,'' we assess the definition of ''intermediate provider'' on a call-by-call basis for the purpose of our call authentication rules. A single entity therefore may act as a voice service provider for some calls on its network and an intermediate provider for others. Intermediate providers play a critical role in ensuring end-to-end call authentication. We believe that this broad definition will best promote the widespread deployment of the STIR/SHAKEN framework that is necessary to benefit consumers.

153. We sought comment in the *First Caller ID Authentication Report and Order and FNPRM* on whether we should use a narrower definition of intermediate provider, such as the one we use in the context of rural call completion. One commenter advocates for a narrower definition that would ''not include in its scope an ISP that is only incidentally transmitting voice traffic,'' because this ''could place a substantial burden on small, rural ISPs transmitting Non-Interconnected VoIP or Interconnected VoIP via a third-party service provider they have no relationship with.'' As we explained in the *First Caller ID Authentication Report and Order and FNPRM,* the STIR/SHAKEN framework relies on the transmission of information in the Identity header of a SIP INVITE. We understand that there are circumstances where a call set up using SIP signaling will then use other paths to exchange the media packets containing voice data. Because we have limited our rules to the exchanging of SIP calls, to the extent that an ISP is only transmitting voice traffic of a call that does not involve the exchange of a SIP INVITE, we believe it is already excluded from our rules.

5. Legal Authority

154. We find that we have the authority to place caller ID authentication obligations on intermediate providers and alternatively to require that they register and participate with the industry traceback consortium under section 251(e) of the Act. In the *First Caller ID Authentication Report and Order,* we concluded that our exclusive jurisdiction over numbering policy provides authority to require voice service providers to implement STIR/SHAKEN in order to prevent the fraudulent abuse of NANP resources. In the *FNPRM,* we proposed that this same analysis provides the Commission authority to impose STIR/SHAKEN implementation requirements on

intermediate providers. Several commenters support this view. Calls that transit the networks of intermediate providers with illegally spoofed caller ID are exploiting numbering resources in the same manner as spoofed calls on the networks of originating and terminating providers, and so we find authority under section 251(e). Consistent with the *First Caller ID Authentication Report and Order and FNPRM,* we adopt our proposal concluding that the section 251(e)(2) requirements do not apply in the context of our establishing STIR/SHAKEN requirements. Because STIR/SHAKEN implementation is not a ''numbering administration arrangement,'' section 251(e)(2), which provides that ''[t]he cost of establishing telecommunications numbering administration arrangements . . . shall be borne by all telecommunications carriers on a competitively neutral basis,'' does not apply here. Even if section 251(e)(2) does apply, we conclude that because each carrier is responsible for bearing its own implementation costs, the requirement is satisfied. Each carrier's costs will be proportional to the size and quality of its network.

155. We find additional, independent authority under the Truth in Caller ID Act. The Truth in Caller ID Act charged the Commission with prescribing rules to make unlawful the spoofing of caller ID information ''in connection with any voice service or text messaging service . . . with the intent to defraud, cause harm, or wrongfully obtain anything of value.'' We agree with T-Mobile that this provides us with authority to mandate that intermediate providers adopt ''a framework that will minimize the frequency with which illegally spoofed scam calls will reach consumers.'' We found authority in the *First Caller ID Authentication Report and Order* for our STIR/SHAKEN implementation mandate on originating and terminating voice service providers under the Truth in Caller ID Act. We explained that ''the rules we adopt today are necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from scammers and bad actors.'' That same analysis applies to intermediate providers that, as noted, play an integral role in the success of STIR/SHAKEN across the voice network.

156. Verizon, the only commenter to challenge our legal authority, argues that we lack authority under either section 251(e) or the Truth in Caller ID Act to require an intermediate provider to authenticate with a C-level attestation the caller ID information for unauthenticated calls it receives. It asserts that '' 'C' attestations do not attest to the accuracy of numbers and indeed have nothing to do with numbering resources,'' and consequently that section 251(e) does not provide us with authority; it further argues that '' 'C' attestations have nothing to do with the spoofing problem'' and so could not be required under the Truth in Caller ID Act. Verizon also argues that we may not ''go beyond the scope of the legal authority granted by the TRACED Act,'' but overlooks language in that very Act providing that ''[n]othing in this section shall preclude the Commission from initiating a rulemaking pursuant to its existing statutory authority.'' As an initial matter, Verizon's objections are less pressing because of the modifications we made to our final rule—requiring only authentication consistent with industry standards *or* registration and participation with the industry traceback consortium. Furthermore, we do not agree that C-level attestations ''have nothing to do with'' numbering resources or spoofing. The STIR/SHAKEN standards expressly include the option of C-level attestation, and we think it apparent that this component of ''a technology specifically designed to counteract misuse of numbering resources'' through spoofing relates both to our authority under section 251(e) and the Truth in Caller ID Act. When bad actors unlawfully falsify or spoof the caller ID that appears on a subscriber's phone, they are using numbering resources to advance an illegal scheme. Mandating that intermediate providers authenticate unauthenticated calls or participate in traceback efforts will help to prevent and remediate the fraudulent exploitation of NANP resources and illegal spoofing of caller ID information.

G. Other Issues

157. *No Additional Exceptions from Originating Voice Service Provider Caller ID Authentication Mandate.* We reject the record requests to grant limited exceptions from our caller ID authentication rules. We construe these requests, which do not respond to any part of the *FNPRM,* as petitions for reconsideration of the rules adopted in the *First Caller ID Authentication Report and Order and FNPRM.* Verizon argues that we should free a voice service provider from our caller ID authentication rules in certain circumstances where, in its view, it would be ''inadvisable or inappropriate for the originating carrier to place a signature on a call.'' Verizon, USTelecom, and CTIA argue that these circumstances include ''periods of substantial network congestion,'' such as national emergencies or natural disasters, or during periods of network maintenance. Verizon further argues that a voice service provider should not be required to authenticate caller ID information in certain complicated calling cases. We decline to grant these categorical exceptions from our mandate. Our goal is ubiquitous deployment of caller ID authentication technology, and no commenter explains with specificity why its concerns outweigh that goal. To the contrary, national emergencies and natural disasters are among the times when caller ID authentication is most important. In those instances, affected individuals must be able to rely on the caller ID information they receive and avoid bad actors taking advantage of an ongoing emergency or its aftermath. And while we do not grant an exception for complicated calling cases, we underscore that, to the extent a certain calling case is not accounted for by industry standards, application of caller ID authentication is not called for by our rules. We explained in the *First Caller ID Authentication Report and Order* that ''[c]ompliance with the most current versions of . . . three standards as of March 31, 2020, including any errata as of that date or earlier, represents the minimum requirement to satisfy our rules.'' USTelecom and CTIA argue that, because we provide intermediate providers limited exceptions to our requirement that they transit Identity headers unaltered, we must also provide an exception for originating voice service providers from our call authentication mandate. But these commenters fail to explain why adopting narrowly tailored exceptions for intermediate providers justifies adopting the far broader exception that they seek. Beyond generalized concerns over network congestion and maintenance, no commenter provides a specific technical rationale for when originating voice service providers should receive an exception from our caller ID authentication requirements.

158. *Non-Substantive Rule Revision.* We revise § 64.6301(a)(2) of our rules to make two non-substantive changes. First, the adopted rule inadvertently omitted the word ''it.'' Second, the adopted rule referred to ''caller ID authentication information,'' inconsistent with other terms in the rules. The rule as revised provides that a voice service provider shall ''authenticate caller identification information for all SIP calls it originates

and that *it* will exchange with another voice service provider or intermediate provider and, to the extent technically feasible, transmit that call with *authenticated caller identification information* to the next voice service provider or intermediate provider in the call path.'' We make these revisions without seeking notice and comment pursuant to section 553(b)(3)(B) of the Administrative Procedure Act, which states that an agency for good cause may dispense with rulemaking if it finds that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' Here, notice and comment are unnecessary because correcting the rule does not have a detrimental effect on the parties regulated by rule and does not alter the regulatory framework established by the *First Caller ID Authentication Report and Order.*

IV. Procedural Matters

159. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *First Caller ID Authentication Report and Order and FNPRM.* The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the *First Caller ID Authentication Report and Order and FNPRM,* including comments on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Second Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

A. Need for, and Objectives of, the Rules

160. In this *Second Report and Order* (*Order*), we continue the Commission's efforts to combat illegal spoofed robocalls. Specifically, the *Order* implements the provisions of section 4 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act as follows: requiring providers to take ''reasonable measures'' to implement an effective caller ID authentication framework in their non-IP networks by either completely upgrading non-IP networks to IP or by actively working to develop a non-IP authentication solution; granting extensions of varying lengths from implementation of caller ID authentication for (1) small, including small rural, voice service providers; (2) voice service providers that cannot obtain a certificate due to the Governance Authority's token access policy until such provider is able to obtain a certificate; (3) services scheduled for section 214 discontinuance; and (4) as required by the TRACED Act, an extension for the parts of a voice service provider's network that rely on technology that cannot initiate, maintain, and terminate SIP calls until a solution for such calls is reasonably available; granting an exemption from our implementation mandate for providers which have certified that they have reached certain implementation goals; and prohibiting providers from imposing additional line item charges on consumer and small business subscribers for caller ID authentication technology. The *Order* also adopts rules requiring intermediate providers to (1) pass any Identity header that they receive to the terminating voice service provider or subsequent intermediate provider in the call path; and (2) either (i) authenticate the caller ID information of a call that it receives with unauthenticated caller ID information that it will exchange with another intermediate provider or terminating voice service provider as a SIP call, or (ii) cooperatively participate with the Commission-selected consortium to conduct traceback efforts. These rules will help promote effective caller ID authentication and fulfill our obligations under the TRACED Act.

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

161. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the SBA

162. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

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

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

164. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the *Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

1. Wireline Carriers

165. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

166. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

167. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

168. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

169. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small-business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees) and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

170. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

171. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

2. Wireless Carriers

172. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

173. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018 there are 265 Cellular licensees that will be affected by our actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

174. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the

telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

3. Resellers

175. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers. The SBA category of Telecommunications Resellers is the closest NAICs code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data from 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities.

176. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

177. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to the Commission's Form 499 Filer Database, 86 active companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these companies have 1,500 or fewer employees, however, the Commission estimates that the majority of the 86 active prepaid calling card providers that may be affected by these rules are likely small entities.

4. Other Entities

178. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications'', which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

179. The *Order* adopts rules that obligate voice service providers that use non-IP network technology to be able to provide the Commission, upon request, with documented proof that the provider is participating, either on its own or through a representative, as a member of a working group, industry standards group, or consortium that is working to develop a non-IP solution, or actively testing such a solution. Under this rule, a voice service provider satisfies its obligations if it participates through a third-party representative, such as a trade association of which it is a member or vendor.

180. Section 4(b)(5)(C)(i) of the TRACED Act directs the Commission to require any voice service provider that has been granted an extension in compliance with the caller ID

authentication implementation mandates to implement, during the time of the extension, ''an appropriate robocall mitigation program to prevent unlawful robocalls from originating on the network of the provider.'' The *Order* requires voice service providers to file certifications documenting and describing their robocall mitigation programs. Specifically, the *Order* requires all voice service providers—not only those granted an extension—to certify on or before June 30, 2021, that their traffic is either signed with STIR/SHAKEN or subject to a robocall mitigation program that includes taking reasonable steps to avoid originating illegal robocall traffic, and committing to cooperating with law enforcement and the industry traceback consortium in investigating and stopping any illegal robocallers that it learns are using its service to originate calls. For those voice service providers that certify that some or all of their traffic is subject to a robocall mitigation program, the *Order* requires such voice service providers to detail in their certifications the specific ''reasonable steps'' that they have taken to avoid originating illegal robocall traffic. While only voice service providers with an extension will be obligated to implement a robocall mitigation program, the *Order* imposes the certification requirement on all voice service providers because doing so will help the Commission and others to hold all voice service providers accountable for the voice traffic they originate, and give the Commission and others a snapshot of the progress of STIR/SHAKEN implementation and the variety of robocall mitigation practices adopted by voice service providers.

181. Voice service providers must file robocall mitigation certifications via a portal on the Commission's website that we will establish for this purpose. The *Order* also requires voice service providers filing certifications to provide the following identification information in the portal on the Commission's website:

(1) The voice service provider's business name(s) and primary address;

(2) other business names in use by the voice service provider;

(3) all business names previously used by the voice service provider;

(4) whether a voice service provider is a foreign voice service provider; and

(5) the name, title, department, business address, telephone number, and email address of a central point of contact within the company responsible for addressing robocall-mitigation-related issues.

182. The *Order* also requires voice service providers to submit to the Commission any necessary updates regarding any of the information they filed in the certification process within 10 business days. The *Order* extends this certification requirement to foreign voice service providers that use U.S. North American Numbering Plan numbers that pertain to the United States to send voice traffic to residential and business subscribers in the United States and wish to be listed in the database.

183. The *Order* also adopts rules in accordance with our proposal to require that, in order to receive a voluntary exemption from our implementation mandate, a voice service provider must file a certification reflecting that it is in a reasonably foreseeable position to meet certain implementation goals, and that, in order to maintain that exemption, a provider must make a later filing reflecting its achievement of those goals it stated it was in a reasonably foreseeable position to meet. The requirement of such certifications entails new reporting, recordkeeping, and other compliance requirements for voice service providers. Specifically, we require that each voice service provider that wishes to qualify for the voluntary exemption from our implementation mandate must have an officer of the voice service provider sign a compliance certificate stating, under penalty of perjury, that the officer has personal knowledge that the company meets each of the stated criteria. We also require the voice service provider to submit an accompanying statement explaining, in detail, how the company meets each of the prongs of each applicable exemption so that the Commission can verify the accuracy of the certification. We also require that these certifications be filed no later than December 1, 2020, and that all certifications and supporting statements be filed electronically in WC Docket No. 20–68, Exemption from Caller ID Authentication Requirements, in the Commission's Electronic Comment Filing System (ECFS). Voice service providers that receive an exemption are further required to file a second certification by a deadline specified in a Public Notice issued by the Wireline Competition Bureau no later than three months after June 30, 2021, stating whether they, in fact, achieved the implementation goal to which they previously committed. The certification must be filed electronically in WC Docket No. 20–68, Exemption from Caller ID Authentication Requirements, in ECFS subject to the same allowance for confidentiality and requirements for sworn signatures and detailed support as the initial certifications. Voice service providers that certified in December of 2020 that they have already fully implemented the necessary STIR/SHAKEN requirements, and for which the Bureau accepted the certification, need not file a second certification. This second filing is required only from those voice service providers that have not yet ''fully implemented'' STIR/SHAKEN by the time of their initial December 2020 certification, but have committed to doing so by June 30, 2021.

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

184. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for such small entities.''

185. The rules we adopt in this *Order* permit providers to satisfy the requirement under section 4(b)(1)(B) of the TRACED Act to take ''reasonable measures'' to implement an effective caller ID authentication framework in the non-IP portions of their networks, by participating as a member of a working group, industry standards group, or consortium that is working to develop a non-IP solution, or actively testing such a solution. A voice service provider satisfies this obligation if it participates through a third-party representative, such as a trade association of which it is a member or vendor. As the record in this proceeding shows, some industry groups have already established working groups dedicated to examining potential non-IP call authentication technologies. Allowing for such representatives will reduce the burden of this obligation on individual voice service providers, including those which are smaller, and minimize the potential negative impact of broad and inexpert participation identified in the record, while ensuring that all voice service providers remain invested in developing a solution for non-IP caller ID authentication.

186. In addition, the *Order* grants a two-year extension from

implementation of caller ID authentication to small, including small rural, voice service providers. The *Order* also grants an exemption from our implementation mandate for voice service providers, including small providers, which certify that they have reached certain implementation goals, and prohibits voice service providers from imposing additional line item charges on consumer or small business subscribers for caller ID authentication. In these ways, we have taken steps to minimize the economic impact of the rules adopted in this *Order* on small entities.

Report to Congress

187. The Commission will send a copy of the *Order,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA.

188. *Paperwork Reduction Act.* This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we previously sought comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

189. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Second Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

V. Ordering Clauses

190. Accordingly, *it is ordered*, pursuant to sections 4(i), 4(j), 227(e), 227b, 251(e), and 303(r), of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 154(i), 154(j), 227(e), 227b, 251(e), and 303(r), that this *Second Report and Order is adopted*.

191. *It is further ordered* that part 64 of the Commission's rules *is amended* as set forth in the Final Rules, and that any such rule amendments that contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act *shall be effective* after announcement in the **Federal Register** of Office of Management and Budget approval of the rules, and on the effective date announced therein.

192. *It is further ordered* that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this *Second Report and Order shall be effective* 30 days after publication in the **Federal Register**, except for the addition of §§ 64.6303(b) and 64.6305(b), to the Commission's rules that have not been approved by OMB. The Federal Communications Commission will publish documents in the **Federal Register** announcing the effective dates of these provisions.

193. *It is further ordered* that the Commission *shall send* a copy of this *Report and Order* to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

194. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Report and Order,* including the Final Regulatory Flexibility Analysis (FRFA), to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Common carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 2. Effective December 17, 2020, amend § 64.6300 by redesignating paragraphs (e) through (g) as paragraphs (j) through (l) and paragraphs (c) and (d) as paragraphs (f) and (h), respectively, and adding new paragraphs (c) through (e), (g), and (i) to read as follows:

§ 64.6300 Definitions.

* * * * *

(c) *Foreign voice service provider.* The term ''foreign voice service provider'' refers to any entity providing voice service outside the United States that has the ability to originate voice service that terminates in a point outside that foreign country or terminate voice service that originates from points outside that foreign country.

(d) *Governance Authority.* The term ''Governance Authority'' refers to the Secure Telephone Identity Governance Authority, the entity that establishes and governs the policies regarding the issuance, management, and revocation of Service Provider Code (SPC) tokens to intermediate providers and voice service providers.

(e) *Industry traceback consortium.* The term ''industry traceback consortium'' refers to the consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls as selected by the Commission pursuant to § 64.1203.

* * * * *

(g) *Robocall Mitigation Database.* The term ''Robocall Mitigation Database'' refers to a database accessible via the Commission's website that lists all entities that make filings pursuant to § 64.6305(b).

* * * * *

(i) *SPC token.* The term ''SPC token'' refers to the Service Provider Code token, an authority token validly issued to an intermediate provider or voice service provider that allows the provider to authenticate and verify caller identification information consistent with the STIR/SHAKEN authentication framework in the United States.

* * * * *

■ 3. Effective December 17, 2020, amend § 64.6301 by revising paragraphs (a) introductory text and (a)(2) to read as follows:

§ 64.6301 Caller ID authentication.

(a) *STIR/SHAKEN implementation by voice service providers.* Except as provided in §§ 64.6304 and 64.6306, not later than June 30, 2021, a voice service provider shall fully implement the STIR/SHAKEN authentication framework in its internet Protocol networks. To fulfill this obligation, a voice service provider shall:

* * * * *

(2) Authenticate caller identification information for all SIP calls it originates and that it will exchange with another voice service provider or intermediate provider and, to the extent technically feasible, transmit that call with authenticated caller identification information to the next voice service provider or intermediate provider in the call path; and

* * * * *

■ 4. Effective December 17, 2020, add § 64.6302 to read as follows:

§ 64.6302 Caller ID authentication by intermediate providers.

Not later than June 30, 2021, each intermediate provider shall fully implement the STIR/SHAKEN authentication framework in its internet Protocol networks. To fulfill this obligation, an intermediate provider shall:

(a) Pass unaltered to the subsequent intermediate provider or voice service provider in the call path any authenticated caller identification information it receives with a SIP call, subject to the following exceptions under which it may remove the authenticated caller identification information:

(1) Where necessary for technical reasons to complete the call; or

(2) Where the intermediate provider reasonably believes the caller identification authentication information presents an imminent threat to its network security; and

(b) Authenticate caller identification information for all calls it receives for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call, except that the intermediate provider is excused from such duty to authenticate if it:

(1) Cooperatively participates with the industry traceback consortium; and

(2) Responds fully and in a timely manner to all traceback requests it receives from the Commission, law enforcement, and the industry traceback consortium regarding calls for which it acts as an intermediate provider.

■ 5. Effective December 17, 2020, add § 64.6303 to read as follows:

§ 64.6303 Caller ID authentication in non-IP networks.

Except as provided in §§ 64.6304 and 64.6306, not later than June 30, 2021, a voice service provider shall:

(a) Upgrade its entire network to allow for the initiation, maintenance, and termination of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6301 throughout its network.

(b) [Reserved]

■ 6. Delayed indefinitely, amend § 64.6303 by:

■ a. Adding the word ''either'' at the end of the introductory text;

■ b. Removing the period at the end of paragraph (a) and adding ''; or'' in its place; and

■ c. Adding paragraph (b).

The addition reads as follows:

§ 64.6303 Caller ID authentication in non-IP networks.

* * * * *

(b) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

■ 7. Effective December 17, 2020, add § 64.6304 to read as follows:

§ 64.6304 Extension of implementation deadline.

(a) *Small voice service providers.* (1) Small voice service providers are exempt from the requirements of § 64.6301 through June 30, 2023.

(2) For purposes of this paragraph (a), ''small voice service provider'' means a provider that has 100,000 or fewer voice service subscriber lines (counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the provider's affiliates).

(b) *Voice service providers that cannot obtain a SPC token.* Voice service providers that are incapable of obtaining a SPC token due to Governance Authority policy are exempt from the requirements of § 64.6301 until they are capable of obtaining a SPC token.

(c) *Services scheduled for section 214 discontinuance.* Services which are subject to a pending application for permanent discontinuance of service filed as of June 30, 2021, pursuant to the processes established in 47 CFR 63.60 through 63.100, as applicable, are exempt from the requirements of § 64.6301 through June 30, 2022.

(d) *Non-IP networks.* Those portions of a voice service provider's network that rely on technology that cannot initiate, maintain, and terminate SIP calls are deemed subject to a continuing extension. A voice service provider subject to the foregoing extension shall comply with the requirements of § 64.6303 as to the portion of its network subject to the extension.

(e) *Provider-specific extensions.* The Wireline Competition Bureau may extend the deadline for compliance with § 64.6301 for voice service providers that file individual petitions for extensions by November 20, 2020. The Bureau shall seek comment on any such petitions and issue an order determining whether to grant the voice service provider an extension no later than March 30, 2021.

(f) *Annual reevaluation of granted extensions.* The Wireline Competition Bureau shall, in conjunction with an assessment of burdens and barriers to implementation of caller identification authentication technology, annually review the scope of all previously granted extensions and, after issuing a Public Notice seeking comment, may extend or decline to extend each such extension, and may decrease the scope of entities subject to a further extension.

■ 8. Effective December 17, 2020, add § 64.6305 to read as follows:

§ 64.6305 Robocall mitigation and certification.

(a) *Robocall mitigation program requirements.* (1) Any voice service provider subject to an extension granted under § 64.6304 that has not fully implemented the STIR/SHAKEN authentication framework on its entire network shall implement an appropriate robocall mitigation program as to those portions of its network on which it has not implemented the STIR/SHAKEN authentication framework.

(2) Any robocall mitigation program implemented pursuant to paragraph (a)(1) of this section shall include reasonable steps to avoid originating illegal robocall traffic and shall include a commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(b)–(c) [Reserved]

■ 9. Delayed indefinitely, amend § 64.6305 by adding paragraphs (b) and (c) to read as follows:

§ 64.6305 Robocall mitigation and certification.

* * * * *

(b) *Certification and database.* (1) Not later than the date established in a document released by the Wireline Competition Bureau establishing the Robocall Mitigation Database and portal (amending this paragraph (b)), a voice service provider, regardless of whether it is subject to an extension granted under § 64.6304, shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it originates are compliant with § 64.6301(a)(1) and (2);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it originates on that portion of its network are compliant with § 64.6301(a)(1) and (2), and the remainder of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section; or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network, and all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section.

(2) A voice service provider that certifies that some or all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section shall include the following information in its certification:

(i) Identification of the type of extension or extensions the voice service provider received under § 64.6304, if the voice service provider is not a foreign voice service provider;

(ii) The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its robocall mitigation program; and

(iii) A statement of the voice service provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(3) All certifications made pursuant to paragraphs (b)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A voice service provider filing a certification shall submit the following information in the appropriate portal on the Commission's website.

(i) The voice service provider's business name(s) and primary address;

(ii) Other business names in use by the voice service provider;

(iii) All business names previously used by the voice service provider;

(iv) Whether the voice service provider is a foreign voice service provider; and

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) A voice service provider shall update its filings within 10 business days of any change to the information it must provide pursuant to paragraphs (b)(2) through (4) of this section.

(c) *Intermediate provider and voice service provider obligations.* Beginning ninety days after the deadline for certifications filed pursuant to paragraph (b) of this section, intermediate providers and voice service providers shall only accept calls directly from a voice service provider, including a foreign voice service provider that uses North American Numbering Plan resources that pertain to the United States to send voice traffic to residential or business subscribers in the United States, if that voice service provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (b) of this section.

■ 10. Effective November 17, 2020, add § 64.6306 to read as follows:

§ 64.6306 Exemption.

(a) *Exemption for IP networks.* A voice service provider may seek an exemption from the requirements of § 64.6301 by certifying on or before December 1, 2020, that, for those portions of its network served by technology that allows for the transmission of SIP calls, it:

(1) Has adopted the STIR/SHAKEN authentication framework for calls on the Internet Protocol networks of the voice service provider, by completing the network preparations necessary to deploy the STIR/SHAKEN protocols on its network including but not limited to participation in test beds and lab testing, or completion of commensurate network adjustments to enable the authentication and validation of calls on its network consistent with the STIR/SHAKEN framework;

(2) Has agreed voluntarily to participate with other voice service providers in the STIR/SHAKEN authentication framework, as demonstrated by completing formal registration (including payment) and testing with the STI Policy Administrator;

(3) Has begun to implement the STIR/SHAKEN authentication framework by completing the necessary network upgrades to at least one network element—*e.g.,* a single switch or session border controller—to enable the authentication and verification of caller identification information consistent with the STIR/SHAKEN standards; and

(4) Will be capable of fully implementing the STIR/SHAKEN authentication framework not later than June 30, 2021, which it may only determine if it reasonably foresees that it will have completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all SIP calls exchanged with STIR/SHAKEN-enabled partners by June 30, 2021.

(b) *Exemption for non-IP networks.* A voice service provider may seek an exemption from the requirement to upgrade its network to allow for the initiation, maintenance, and termination of SIP calls and fully implement the STIR/SHAKEN framework as required by § 64.6301 throughout its network by June 30, 2021, and from associated recordkeeping and reporting requirements, by certifying on or before December 1, 2020, that, for those portions of its network that do not allow for the transmission of SIP calls, it:

(1) Has taken reasonable measures to implement an effective call authentication framework by either:

(i) Upgrading its entire network to allow for the initiation, maintenance, and termination of SIP calls, and fully implementing the STIR/SHAKEN framework as required in § 64.6301 throughout its network; or

(ii) Maintaining and being ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution; and

(2) Will be capable of fully implementing an effective call authentication framework not later than June 30, 2021, because it reasonably foresees that it will have completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all non-internet Protocol calls originating or terminating on its network as provided by a standardized caller identification authentication framework for non-internet Protocol networks by June 30, 2021.

(c) *Certification submission procedures.* All certifications that a voice service provider is eligible for exemption shall be:

(1) Filed in the Commission's Electronic Comment Filing System (ECFS) in WC Docket No. 20–68, Exemption from Caller ID

Authentication Requirements, no later than December 1, 2020;

(2) Signed by an officer in conformity with 47 CFR 1.16; and

(3) Accompanied by detailed support as to the assertions in the certification.

(d) *Determination timing.* The Wireline Competition Bureau shall determine whether to grant or deny timely requests for exemption on or before December 30, 2020.

(e) [Reserved]

■ 11. Effective December 17, 2020, adding paragraph (e) to read as follows:

§ 64.6306 Exemption.

* * * * *

(e) *Implementation verification.* All voice service providers granted an exemption under paragraphs (a) and (b) of this section shall file an additional certification consistent with the requirements of paragraph (c) of this section on or before a date specified in a document issued by the Wireline Competition Bureau (amending this paragraph (e)) that attests to whether the voice service provider fully implemented the STIR/SHAKEN authentication framework because it completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all SIP calls exchanged with STIR/SHAKEN-enabled partners by June 30, 2021. The Wireline Competition Bureau, after issuing a Public Notice seeking comment on the certifications, will, not later than four months after the deadline for filing of the certifications, issue a Public Notice identifying which voice service providers achieved complete implementation of the STIR/SHAKEN authentication framework.

(1) If a voice service provider cannot certify to full implementation upon the filing of this second certification, but demonstrates to the Wireline Competition Bureau that:

(i) It filed its initial certification in good faith—*i.e.,* with a reasonable expectation that it would be able to achieve full implementation as initially certified; and

(ii) It made a good faith effort to complete implementation, the consequence for such a shortcoming is the loss of the exemption and the application of the implementation requirements of §§ 64.6301 and 64.6303, effective immediately upon release by the Wireline Competition Bureau of the Public Notice identifying which voice service providers achieved full implementation of the STIR/SHAKEN authentication framework.

(2) If a voice service provider cannot certify to full implementation upon the filing of this second certification, and the Wireline Competition Bureau finds that the voice service provider filed its initial certification in bad faith or failed to make a good faith effort to complete implementation, then:

(i) The voice service provider is required to fully implement the STIR/SHAKEN authentication framework immediately upon release by the Wireline Competition Bureau of the Public Notice identifying which voice service providers achieved full implementation of the STIR/SHAKEN authentication framework; and

(ii) The Wireline Competition Bureau shall refer the voice service provider to the Enforcement Bureau for possible enforcement action based on filing a false initial certification.

■ 12. Effective December 17, 2020, add § 64.6307 to read as follows:

§ 64.6307 Line item charges.

Providers of voice service are prohibited from adding any additional line item charges to consumer or small business customer subscribers for the effective call authentication technology required by §§ 64.6301 and 64.6303.

(a) For purposes of this section, ''consumer subscribers'' means residential mass-market subscribers.

(b) For purposes of this section, ''small business customer subscribers'' means subscribers that are business entities that meet the size standards established in 13 CFR part 121, subpart A.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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